

 ORIGINAL

VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

MAY 10 2017

SC Court of Appeals

Appeal from Sumter County
George C. James, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RODNEY R. GREEN,

APPELLANT

APPELLATE CASE NO 2015-002443

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

J. ROBERT BOLCHOZ
Chief Deputy Attorney General

DONALD J. ZELENKA
Deputy Attorney General

ATTORNEY FOR APPELLANT

ALPHONSO SIMON JR.
Assistant Attorney General
South Carolina Attorney General Office
P. O. Box 11549
Columbia, SC 29211-1549
(803) 734-6305

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit
P.O. Box 836
Sumter, SC 29150-0836

ATTORNEYS FOR RESPONDENT

PAGES 501-712

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED NOVEMBER 9-11, 2015	1
OPENING STATEMENT BY MR. FINNEY	2
OPENING STATEMENT BY MR. JOHNSON	6
TESTIMONY	
TIFFANY LEWIS	
Direct examination by Mr. Finney	10
LAVITRA HARVIN	
Direct examination by Mr. Finney	13
Cross examination by Mr. Johnson	45
Redirect examination by Mr. Finney	52
Recross examination by Mr. Johnson	55
RAY'QUANN MONDELL JENKINS	
Direct examination by Mr. Finney	58
Cross examination by Mr. Johnson	95
Redirect examination by Mr. Finney	113
Recross examination by Mr. Johnson	115
STEVEN PIZZINO	
Direct examination by Mr. Finney	117
Cross examination by Mr. Johnson	127
Proffer cross examination by Mr. Johnson	129
Cross examination by Mr. Johnson continued	131
Redirect examination by Mr. Finney	136
Recross examination by Mr. Johnson	139
DEMETRICE BROOKS	
Direct examination by Mr. Finney	142
Cross examination by Mr. Johnson	172
AUNTACHIE BLANDING	
Direct examination by Mr. Finney	188
Cross examination by Mr. Johnson	210

DAVONTAE LAMAR BLANDING

Direct examination by Mr. Finney.....	216
Cross examination by Mr. Johnson.....	241

MYRON EUGENE CONYERS

Direct examination by Mr. Finney.....	247
Cross examination by Mr. Johnson.....	264
Redirect examination by Mr. Finney	275
Recross examination by Mr. Johnson.....	277

PATRICK WASHINGTON

Direct examination by Mr. Finney.....	278
Cross examination by Mr. Johnson.....	295
Redirect examination by Mr. Finney	309
Recross examination by Mr. Johnson.....	312

MISTY LEE

Direct examination by Mr. Finney.....	316
Cross examination by Mr. Johnson.....	330

MELISSA ADDISON

Direct examination by Mr. Finney.....	335
Cross examination by Mr. Johnson.....	352
Redirect examination by Mr. Finney	362
Recross examination by Mr. Johnson.....	364
Redirect examination by Mr. Finney	368
Recross examination by Mr. Johnson.....	369

MICHELE EICHENMILLER

Direct examination by Mr. Finney.....	372
Cross examination by Mr. Johnson.....	386
Redirect examination by Mr. Finney	394
Recross examination by Mr. Johnson.....	398
Redirect examination by Mr. Finney	402

WHITNEY BERRY

Direct examination by Mr. Finney.....	402
Cross examination by Mr. Johnson.....	418
Redirect examination by Mr. Finney	426

DERRON SOLOMAN

Direct examination by Mr. Finney.....	427
Cross examination by Mr. Johnson.....	439

MOTION REGARDING CHAIN OF CUSTODY	445
---	-----

TESTIMONY

GREGORY HAWKINS (IN CAMERA)

Direct examination by Mr. Finney 454

Cross examination by Mr. Johnson.....462

MOTION FOR MISTRIAL 469

TESTIMONY

DERRON SOLOMAN

Direct examination by Mr. Finney 475

Cross examination by Mr. Johnson.....482

JANICE EDWARDS ROSS

Direct examination by Mr. Finney 487

Cross examination by Mr. Johnson.....494

Redirect examination by Mr. Finney 496

ROBERT BURNISH

Direct examination by Mr. Finney 498

Cross examination by Mr. Johnson.....508

Redirect examination by Mr. Finney 516

Recross examination by Mr. Johnson 517

GREGORY HAWKINS

Direct examination by Mr. Finney 519

Cross examination by Mr. Johnson.....558

Redirect examination by Mr. Finney 577

Recross examination by Mr. Johnson 578

RENEWAL OF MOTION FOR A MISTRIAL 581

RULING BY THE COURT.....583

MOTION FOR A DIRECTED VERDICT ON MURDER CHARGE 588

RULING BY THE COURT.....591

MOTION FOR DIRECTED VERDICT ON ATTEMPTED MURDER CHARGE.....593

RULING BY THE COURT.....598

CHARGE CONFERENCE.....604

CLOSING ARGUMENT BY MR. FINNEY 616

CLOSING ARGUMENT BY MR. JOHNSON.....	636
CHARGE ON THE LAW	649
JURY NOTE.....	677
JURY NOTE.....	680
RE-CHARGE ON MURDER.....	684
VERDICT	688
MOTION FOR A NEW TRIAL	690
RULING BY THE COURT.....	692
SENTENCING	696
STATE'S EXHIBIT #1 (GREEN'S STATEMENT)	697
STATE'S EXHIBIT #32 (HARVIN'S STATEMENT)	700
STATE'S EXHIBIT #37 (PROPERTY VOUCHER)	703
INDICTMENT	706
SENTENCE SHEETS	708
CERTIFICATE OF COUNSEL	712

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBITS #20 - #22 (PHOTOGRAPHS)**

Officer Robert Burnish-Direct by Finney

1 certain pieces of evidence that needed to be
2 collected; put those down first, and then photograph
3 before we do the collection. And that way we also
4 know that there is something there where those
5 markers are, so we can make sure we don't disturb or
6 anything gets disturbed.

7 Q. I want to take a couple of photographs
8 from the crime scene. I want to show you some
9 colored photographs and ask if can identify them.
10 First of all, I am going to start off with No. 20,
11 21 and 22, and ask if you can identify what's in
12 those photographs?

13 A. Yes, these are the shell casings that were
14 collected at the scene.

15 Q. And you say the first step is to find the
16 shell casings.

17 A. Right.

18 Q. Do you have any idea who actually found
19 the shell casings?

20 A. Found them? No, I don't know.

21 Q. The next step was to mark them with these
22 yellow markers. Do you know who marked the shell
23 casings?

24 A. Yes, that would have Mike Bean.

25 Q. And he would have marked them with the

Officer Robert Burnish-Direct by Finney

1 yellow markers?

2 A. Yes.

3 Q. And then the collection of the shell
4 casings.

5 A. Right.

6 Q. Who would have done that?

7 A. He would have collected them, yes.

8 Q. And what when -- when I say collect, what
9 does mean? Tell the jury what collecting means.

10 A. Collecting means after the photograph has
11 been taken, he would have picked up the evidence.

12 In this case the shell casings, placed them in a
13 plastic bag and turned them in to evidence.

14 Q. We've had testimony from other witnesses
15 that when sled received the shell casings that have
16 been marked in State's Exhibit No. 34, they were in
17 three little round containers.

18 A. Yes, sir.

19 Q. Have you seen those containers before?

20 A. Yes, I have.

21 Q. Are those items that Sumter County uses to
22 put evidence in to protect it?

23 A. Yes, it is.

24 Q. Now were you at the crime scene at the
25 Club Miami when these photographs were taken and

Officer Robert Burnish-Direct by Finney

1 when these shells were collected?

2 A. Yes, sir.

3 MR. FINNEY: Your Honor, I would ask that
4 20, 21 and 22 be admitted in to evidence.

5 THE COURT: Mr. Johnson.

6 MR. JOHNSON: Your Honor, my objection to
7 that would be, is that, he was not the person who
8 collected them, and he's not the person to take
9 those pictures.

10 THE COURT: Well I think, Mr. Finney,
11 would you lay a foundation -- did the witness say
12 that those were the casings found in this case?

13 MR. FINNEY: That's what he said. I'll
14 ask the question again, Your Honor, for the record.

15 THE COURT: Go ahead.

16 Q. Investigator, were you at the crime scene
17 when the shell casings were discovered?

18 A. Yes, I was.

19 Q. And were you there when they were marked
20 with the yellow markers?

21 A. Yes, I was.

22 Q. And were you there when they photographed
23 by Mr. Bean?

24 A. Yes, I was.

25 Q. Were you there when they were collected by

Officer Robert Burnish-Direct by Finney

1 Mr. Bean and put into the evidence bags?

2 A. Yes, I was.

3 Q. Just for the record, did you remember or
4 recollect, or do you have any information about any
5 other shell casings being collected that night
6 besides these three?

7 A. No.

8 MR. FINNEY: Your Honor, I would offer 20,
9 21 and 22.

10 THE COURT: Do you intend to publish those
11 now or later?

12 MR. FINNEY: Later.

13 THE COURT: I'll rule on that later.
14 Thank you.

15 Q. Mr. Bean -- excuse me.

16 THE COURT: Your objection is noted,
17 Mr. Johnson.

18 MR. JOHNSON: Thank you, Your Honor.

19 Q. Do you have any recollection of a vehicle
20 in the parking lot that night being hit with a
21 bullet?

22 A. Yes.

23 Q. Can you describe that? Tell us what you
24 remember about that.

25 A. Well it was a window was busted out of the

Officer Robert Burnish-Direct by Finney

1 vehicle. To the best of my recollection, I want to
2 say it was a dark colored vehicle, but I cannot
3 recall. I don't remember the make or model of it.

4 Q. Let me show State's Exhibit 16 and 17, and
5 ask if you can tell me whether you recognize what is
6 being shown in Item 16 and 17.

7 A. Yes. Now I know why I don't remember the
8 make and model or what kind that is, but this is our
9 crime scene tape that was placed across the vehicle.

10 Q. And the vehicle that you see pictured in
11 No. 16, where was it located that night?

12 A. This is in the parking lot of Club Miami.

13 Q. And the vehicle you say sustained window
14 damage?

15 A. Yes.

16 Q. Let me just ask you, did you also notice
17 any other damage in that vehicle that night?

18 A. I do not look inside the vehicle.

19 Q. Very good. Do these pictures represent
20 where the vehicle was in the parking lot and the
21 damage it sustained?

22 A. Yes, sir, it does.

23 MR. FINNEY: I would move to admit 16 and
24 17 into evidence.

25 MR. JOHNSON: I just renew my same

Officer Robert Burnish-Direct by Finney

1 objection as before, Your Honor.

2 THE COURT: I thought 16 and 17 were
3 already in. Margaret.

4 THE REPORTER: They're in.

5 THE COURT: They're already in.

6 MR. JOHNSON: No objection.

7 Q. I am going to show you State's Exhibit
8 No. 14 and 15, and ask if you identify what is in
9 those colored photographs.

10 A. These photographs are of the parking lot
11 where the shell casings were located. And they
12 are -- this is a far away shot, what we do first.
13 And it indicates that each maker No. 1, No. 2 and
14 No. 3. And the makers indicate which shell casing
15 was found in order.

16 Q. And that would be, you are describing
17 No. 14. Tell me about No. 15.

18 A. No. 15 is actually the same picture, but
19 taken a little closer up with the same yellow
20 markers and the shell casings. The shell casings in
21 the parking lot.

22 Q. Based on your testimony, the earlier items
23 that I showed you, which was 20, 21 and 22, were
24 individual shots of the three shell casings.

25 A. That's correct, yes, sir.

Officer Robert Burnish-Direct by Finney

1 Q. And then you had a photographer take a far
2 away shot, which is State's Exhibit 15. And then
3 you had another shot, a photograph, in State's
4 Exhibit 14, which was a little bit closer than 15.

5 A. That's correct.

6 Q. But they're all photographs showing the
7 three shell casings that were found on the parking
8 lot.

9 A. That 's correct.

10 MR. FINNEY: Your Honor, I would move
11 State's Exhibit No. 14 and 15 in.

12 THE COURT: Same objection as 22?

13 MR. JOHNSON: Same objection, Your Honor.

14 THE COURT: I'll rule on that directly.

15 Q. Where were you when the evidence was
16 collected off the ground, those shell casings?

17 A. I was in the parking lot. I was near, I
18 don't know how far it was say a distance from
19 Investigator Bean or Sergeant Bean, but I was with
20 him at the time that they were collected. I saw him
21 collect them.

22 Q. To your knowledge, were there any other
23 pieces of evidence collected from the parking lot
24 that were taken into evidence that night?

25 A. I am not recalling anything right off the

Officer Robert Burnish-Cross by Johnson

1 top of my head.

2 Q. Do you remember a firearm being found out
3 there that night?

4 A. I did not see the firearm, but I was told
5 that there was one found.

6 Q. And that piece of evidence would have been
7 collected by someone else?

8 A. That's correct.

9 Q. Did you have anything to do with the
10 transporting of the evidence that was collected that
11 night either down to Sumter County to the evidence
12 locker, or over to sled?

13 A. No, sir.

14 MR. FINNEY: Thank you. Nothing further
15 from this witness.

16 THE COURT: Mr. Johnson.

17 Cross Examination by Mr. Johnson:

18 Q. Good afternoon.

19 A. Good afternoon, sir.

20 MR. JOHNSON: Your Honor, may I approach
21 the witness?

22 THE COURT: Yes, sir.

23 Q. Will you please take a look at that?

24 A. Yes, sir.

25 Q. Do you recognize that?

Officer Robert Burnish-Cross by Johnson

1 A. Yes, sir. This is the crime scene log
2 with the sheriff's office.

3 Q. Will you please tell the jury what exactly
4 the crime scene log is?

5 A. What the crime scene log is?

6 Q. I mean, will you tell them what the
7 purpose of that?

8 A. This is to indicate when we respond to a
9 major crime of who responds, and what their capacity
10 is for responding. What time they respond and what
11 time they depart from the scene.

12 Q. And it's a log that's kept, and it's
13 almost exact with what time you get there, correct?

14 A. That's correct, yes, sir.

15 Q. And that's a very important log, right?

16 A. Yes, sir.

17 Q. Look at the time for -- do you see
18 Investigator Bean?

19 A. Yeah.

20 Q. Would you please tell the jury what time
21 Bean arrival at the scene?

22 A. At 3:40 a.m.

23 Q. At 3:40.

24 A. Yes, sir.

25 Q. And what time did he leave?

Officer Robert Burnish-Cross by Johnson

1 A. He left at 4:53 a.m.

2 Q. At 4:53. So a little over an hour and
3 13 minutes, something like that?

4 A. That's correct.

5 Q. Now what time did you arrive?

6 A. I arrived after him at 4:05 a.m.

7 Q. So you arrived 25 minutes after he
8 arrived.

9 A. That's correct.

10 Q. And it is your testimony to the jury that
11 you saw everything that he did in the collection of
12 the rounds and all the other evidence here?

13 A. Of the rounds, yes, I did.

14 Q. So he didn't pick up the rounds until you
15 got there.

16 A. They weren't marked until I got there. So
17 then they were collected after they had been
18 photographed.

19 Q. Who found the rounds?

20 A. He did.

21 Q. He did.

22 A. Yes, sir.

23 Q. So it's your understanding that he found
24 the rounds and not Investigator Hawkins.

25 A. That's my understanding. I was there when

Officer Robert Burnish-Cross by Johnson

1 he collected the evidence, the rounds. So I saw him
2 collect the rounds.

3 Q. So I am trying to understand. Do you know
4 for a fact who found the rounds?

5 A. It's my understanding that Sergeant Bean
6 found them.

7 Q. Well not your understanding, did you see
8 him find the rounds?

9 A. When I saw -- When I got there, everybody
10 was looking around in the parking lot. And Sergeant
11 Bean brought to it to my attention about the rounds.

12 Q. So you saw Sergeant Bean find the rounds.

13 A. He brought it to my attention that they
14 were there. I said that he found the rounds, he
15 may not have. But it was told to me by Sergeant
16 Bean about the rounds being out there in the parking
17 lot.

18 Q. But that's what I am trying to say. You
19 don't know who found the rounds. You were just
20 told by Sergeant Bean he found the rounds.

21 A. I was told by Sergeant Bean.

22 Q. So you didn't observe him find the rounds.

23 A. No, I observed him collecting the rounds.

24 Q. Right. So you didn't observe what
25 condition the rounds was in when they were initially

Officer Robert Burnish-Cross by Johnson

1 found or anything, did you?

2 A. Initially found?

3 Q. Right. No, I didn't hear you.

4 A. No. Initially, no.

5 Q. Now you also said a minute ago that

6 Investigator Bean marked the rounds.

7 A. That's correct.

8 Q. So it wasn't Investigator Hawkins that

9 marked the rounds.

10 A. No.

11 Q. You saw Investigator Bean mark the rounds.

12 A. Yes, sir.

13 Q. And just for clarification, you actually

14 saw Investigator Bean mark some rounds.

15 A. Yes, sir.

16 Q. Now the pictures that you was referring to

17 of the rounds, of the casings, I'm sorry. I kept

18 saying rounds, of the shell casings, they were taken

19 from different angles, right?

20 A. Yes, sir.

21 Q. You were saying that you directed

22 Investigator Bean to take the different angles, or

23 was he taking the angles on his own?

24 A. He took those on his own, I never directed

25 him.

Officer Robert Burnish-Cross by Johnson

1 Q. So he took those for whatever reason he
2 wanted to, but you don't know what the reasons are.

3 A. That's the way sled trains the crime
4 scenes, or photograph the crime scenes, that's the
5 way they were trained---

6 Q. Right.

7 A. ---to do that.

8 Q. You just take it from the different rounds
9 depending on what you see and all that, right? But
10 that's specific to the individual taking the shots,
11 correct? I mean, you wouldn't know what reason they
12 made him go to the right side of the round or the
13 left side of the round. Because you didn't take the
14 shot.

15 A. No, I would understand why he did, yes.

16 Q. If he had told you?

17 A. No, I've been through the training. I
18 understand why he did that. In different angles,
19 for the juries, so they can get an understanding of
20 where approximately that the evidence was found in
21 the parking lot, and how it appeared that night.

22 Q. Right. But what I'm saying is specific to
23 the person taking the shot, when he determined which
24 way to take the shots to get a better picture for
25 the jury. The individual taking the shots makes

Officer Robert Burnish-Cross by Johnson

1 that decision. You didn't tell them how to take the
2 shot.

3 A. I didn't tell them, no, sir.

4 Q. And for the record, you arrived 25 minutes
5 after Mr. Bean was there.

6 A. That's correct, yes, sir.

7 Q. According to the lawyer.

8 A. According to his lawyer, yes.

9 MR. JOHNSON: One second, Your Honor.

10 Your Honor, can I approach this witnesses again?

11 THE COURT: Yes, sir.

12 Q. Do you recognize that?

13 A. This would be the investigative report
14 that was, it doesn't have the last page.

15 MR. JOHNSON: Oh, I'm sorry.

16 A. It doesn't have page 5.

17 Q. I think that's all 5. Do you recognize
18 that?

19 A. Yes, sir. This is the investigative
20 report of this incident that was submitted by
21 Investigator Hawkins.

22 Q. Now please tell the jury what the
23 investigative report is.

24 A. This is a -- basically this is a summary
25 of the event that took place, the crime, and law

Officer Robert Burnish-Cross by Johnson

1 enforcement's response, and what law enforcement
2 did.

3 Q. Can you explain to the jury why your name
4 is nowhere in that report?

5 A. My name is on this report.

6 Q. What does it say that you did?

7 A. Investigator Hawkins and Sergeant Anderson
8 responded to the shooting at Club Miami as the
9 investigators on call. Chief Gardner, Captain
10 Cokely, Lieutenant Burnish and Lieutenant Roddy were
11 responding to matters.

12 Q. Does it mention anything else you did?

13 A. I don't see anything else. Yes, I guess I
14 do on page 3.

15 Q. What does it say?

16 A. It says Sergeant Anderson and Lieutenant
17 Burnish found Lavitra Harvin and had her come down
18 to the sheriff's office for questioning. And Harvin
19 told them---

20 MR. JOHNSON: Not what she said.

21 Q. But also but that's after the scene. That
22 was later, correct?

23 A. That's correct.

24 Q. As far as it relate to the scene of the
25 crime that night, except for the report saying that

1 you showed up, does it state that you did anything
2 else at that scene?

3 A. No, sir.

4 MR. JOHNSON: I have got no other
5 questions.

6 THE COURT: Mr. Finney, redirect?

7 Redirect Examination by Mr. Finney:

8 Q. Captain Burnish, did you prepare this
9 report?

10 A. No, sir, I did not.

11 Q. I see it was approved by you on
12 10/13/2014.

13 A. That's correct.

14 Q. That's about a month after the incident.

15 A. Yes, sir.

16 Q. So all of these pages, 5 pages, basically
17 it took days and weeks of investigators doing their
18 work to put this report together.

19 A. Yes, sir.

20 Q. And you weren't on call that night, were
21 you?

22 A. No, sir, I wasn't.

23 Q. You were a supervisor.

24 A. That's correct.

25 Q. And you responded out there to make sure

Officer Robert Burnish-Recross by Johnson

1 everything was done correctly.

2 A. Yes, sir.

3 Q. Do you and your officers make a mistake
4 sometimes, in terms of leaving a number off a report
5 or putting the wrong page number on, or something
6 like that?

7 A. Occasionally, yeah.

8 Q. You all are human.

9 A. Yes, sir.

10 THE COURT: Anything else?

11 MR. JOHNSON: Just one question.

12 Recross Examination by Mr. Johnson:

13 Q. And I'm sure as being an investigator with
14 the number of years that you have, isn't it very
15 important, and I am sure you impress on your other
16 officers that it's important, to make sure you do
17 that report as correctly as possible?

18 A. Yes, sir.

19 Q. Why?

20 A. To make sure everything is accurate.

21 Q. Because? When is it used?

22 A. It's used here in the courtroom.

23 Q. And why is it important that it's
24 accurate?

25 A. To make sure we give out the correct

Officer Robert Burnish-Recross by Johnson

1 information so the jury will have a full
2 understanding.

3 Q. So they can make a fair verdict, correct?

4 A. That's correct.

5 MR. JOHNSON: No other questions.

6 THE COURT: You can step down.

7 MR. FINNEY: Your Honor, can we have 5
8 minutes, please?

9 THE COURT: Yes, sir. Ladies and
10 gentlemen, we will take a recess at this stage.
11 This will be the only one we take this afternoon,
12 and we'll make it brief. But if you're not ready
13 when the bailiff comes, you just let him know you're
14 not ready. Don't talk about the case.

15 (Whereupon, the following takes place
16 outside the presence of the jury.)

17 THE COURT: Anything before we recess?

18 MR. FINNEY: No, Your Honor.

19 THE COURT: We'll take -- let's take a
20 very short break. Mr. Finney, I know you can't gage
21 Mr. Johnson's cross examination, but based on what's
22 occurred so far, how long do you think direct will
23 take will take of investigator Hawkins? I'll assume
24 he will next?

25 MR. FINNEY: Yes, sir. I believe he's the

Officer Robert Burnish-Recross by Johnson

1 last witness I will call. I believe he will be 40,
2 45 minutes. Maybe not that long.

3 THE COURT: And I'm not going to hold you
4 to it. I'm just kind of trying to get an idea.
5 We'll take a few minutes.

6 (Whereupon, the court takes a short
7 recess.)

8 THE COURT: Are you ready to go,
9 Mr. Finney?

10 MR. FINNEY: I am, Your Honor.

11 THE COURT: Mr. Johnson.

12 MR. JOHNSON: Yes, sir.

13 THE COURT: You can bring in the jury.

14 (Whereupon, the following takes place within
15 the presence of the jury.)

16 THE COURT: Mr. Finney.

17 MR. FINNEY: I would call Investigator Greg
18 Hawkins.

19 Investigator Greg Hawkins, being
20 first duly sworn, testified as follows:

21 THE CLERK: State your full name and spell
22 your last name for the record.

23 A. It's Gregory Hawkins. H-A-W-K-I-N-S.

24 DIRECT EXAMINATION by Mr. Finney:

25 Q. Investigator Hawkins, how are you today?

Investigator Greg Hawkins-Direct by Finney

1 A. Good, how are you?

2 Q. Fine, sir. Tell us what you do for a
3 living.

4 A. I work at the Sumter County Sheriff's
5 Office as a criminal investigator.

6 Q. And how long have you been doing that?

7 A. I've been with the sheriff's office since
8 2002. I've been in investigations for about 3 years
9 now.

10 Q. And as a part of your investigations over
11 the last 3 years, do you go to crime scenes?

12 A. Yes, sir.

13 Q. What is your general duties when you get
14 to a crime scene, what are you trying to do to
15 facilitate the investigation of the case?

16 A. We preserve, well I guess it depends on
17 the type of case. One such as this, we would try to
18 preserve or note any evidence that's in place at the
19 time we get there. We would generally have the
20 crime scene investigators come to do the full
21 processing of the scene, as they normally have more
22 equipment and more capabilities on handling some of
23 those items.

24 Q. And for example, do you normally find
25 yourself taking photographs at a crime scene?

Investigator Greg Hawkins-Direct by Finney

1 A. It's quite typical that we would take
2 photographs at certain crime scenes.

3 Q. Let me ask you to let's start, we've got
4 several issues I want to cover with you today. When
5 you arrived at the crime scene, do you know whether
6 Investigator Mike Bean was there?

7 A. Yes, he was.

8 Q. And did you have any occasion to find out
9 what the background of the case was, why you were
10 there, why you had been called there?

11 A. I was one of the investigator's on call
12 that evening, and I was called to respond in
13 reference to a shooting that occurred at the club.

14 Q. And did you have any contact with the
15 people who had been shot at the club?

16 A. When I arrived, I parked on Eagle Road,
17 and came in from the back entrance behind the club.
18 And as I was coming up, I saw Mr. Archie lying on
19 the ground when I came up that way.

20 Q. And what about Mr. Ray'Quann Jenkins?

21 A. He was in an ambulance receiving treatment
22 at that time.

23 Q. What was the first thing you did that
24 evening after you saw those two gentlemen and found
25 out what their condition was?

Investigator Greg Hawkins-Direct by Finney

1 A. I talked with the officers there were
2 already on the scene to get an idea of what had
3 taken place, and where we may to look to see if
4 there any evidence present, or anybody we might to
5 talk to right away.

6 Q. At the time when you arrived, do you
7 remember if Mr. Rodney Green was still there?

8 A. He was already in one of the patrol cars
9 at that time.

10 Q. And was he -- but he was still on the
11 property.

12 A. I couldn't say. I didn't see him. He was
13 taken away shortly either right before I got there,
14 or I didn't personally see him at the scene.

15 Q. Investigator Misty Lee testified earlier
16 that she recovered a handgun out in the field some
17 distance away. Do you -- did you talk to her that
18 night? Did you see the weapon she recovered?

19 A. I talked to her and she told me she had
20 recovered---

21 MR. JOHNSON: Your Honor, objection. That
22 would be hearsay.

23 THE COURT: What is that being offered to
24 prove, Mr. Finney?

25 MR. FINNEY: Just the background

Investigator Greg Hawkins-Direct by Finney

1 information about the incident, and why he was
2 responding to the incident.

3 THE COURT: Objection is overruled.

4 Q. Go ahead.

5 A. She had told me that she found the firearm
6 in the field along with the defendant. I didn't
7 actually look at the firearm at that time.

8 Q. Now did you happen to go out into the
9 field that evening?

10 A. I'm -- my main area where I was at, was in
11 the parking lot.

12 Q. Have you since that night been able to,
13 for example, did you prepare this document, which
14 has been marked as State's Exhibit 23, which is a
15 kind of an aerial view of the Club Miami property?

16 A. Yes, I prepared that.

17 Q. And did you put in the location of some of
18 these things that are typed on this document that we
19 see on the screen?

20 A. Yes, sir.

21 Q. Can you tell the ladies and gentlemen of
22 the jury based on your experience and investigation,
23 where it says casings on this map, what does that
24 represent?

25 A. That's where the spent shell casings were

Investigator Greg Hawkins-Direct by Finney

1 located when I arrived on the scene when I -- they
2 were located.

3 Q. And how many spent shell casings did you
4 find that evening?

5 A. Three.

6 Q. And did you find any more?

7 A. No, sir.

8 Q. Could you tell us anything about the shell
9 casings that you found in terms of their condition
10 and size and caliber.

11 A. They were 45 caliber casings.

12 Q. Did you know that evening?

13 A. I didn't disturb them at the time. I
14 found that out later during the investigation. Like
15 I say, we would just, you know, document where the
16 things are at, and leave those for the crime scene
17 technicians to pick up and document.

18 Q. Once they were identified by you or
19 somebody else, were markers placed by them?

20 A. Yes, sir, they were.

21 Q. And why were the markers placed by the
22 casings?

23 A. Well they were placed initially to
24 document where the casings were at so that they
25 would to be easier to locate again, once

Investigator Greg Hawkins-Direct by Finney

1 Investigator Bean went to document the scene with
2 those photographs.

3 Q. What I'm going to do is just show you for
4 record State's Exhibit 20, 21 and 22, and ask you,
5 sir, can you identify what's in those 3 colored
6 photographs?

7 A. They'd be the 3 fired casings that were
8 located in the parking lot that night.

9 Q. And were those pictures -- do those
10 pictures accurately represent the -- what you saw
11 that night in the parking lot on the ground?

12 A. Yes, they do.

13 Q. Now were the markers placed by those
14 pictures that I'm talking about 20, 21 and 22,
15 individually? Each one of them has its own marker
16 by it?

17 A. Right. Each item that would be documented
18 for evidence would have its own number so they could
19 be identified which one was which later on during
20 the process.

21 Q. And did you also seek or have occasion to
22 watch the photographs of these items being taken?

23 A. I didn't see all of the photographs taken.
24 I didn't see every single photograph taken that
25 night.

Investigator Greg Hawkins-Direct by Finney

1 Q. State's Exhibit 14 and State's Exhibit No.
2 15, show what? This is 14. This is 15.

3 A. That would be the same shell casings but
4 from a further distance away showing where they're
5 going across the parking lot.

6 Q. And was this important for you to have a
7 document showing the locations of the shell casings,
8 not just individually, but as a group and where they
9 appeared on the ground that night?

10 A. Yes, by having a photograph like this, it
11 gives you a reference point as to, you know, where
12 in the parking lot, these pictures that are zoomed
13 in, where they came from.

14 Q. And do these pictures accurately represent
15 where the markers were placed on the ground, and the
16 position of the shell casings that were discovered
17 by law enforcement?

18 A. They do.

19 MR. FINNEY: Your Honor, at this time, I
20 would renew my motions as to 20, 21, 22, 14 and 15.

21 THE COURT: Mr. Johnson.

22 MR. JOHNSON: I renew my objections.

23 THE COURT: Objection. I'm sorry,
24 anything else?

25 MR. JOHNSON: Nothing else.

Investigator Greg Hawkins-Direct by Finney

1 THE COURT: Objection is overruled. Those
2 three exhibits are in.

3 MR. FINNEY: Thank Your Honor.

4 (Photographs marked State's Exhibits 14,
5 15, 20, 21, 22 into evidence.)

6 Q. Mr. Hawkins, did you after watching the
7 photographs being taken, there was a collection
8 process, the shell casings were actually collected?

9 A. That's correct.

10 Q. And who did that?

11 A. Sergeant Bean.

12 Q. And as far as you know, Mr. Bean did what
13 with the collected evidence?

14 A. The standard procedure, he would collect
15 it and put it into the little tins there.

16 Q. Yes, sir. The tins that are shown in
17 State's Exhibit 34?

18 A. Yes, sir. And then he would turn those
19 into the evidence room.

20 Q. And would normally in a case like this,
21 those shell casings be important to be sent to sled
22 for analysis?

23 A. Yes, sir, they would.

24 Q. And would it be very important in a case
25 where you not only found the shell casings, but you

Investigator Greg Hawkins-Direct by Finney

1 also found a firearm at the same location?

2 A. Yes, sir.

3 Q. And what's the purpose of that? Why would
4 that be very important?

5 A. They need to be preserved so that they
6 can -- sled can perform an accurate test on them.

7 Q. And what would you be looking for in terms
8 of a connection between the firearm and the shell
9 casings?

10 A. We would want to make sure that we could
11 determine that those casings were the same ones that
12 came from that gun.

13 Q. Let's talk about the gun a little bit.
14 Let me ask you this, I'll come back to that in a
15 little bit. Were you aware in your investigation of
16 the out -- the club, outside the club that night,
17 that a vehicle had been struck in the parking lot?

18 A. Yes, sir, I was.

19 Q. Did you see the vehicle?

20 A. Yes, sir. It was right where the shell
21 casings were at.

22 Q. Very good. And let me ask you to look at
23 State's Exhibit No. 16, 17 and 18, and ask if you
24 can identify what's in those documents.

25 A. It's a small black vehicle, with the back

Investigator Greg Hawkins-Direct by Finney

1 window of it broken out.

2 Q. Did you determine that window had been
3 broken out by anything in particular?

4 A. It appeared that it was from a bullet that
5 had gone through.

6 Q. And when the bullet went through the back
7 window, what other evidence or what did
8 investigation lead you to believe?

9 A. It appeared that one of the rounds that
10 would have been fired from that area, must have went
11 through the back window in the vehicle.

12 Q. And when it went into the vehicle, did you
13 find out where it went?

14 A. There was a small hole in the dash of the
15 vehicle that was consistent with a gunshot hole.

16 Q. Were you able to dig out of that small
17 hole in the dashboard any evidence?

18 A. That would have been for the crime scene
19 technicians to go further into that. That would be
20 a little beyond what I would normally do.

21 Q. Do you know if that hole in the dashboard
22 was photographed?

23 A. It was.

24 Q. And do you see that photograph in front of
25 you?

Investigator Greg Hawkins-Direct by Finney

1 A. Yes, sir.

2 Q. Is it marked State's Exhibit No. 18?

3 A. Yes, sir.

4 Q. And does that accurately reflect the
5 damage to the dashboard in the black vehicle where
6 the back window was broken?

7 A. Yes, it does.

8 MR. FINNEY: Your Honor, at this time, I
9 would move 16, 17 and 18 into evidence.

10 MR. JOHNSON: No objection, Your Honor.

11 THE COURT: Those are in.

12 (Photographs marked 16, 17 and 18 into
13 evidence.)

14 Q. After you got the background of the case
15 and saw the collection of the evidence, did you
16 actually talk to any witnesses that night?

17 A. I talked with a couple of individuals; the
18 security guards that evening.

19 Q. Very good. And those would be Mr. Conyers
20 and Mr. Washington?

21 A. That's correct.

22 Q. And did they fill you in on what they had
23 seen and done?

24 A. Yes, sir, they did.

25 Q. And did you take a written statement from

Investigator Greg Hawkins-Direct by Finney

1 either of those gentleman that night?

2 A. Not at that time.

3 Q. So when did you have occasion to talk to
4 anybody else that was specifically there at the time
5 of the shooting besides the security guards?

6 A. It was actually a couple of days later;
7 where there was some individuals that were very
8 hostile at the time, or very upset about the
9 situation that had gone on. You know, they were --
10 they had seen what had happened, but they were less
11 than cooperative at the time.

12 Q. Do you normally take written statements or
13 detailed statements from people at the crime scene?

14 A. If they are willing to give one.

15 Q. And you say these people were not in a
16 state of mind to give a statement at that time?

17 A. That's correct.

18 Q. And did you later talk to these people?

19 A. I did.

20 Q. How much later?

21 A. I'd have to look at the dates to tell you
22 for certain, but it was within a few days.

23 Q. And were these the same people that we
24 brought in as witnesses in the case?

25 A. Some of them were.

Investigator Greg Hawkins-Direct by Finney

1 Q. By and large the statements that you have
2 been involved in and taken, were they given by
3 people who wanted to cooperate and had information
4 to give to the police?

5 A. Yes, sir. They voluntarily came down to
6 our office and spoke with me and gave a statement.

7 Q. Before signing off for the night, did you
8 have occasion to leave the Club Miami and go
9 downtown to your office to interview Mr. Green?

10 A. Yes, sir, I did.

11 Q. Did you know him?

12 A. I've had a few dealings with him over the
13 years, but I don't know him personally.

14 Q. When you met with Mr. Green, where was
15 that at?

16 A. At the sheriff's office located on North
17 Main Street.

18 Q. And what was the purpose of your meeting?

19 A. To interview him in reference to the
20 incident that night.

21 Q. And was he custody at that time?

22 A. Yes, he was.

23 Q. Did you take his picture at that time?

24 A. Yes, I did.

25 Q. How was he dressed?

Investigator Greg Hawkins-Direct by Finney

1 A. He was dressed in all white. He had on a
2 white tee shirt, white pants, white shoes.

3 Q. Anything else?

4 A. He also had a white hat with his
5 belongings. So I had him take a picture with and
6 without the hat, because I didn't know at that time
7 if he would have had that hat on or not at the time.
8 It was just with his property when I interviewed
9 him.

10 Q. And who took those pictures?

11 A. I did.

12 Q. Let me ask you identify State's Exhibit
13 No. 9. Can you tell us what that is?

14 A. That's the photograph I took of the
15 defendant that night.

16 Q. And how long had he been at the law
17 enforcement center at the time you took this
18 picture?

19 A. It would have been at the time I
20 interviewed him. I would have to look at the time
21 on those statements to say exactly.

22 Q. Does that picture fairly represent how he
23 looked that night?

24 A. Yes, it does.

25 MR. FINNEY: Is No. 9 in, Your Honor, I

Investigator Greg Hawkins-Direct by Finney

1 apologize.

2 THE COURT: Yes, sir. It's in.

3 Mr. Johnson, No. 9, the picture.

4 MR. JOHNSON: I think it's already in,
5 Your Honor.

6 THE REPORTER: It's in, Judge.

7 Q. What is that on the left shoulder of his
8 tee shirt? Can you tell us what that is? Based on
9 your being with him that night?

10 A. It was -- appeared to be dirt probably
11 more than likely from the dirt mound where he was
12 involved in the struggle with the other officers.

13 Q. When you, I am going to show you another
14 colored photograph, and ask if you can identify
15 that.

16 A. That's the other photograph that I took of
17 him that morning.

18 Q. Is that picture -- this picture that I'm
19 showing you now, was it taken at the same time the
20 other time picture was taken?

21 A. Yes, sir, they were taken back to back.

22 MR. FINNEY: Your Honor, I would like to
23 move this in to evidence at this time.

24 THE COURT: State's 30, what?

25 MR. FINNEY: 7, I think.

Investigator Greg Hawkins-Direct by Finney

1 THE REPORTER: 38.

2 MR. FINNEY: 38, Your Honor.

3 MR. JOHNSON: And, Your Honor, I think for
4 the record that was initially marked defense exhibit
5 for Id.

6 THE COURT: Any objection to that, Mr.
7 Johnson?

8 MR. JOHNSON: No objection, Your Honor.

9 THE COURT: That's in.

10 (Photograph marked State's Exhibit No. 38
11 into evidence.)

12 Q. This picture of Mr. Green is taken in your
13 interview room at Sumter County?

14 A. Yes, sir. That's correct.

15 Q. And it's taken with the same white outfit
16 he had on. He didn't change.

17 A. No, sir.

18 Q. All you did was put the white hat on?

19 A. Yes, sir.

20 Q. Where did the white hat come from?

21 A. It was with his property when I received
22 him from the other officers up there.

23 Q. So some of the other officers who, they
24 took him from the scene of Club Miami down to the
25 sheriff's office.

Investigator Greg Hawkins-Direct by Finney

1 A. Yes, sir, they did.

2 Q. And then you meet them there.

3 A. Yes, sir.

4 Q. You took him into the interrogation room.

5 A. Yes, sir.

6 Q. You took these pictures of him?

7 A. Yes, sir.

8 Q. Besides the white hat that you have a
9 picture of, what else did he have with him at that
10 time?

11 A. I was talking about -- I know he had a
12 cell phone. It seems like he either had cigarettes
13 or a lighter. I remember it was either one or the
14 the other. Because he, I want to think he wanted to
15 smoke, but he either had the lighter and not the
16 cigarettes or the cigarettes and not the lighter.

17 Q. Very good.

18 A. One or the other.

19 Q. Now once you had him in the interview
20 room, did you take a statement from Mr. Green?

21 A. Yes, I did.

22 Q. And did you initially ask him whether or
23 not he understand his rights?

24 A. Yes, sir, I did.

25 Q. And did you explain his rights to him?

Investigator Greg Hawkins-Direct by Finney

1 A. Yes, sir. I read him his miranda warnings
2 from our form.

3 Q. I want to show you State's Exhibit No. 1,
4 I think for ID, and ask you what is that?

5 A. That appears to be a copy of the miranda
6 warnings. As I read them to Mr. Green, it's on our
7 sheriff's office letterhead. It has all of his
8 rights outlined here, and also a waiver at the
9 bottom where he signed agreeing to talk with us that
10 morning.

11 Q. And did you tell him he had a right to an
12 attorney?

13 A. Yes, sir.

14 Q. Did you tell him he had a right to remain
15 silent?

16 A. Yes, sir.

17 Q. Did you tell him that he could stop
18 talking at any time and get a lawyer if he wanted
19 one?

20 A. Yes, I did.

21 Q. And did you tell him that he could get a
22 lawyer, even if he couldn't afford one, one would be
23 appointed for him?

24 A. Yes, sir.

25 Q. Did you ask him whether he understood

Investigator Greg Hawkins-Direct by Finney

1 those rights?

2 A. Yes, sir.

3 Q. And based on your conversations with him,
4 what did he say?

5 A. He initialed behind each one of them and
6 signed stating that he understood them.

7 Q. What time did he complete that form?

8 A. At 5:51 a.m.

9 Q. On what day?

10 A. The 3/16/2014.

11 Q. So this would have been an hour or two
12 hours after the shooting at the club.

13 A. That's correct.

14 Q. And as a result of having his rights read
15 to him, did you then start an interview with him?

16 A. Yes, we did.

17 Q. And then after that interview did you ask
18 him to write a voluntary statement?

19 A. Yes, I sir.

20 Q. And did he write one?

21 A. Yes, sir.

22 Q. And after reading that statement, did you
23 go over it with him?

24 A. Yes, sir.

25 Q. Did you understand what he had written?

Investigator Greg Hawkins-Direct by Finney

1 A. Yes, sir.

2 Q. And did he sign the document saying that
3 he wrote this in his own handwriting, and that he
4 was telling you the truth about what happened at the
5 Club Miami?

6 A. Yes, sir.

7 Q. And then after that form was signed, did
8 you get him to a sign consent form to give you a
9 saliva sample?

10 A. Yes, I did.

11 Q. And you collect the saliva sample. How do
12 you do that?

13 A. They will kind of refer to as a buccal
14 swab.

15 Q. Yes, sir.

16 A. It comes in a sealed envelope that we get
17 from our evidence technicians. It's sealed up.
18 It's basically the easiest way to describe it, it's
19 a long Q-tip. Kind of like you'd see at the
20 doctor's office sometimes. It's kind of like a Q
21 tip on a long stick, sealed up. You open it up.
22 Swab the inside of their cheek with it. And then it
23 comes with a plastic cap, that you would then seal
24 back over the top of the cotton swab in the...

25 Q. Once you take that sample from somebody

Investigator Greg Hawkins-Direct by Finney

1 that's a suspect, what do you do with that sample?

2 A. It'd then be placed into evidence.

3 Q. Did he sign the consent form to give the
4 buccal swab?

5 A. Yes, he did.

6 Q. And did you take a buccal swab from him?

7 A. Yes, sir, I did.

8 Q. And those things that you did are
9 exhibited in these three pages his miranda rights,
10 his voluntary statements, and consent to give a
11 buccal swab?

12 A. Yes, they are.

13 MR. FINNEY: Your Honor, I'd move State's
14 Exhibit 1 for ID into evidence.

15 THE COURT: Mr. Johnson.

16 MR. JOHNSON: No objection, Your Honor.

17 THE COURT: One is in.

18 (Statement of Rodney Green marked State's
19 Exhibit No. 1 into evidence.)

20 Q. After you read him his rights and asked
21 him to write down a statement, is that the statement
22 that Rodney Green gave you?

23 A. Yes, sir.

24 Q. Please publish it to the jury with the
25 court's permission.

Investigator Greg Hawkins-Direct by Finney

1 A. It says: I was at the Catchall Center, at
2 my cousin Eric people's party. Me and my
3 girlfriend, Lavitra Harvin left and went to Club
4 Miami. As soon as we pulled up to the club, we got
5 out the car, and heard a lot of noise, like people
6 was fighting. So we kept walking. And the next
7 thing I heard was gunshots. We was holding hands
8 walking until then, and we started running. And I ,
9 lost her hand. And the next thing I knew, I was
10 getting locked up.

11 Q. Is that the end of the statement that
12 Rodney Green gave you?

13 A. That's the statement he gave us that
14 night, or that morning.

15 Q. And did you ask him was that the full and
16 complete account of what happened that night at Club
17 Miami?

18 A. Yes, I did.

19 Q. And all he told you is, he and Lavitra got
20 out of a car, walked towards the club, heard some
21 fighting and or shooting, and they started to run.
22 He lost her hand.

23 MR. JOHNSON: Your Honor, he's leading the
24 witness---

25 THE COURT: Sustained.

Investigator Greg Hawkins-Direct by Finney

1 MR. JOHNSON: ---and testifying.

2 THE COURT: Sustained.

3 Q. Mr. Green told you that he was with
4 Lavitra that night, in the parking lot.

5 A. That's the story he told us.

6 Q. Did he tell you that he ever went into the
7 club?

8 A. No, he didn't.

9 Q. Did he tell you that he had a handgun with
10 him?

11 A. No, he didn't.

12 Q. Did he tell you he fired the handgun?

13 A. No, sir.

14 Q. Did he tell you he had on all white?

15 A. I don't know that I---

16 Q. In his statement.

17 A. No, sir.

18 Q. Did he tell you that he ran away from the
19 shooting that he heard into a field, over a dirt
20 berm, that night?

21 A. He didn't specify where he ran to.

22 Q. And that's all he said.

23 A. Yes, sir.

24 Q. Did he tell you why---

25 MR. JOHNSON: Your Honor, it's been asked

Investigator Greg Hawkins-Direct by Finney

1 and answered three times. He said that's all he
2 said.

3 THE COURT: Overruled.

4 Q. Did he tell you why he didn't run back to
5 the car that he just got out of to escape the
6 shooting?

7 A. No, he didn't.

8 Q. After he gave you that statement, was
9 he -- was the interview over?

10 A. Yes, sir, it was.

11 Q. And did you interview Lavitra Harvin that
12 night or shortly after that?

13 A. I didn't interview Ms. Harvin. After I
14 got done with the interview, we did the gunshot
15 residue test with the gunshot residue kit and the
16 buccal swab. And then I took him to the jail.

17 Q. The gunshot residue kit that the officer
18 described from sled, does it look something like
19 that? Your kit may look different.

20 A. Yes, the circles in there may be -- that's
21 probably circles off of the, what we have normally
22 comes, it looks like a small plastic jar. And the
23 cap of it comes off, and there's a little small
24 black disk that's real sticky in there. And you
25 just dab on the back of -- it specifics on the kit,

Investigator Greg Hawkins-Direct by Finney

1 which part to do, the back hand, the front of the
2 hand and left and right. So you just correspond
3 which one you are doing to which part of the hand
4 you're testing.

5 Q. So you did the back and front of both
6 Mr. Rodney Green's hands inside the interview room.

7 A. Yes, sir.

8 Q. And you sealed up the kit afterwards?

9 A. Yes, sir.

10 Q. Now in the days following your interview
11 with Mr. Green, you say you didn't talk -- you
12 didn't do the interview with Ms. Harvin. Ms.
13 Addison did that one?

14 A. That's correct. I went over to the
15 hospital in Columbia to check on Mr. Jenkins. And
16 Lieutenant Addison and Captain Burnish continued
17 looking for Ms. Harvin.

18 Q. Did you get to see Mr. Ray'Quann Jenkins?

19 A. I did.

20 Q. And when you saw him, did you try or did
21 you take a GSR kit on his hands?

22 A. I did.

23 Q. And once you took it, did you realize that
24 it was past the 6 hours that sled?

25 A. At that time I didn't pay attention to the

Investigator Greg Hawkins-Direct by Finney

1 time frame of how long had passed. That was after I
2 got done with Mr. Green, I drove over to Columbia,
3 and that was as soon as I could get to him in the
4 hospital.

5 Q. Let me ask you, were you able to take a
6 statement from Mr. Ray'Quann Green -- Ray'Quann
7 Jenkins on the night that you, or the day you first
8 saw him?

9 A. He was very in and out of things. They
10 had him heavily medicated. And he was in the
11 hospital bed; had a lot of IV's in him. And he was
12 very medicated, and he we very in and out then. So
13 we made arrangements to talk with him later on after
14 he got out of the hospital.

15 Q. As a part of your investigation, did you
16 talk with some ladies who testified in this case,
17 Auntachie and Diamond?

18 A. Yes, I did.

19 Q. Did you have occasion to look at the car
20 that Auntachie was driving that night when she was
21 leaving the Club Miami?

22 A. I looked at the car she told me she as
23 driving that night.

24 Q. Did you see damage on that car that she
25 described as a gunshot injury?

Investigator Greg Hawkins-Direct by Finney

1 A. Yes, I did.

2 Q. I want to show you what's been marked as
3 State's Exhibit No. 27, and ask if you identify that
4 photograph.

5 A. That's a picture of the side of the
6 vehicle she brought to the sheriff's office.

7 Q. When she brought the vehicle to the
8 sheriff's office, which side of the vehicle had the
9 damage on it?

10 A. It's the passenger side.

11 Q. And, Your Honor, I'd ask -- does this
12 appear to be a fair representation of the damage
13 that was on her car at that time?

14 A. Yes, it does.

15 THE COURT: That's already in, isn't it?

16 MR. FINNEY: 27 is in?

17 MR. JOHNSON: I think it's already in.

18 THE REPORTER: It's in.

19 Q. Officer, did you have yourself and other
20 officers investigate the damage that appears on the
21 side of Ms. Auntachie's car, behind the front door?

22 A. Yes, sir.

23 Q. And did you determine whether it was a
24 gunshot?

25 A. When I initially looked at it based upon

Investigator Greg Hawkins-Direct by Finney

1 the damage in my time working in law enforcement,
2 the damage looked consistent with a wreck. But
3 since there was a large hole, we wanted to eliminate
4 any possibility that there could have been a bullet
5 that went through that hole that was then later
6 enlarged. So...

7 Q. Tell the ladies and gentlemen what you
8 did.

9 A. We -- I contacted our crime scene unit,
10 and we actually took a vehicle back to the county
11 shop. They inspected the inside door panel. There
12 were no other bullet holes coming out of the door.
13 So then to eliminate any possibly that the bullet
14 may have still been inside the door, they actually
15 removed the door panel from the inside and checked
16 inside of there. And when they were unable to
17 locate any bullet inside either.

18 Q. Did she report to you, Ms. Auntachie, on
19 the evening of the shooting when she left the club,
20 that she either hit or almost hit a pole, and that
21 she also ran into a ditch?

22 A. She did.

23 Q. And did you all determine that any gunshot
24 damage was done to her car based on the injuries
25 that are shown in that picture?

Investigator Greg Hawkins-Direct by Finney

1 A. No, sir. That damage looked consistent
2 with a wreck.

3 Q. Now, Investigator, as part of your
4 interviewing and going through the crime scene, did
5 you and other officers cover the crime scene area of
6 the parking lot of Club Miami and out into the field
7 area looking for evidence?

8 A. Yes, sir, we did.

9 Q. Did you find any other evidence of gunfire
10 that night?

11 A. No, sir.

12 Q. If an automatic weapon had been used in
13 that vicinity that night, would it have left a shell
14 casing just like the ones that are in State's
15 Exhibit No. 34?

16 A. Yes, it would have.

17 Q. And did you find any?

18 A. No, sir, we didn't.

19 Q. Did you have any witnesses other than
20 Ms. Auntachie, report to you that they heard a
21 second shooter that night?

22 A. Just the individuals that were in the
23 vehicle with her.

24 Q. That would be Ms. Diamond, I think.

25 A. Diamond Brooks, yes..

Investigator Greg Hawkins-Direct by Finney

1 Q. So the ladies that were in that vehicle,
2 said they saw a man with two guns. Is that what
3 they reported to you?

4 A. Yes, sir.

5 Q. And that man was identified as someone
6 named?

7 A. They identified him as Carter Man.

8 Q. Did you all check in to that to see if you
9 could identify who that was, and go talk to him?

10 A. Yes, sir. We have a data base of
11 different alias' that people use. I checked that.
12 I checked with our drug unit that's familiar with a
13 lot of street names that people use. I checked with
14 the city police department, and no one was familiar
15 with anybody by that name.

16 Q. If these ladies in this car saw a man with
17 dreadlocks and two weapons, is there any evidence
18 that he shot the weapons?

19 A. No, there's not.

20 Q. There is a belief, I believe there was a
21 belief at that time when they talked to you a day or
22 two later, that this man had fired his weapons?

23 MR. JOHNSON: Your Honor.

24 THE COURT: Sustained. Leading.

25 MR. FINNEY: I'll rephrase the question.

Investigator Greg Hawkins-Direct by Finney

1 Thank Your Honor.

2 Q. Besides those ladies, did anybody else you
3 talked to or interviewed at the club that night or
4 subsequent to that night, tell you that they heard
5 shooting other than the shooting that was done by
6 the man in white?

7 A. No, sir.

8 Q. Did you ever identify for yourself and for
9 the case file, how far it was from the shells that
10 you photographed that we talked about, the shell
11 casings in the parking lot, how far from the shell
12 casings in the parking lot it was out to the area
13 where the gun was located on the map that you've got
14 showing on the screen now?

15 A. I never got an exact measurement, which I
16 would estimate it was several 100 feet. If not
17 maybe about the length of a football field roughly.

18 Q. So---

19 A. 2 to 300 feet.

20 Q. Two to 300 feet from the shell casings to
21 the gun out in the field.

22 A. Yes, sir.

23 Q. And based on the information that you had
24 with the three shell casings in the parking lot, how
25 many injuries were sustained in the parking lot that

Investigator Greg Hawkins-Direct by Finney

1 night?

2 A. The only ones that were reported to us was
3 Mr. Archie and Mr. Jenkins.

4 Q. And they would -- they each had single
5 gunshots?

6 A. That's correct.

7 Q. How about the black car?

8 A. And then it had a gunshot in it as well.

9 Q. A single gunshot?

10 A. Yes, sir.

11 Q. So you had a total of 3?

12 A. Yes, sir.

13 Q. Now let me ask you this: Once you had
14 compiled everything and started getting statements,
15 did you have a number of people who identified the
16 man in white who was shooting?

17 A. Yes, we did.

18 Q. Did those people know the man in white by
19 name?

20 A. I believe some of them did.

21 Q. And what was the name that they gave you?

22 A. Rodney Green.

23 Q. And Rodney Green was at the Club Miami
24 that night?

25 A. Yes, sir.

Investigator Greg Hawkins-Direct by Finney

1 Q. He was arrested by Officer Pizzino?

2 MR. JOHNSON: Your Honor.

3 THE COURT: Sustained. It's leading.

4 Q. Was Mr. Green arrested that night at Club
5 Miami?

6 A. Yes, he was.

7 Q. And was he photographed later on that same
8 night wearing an all white outfit?

9 A. Yes, sir, he was.

10 Q. And was he arrested a few feet away---

11 MR. JOHNSON: Your Honor, I object again.

12 THE COURT: Well I guess it's a fine line
13 between what's leading and what's not. That's not
14 leading, so you can go ahead.

15 Q. Was he arrested---

16 THE COURT: It calls for a yes or no
17 answer. That means it's not leading. He just
18 can't lead with the clothes.

19 MR. FINNEY: I'm sorry. I'm tired, Your
20 Honor.

21 Q. Was he -- was Mr. Green arrested a few
22 feet away from a handgun that night, located by
23 Misty Lee?

24 A. Yes, sir.

25 Q. And was that handgun later matched to the

Investigator Greg Hawkins-Direct by Finney

1 three shell casings in the parking lot?

2 A. Yes, it was.

3 Q. Now that handgun was a 45 caliber Smith &
4 Wesson.

5 A. That's correct.

6 Q. Did you run a check on that handgun?

7 A. Yes, we did.

8 Q. What did you discover about the Smith &
9 Wesson handgun that you found, or they found in the
10 field that night?

11 A. It had been reportedly stolen, within the
12 City of Sumter.

13 Q. Tell the ladies and gentlemen how you were
14 able to locate that.

15 A. We ran -- I actually had one of the other
16 officers who is certified through their system, ran
17 a check through the ATF. And he input the serial
18 number from the gun into that system, and then
19 that's when it came back with a hit that it was
20 stolen from the City of Sumter.

21 THE COURT: Can I see you all up here just
22 a moment?

23 (Whereupon, the attorneys approach and
24 confer with judge.)

25 THE COURT: Ladies and gentlemen, you have

Investigator Greg Hawkins-Direct by Finney

1 heard evidence that the handgun in question, the one
2 that's in evidence, was reported as stolen within
3 the City of Sumter. I just want to give you an
4 instruction on that. You're to use that evidence if
5 at all, only as to your determinations pertaining to
6 Count 4, which is possession of a stolen pistol.
7 That evidence is not to be used by you in
8 determining whether or not the defendant committed
9 the crime of murder or attempted murder. Go ahead,
10 Mr. Finney.

11 MR. FINNEY: Thank Your Honor.

12 Q. Mr. Hawkins, once your investigator ran
13 the number in the computer, you say you got a hit.
14 What does that mean?

15 A. It just comes back within their system.
16 It works I guess similar to like an e-mail type
17 system. But it's confined within their computer
18 system. It came back and told us that it was stolen
19 from the City of Sumter. Provided us with their
20 case number and information on who had purchased the
21 gun and where it was purchased at.

22 Q. Tell the ladies and gentlemen of the jury,
23 where the gun was purchased by the owner of the gun.

24 A. The paperwork here shows that it was
25 purchased 5/15/2010 at a Simpson's Hardware.

Investigator Greg Hawkins-Direct by Finney

1 Q. And the owner of the gun had the gun in
2 May of 2010.

3 A. That's correct.

4 Q. That's when he brought it.

5 A. Yes, sir.

6 Q. And when was it reported stolen?

7 A. He reported stolen to the Sumter Police
8 Department on, it looks 8/21/2012.

9 Q. August 2012.

10 A. Yes, sir.

11 Q. And the gun was unaccounted for until it
12 was found in the field at Club Miami?

13 A. That's correct.

14 Q. And that was March 16th 2014.

15 A. Yes, sir.

16 Q. And was Mr. Green charged with possession
17 of a stolen firearm at that time?

18 A. Yes, he was.

19 MR. FINNEY: Your Honor, I'd move this
20 document into evidence.

21 MR. JOHNSON: No objection, Your Honor.

22 THE COURT: That's in. No. 39?

23 THE REPORTER: 39.

24 (Incident Report marked State's Exhibit
25 No. 39 into evidence.)

Investigator Greg Hawkins-Direct by Finney

1 MR. FINNEY: Your Honor, at this time, I
2 would ask -- let me, please.

3 Q. The clothing that Mr. Rodney Green had on
4 at the time you took his picture in the interview
5 room.

6 A. Yes, sir.

7 Q. Including the white hat, was it taken from
8 him?

9 A. Yes, sir. When I took him to the jail,
10 they have outfits at the jail that he would change
11 into. So he had him change there. And we took
12 those clothes at that time, due to the significance
13 of the people at the scene telling us the shooter
14 was wearing all white, and thought that was very
15 significant that they were saying he was the only
16 one at that time wearing all white.

17 Q. And did you collect those items and put
18 them in the evidence room?

19 A. Yes, I did.

20 Q. I'm going to show you what's in a bag
21 marked State's Exhibit 36 for ID. Can you look in
22 here and determine whether those items you took from
23 Mr. Rodney Green are in this bag?

24 A. Yes, sir. That's the clothes that we took
25 from him that evening -- that morning.

Investigator Greg Hawkins-Direct by Finney

1 MR. FINNEY: Your Honor, I would move
2 these into evidence.

3 THE COURT: Mr. Johnson.

4 MR. JOHNSON: No objection, Your Honor.

5 THE COURT: 36 is in.

6 (Bag of clothes marked State's No. 36 into
7 evidence.)

8 Q. Officer, when you did the markers on the
9 shell casings or when the markings on the shell
10 casings were done in the field in the parking lot?

11 A. Yes, sir.

12 Q. Why did one get one, and 2 get 2, and 3
13 get 3? Was there any order assigned to how they got
14 numbered?

15 A. It's just the order in which they were
16 located. They were all in a line. You know, that's
17 just the order that they were in.

18 Q. But you don't have -- does that number
19 that you assign to it have anything to do which one
20 was fired first from the gun?

21 A. Not necessarily. That's just the order
22 they were located in.

23 MR. FINNEY: Thank you. Answer any
24 questions Mr. Johnson may have.

25 THE COURT: Mr. Johnson.

Investigator Greg Hawkins-Cross by Johnson

1 MR. JOHNSON: Thank Your Honor. Please
2 the court.

3 CROSS EXAMINATION by Mr. Johnson:

4 Q. Investigator Hawkins, how are you doing?

5 A. Good. How are you?

6 Q. All right. You were the lead
7 investigator, correct?

8 A. That's correct.

9 Q. So as lead investigator, you basically
10 have collected -- you might not have done all the
11 work, but you have all the knowledge of this case,
12 correct?

13 A. I won't say that I know everything. I
14 mean, I'm sure there are still things out there that
15 we don't know still today. But I know everything
16 that---

17 Q. Right.

18 A. ---we collected.

19 Q. Everything that you collected it came to
20 you.

21 A. Yes, sir.

22 Q. So let's start off with some things.

23 First of all, in that bag, the clothes that you have
24 in that bag, you collected from Rodney Green,
25 correct?

Investigator Greg Hawkins-Cross by Johnson

1 A. That's correct.

2 Q. Now those clothes collected, those are the
3 clothes he had on at the time that the incident
4 happened, correct?

5 A. That's right.

6 Q. And he was taken straight from the scene
7 down to the station, correct?

8 A. That's right.

9 Q. So everything in that bag is what he had
10 on. Well I mean, was the clothes you collected from
11 him; that you collected.

12 A. The clothes, yes. Now there is a hat in
13 there that was his property. The hat wasn't
14 physically on his head when I got him, so I don't if
15 he had it on or not.

16 Q. But the hat came with him, right?

17 A. Yes.

18 Q. I mean nobody didn't come in the door when
19 you got down to the station, and brought you a white
20 hat later.

21 A. No, it was with his belongings.

22 Q. With his belongings.

23 A. Yes, sir.

24 Q. So it's fair to assume that that was found
25 with him, that he had with him.

Investigator Greg Hawkins-Cross by Johnson

1 A. I would think so.

2 Q. Would you please examine that. Does that
3 appear to be the hat?

4 A. Yes, sir.

5 Q. Would you please hold it up so the jury
6 can see it? Now that is a white hat, correct?

7 A. Yes, sir.

8 THE COURT: Just to be clear, Mr. Johnson,
9 that did come out of No. 36.

10 MR. JOHNSON: No. 36.

11 Q. And that what a hat that was brought with
12 him, when he was brought down to the station, that
13 was basically found with him, whether it was on his
14 head when they tackled him or whatever. That's what
15 was with him, correct?

16 A. Yes, sir.

17 Q. It was not a dark hat.

18 A. No, sir. It's this hat right here.

19 Q. And definitely that is not a black hat or
20 a dark hat.

21 A. No, sir.

22 Q. So from the statement made by one of the
23 security guards, that's inconsistent with his
24 statement, isn't it?

25 A. I don't believe in his statement if he

Investigator Greg Hawkins-Cross by Johnson

1 stated whether he had a hat on or not, in the
2 statement he gave me.

3 Q. True.

4 A. But during his testimony, yes.

5 Q. It's inconsistent with his testimony. Or
6 it would either be somebody else he saw with a black
7 hat on that had white, correct?

8 A. I believe he testified that he -- the
9 person he saw shooting is the person that they took
10 into custody.

11 Q. Right. But what I'm saying is, it's
12 inconsistent with two reasons. Either it could be
13 if it was inconsistent with what the person had on
14 that he saw, or he saw somebody else with a black
15 hat that made a mistake.

16 A. I can't speculate as what he did or didn't
17 see.

18 Q. I don't want you to speculate. I'm just
19 asking a question. Let's go to something else.
20 When you arrived at the scene, how many people do
21 you think was there? Or were you told how many
22 people was at the scene?

23 A. It would be hard for me to estimate. It
24 was quite a few people.

25 Q. Quite a few people.

Investigator Greg Hawkins-Cross by Johnson

1 A. They were scattered around. I would
2 estimate some of the folks had left, judging by the
3 talking to the witnesses, that are saying the
4 parking lot was full. And when I got there, there
5 was quite a few cars that left.

6 Q. Now you prepared these documents or the
7 diagrams showing where everything was at, correct?

8 A. That's right.

9 Q. Now you had to prepare them because -- was
10 that because the person that normally did it wasn't
11 available to do it?

12 A. That's correct.

13 Q. And who would that person be?

14 A. Investigator Bean.

15 Q. So normally Investigator Bean would have
16 prepared those documents, correct?

17 A. That's correct.

18 Q. Why would he have been the best person to
19 prepare those documents?

20 A. It wouldn't necessarily be that he would
21 best person. He would just be the person that would
22 normally be responsible for it.

23 Q. Why would he be the person responsible for
24 it then?

25 A. That's part of his job. He normally would

Investigator Greg Hawkins-Cross by Johnson

1 collect the evidence. So I mean he would in typical
2 fashion know where the things were at, so that would
3 normally be part of his duties.

4 Q. And in this case, he was the person that
5 collected the evidence, right?

6 A. Parts of it, yes, sir.

7 Q. So therefore, when you made that diagram,
8 that was to the best of your limited knowledge,
9 because you was not the person that collected the
10 evidence.

11 A. That's where I saw the items and the
12 people that where they were at that night. And
13 where I was told by other officers where the other
14 items were at.

15 Q. Right. But the person that would have
16 known would have been Investigator Bean.

17 A. Yes, sir, he would know.

18 Q. Because -- go ahead. I'll let you finish.

19 A. Yes, sir. I mean he wouldn't necessarily
20 be the only one that would know. Yes, sir, he would
21 have known.

22 Q. Because he actually took pictures of
23 everything where it was located, correct?

24 A. Yes, sir. That's part of his job.

25 Q. So one person that would have been through

Investigator Greg Hawkins-Cross by Johnson

1 every piece of evidence at that scene was

2 Investigator Bean.

3 A. Yes, sir.

4 Q. Okay. Now you stated that you marked that
5 evidence.

6 A. Yes, I did.

7 Q. Now you were sitting in the courtroom a
8 minute ago, and you heard the other investigator say
9 that Investigator Bean marked the evidence.

10 A. Yes, sir.

11 Q. Can you explain that?

12 A. I know when I saw the casings, I had my
13 markers with me, so I marked them at that time. Now
14 whether Bean used different numbers and remarked
15 them later, I have no idea. But I know that I used
16 my markers to initially mark them, so they would be
17 able to easily find where those casings were at
18 again.

19 Q. So then the markers in this picture of
20 where the casings are found, they're not your
21 markers.

22 A. They appear to be the same type of markers
23 that I use, yes.

24 Q. I'm not asking if they are the same type.
25 Are those your markers?

Investigator Greg Hawkins-Cross by Johnson

1 A. There's not a serial number on them, so I
2 couldn't tell you whether they were mine or they
3 were his.

4 Q. But you heard the officer say that he saw
5 Investigator Bean mark them.

6 A. Yes.

7 Q. He didn't mention he saw any markers by
8 you, did he?

9 A. No, sir.

10 Q. So then isn't it possible that they could
11 not be in the same position when Investigator Bean
12 marked them as they were when you did?

13 A. The evidence would remain in the same
14 position, but the marker may be oriented a little
15 different.

16 Q. But you don't know, do you?

17 A. No, sir.

18 Q. Let's talk about the bullet in the
19 dashboard.

20 A. Yes, sir.

21 Q. Now there was a round in the dashboard.
22 But isn't it true, I think I read it in some of the
23 reports, that it was decided because it was in the
24 dashboard, and you had to take the dash out, and
25 decided not to get the round out?

Investigator Greg Hawkins-Cross by Johnson

1 A. That wasn't my decision. That was made by
2 Investigator Bean.

3 Q. That's fine.

4 A. Yes, sir.

5 Q. But he's not here to ask why he decided
6 that, is he?

7 A. No, sir.

8 Q. So I have to ask you.

9 A. Yes, sir.

10 Q. But it was decided that you wasn't going
11 to take the rounds. It was decided by Investigator
12 Bean that it wasn't going to be taken out of the
13 dash, right?

14 A. Yes, sir.

15 Q. So the only way to determine what type of
16 bullet it was in the dash, is to take it out and
17 look at it, right?

18 A. Yes, sir.

19 Q. And you didn't do it.

20 A. It wouldn't have been my job to take it
21 out.

22 Q. I don't care whose job it is. We don't
23 have it, do we?

24 A. Well you asked did I do it.

25 Q. I'm sorry. But it wasn't done by you or

Investigator Greg Hawkins-Cross by Johnson

1 anybody in your department.

2 A. No, sir.

3 Q. So right now we don't know what bullet was
4 in there.

5 A. No, sir.

6 Q. So when you say that there was only one
7 type of bullet shot, you don't know, do you?

8 A. It was consistent with where the casings
9 were at. But I couldn't tell you the bullet in that
10 dash is the same bullet from the gun, no.

11 Q. Does that mean that you don't know, right?

12 A. Yeah.

13 Q. So it was consistent with your theory of
14 the crime.

15 A. Yes, sir.

16 Q. So therefore, you decided who was guilty,
17 and then you went and looked for evidence to prove
18 he was guilty.

19 A. No, sir. That's the jury's job to decide
20 if he's guilty or not. It's my job to put the case
21 together so they can make their decision.

22 Q. And it's your job to get all the evidence,
23 right?

24 A. Yes.

25 Q. Did you get all the evidence?

Investigator Greg Hawkins-Cross by Johnson

1 A. I gathered everything I could for the
2 case.

3 Q. Did your department get all the evidence?

4 A. The bullet was left in the dash, yes, sir.

5 Q. Is that a yes -- so they didn't get all
6 the evidence, did they? Because there's still a
7 bullet in the dash somewhere.

8 A. Yes, sir.

9 Q. That's a gunshot bullet.

10 A. Yes, sir.

11 Q. That could help the jury decide the truth
12 in this case.

13 A. Possibly.

14 Q. And your department didn't do. I won't
15 say you.

16 A. Yes, sir.

17 Q. Now you took statements from Tyrese
18 Archie, right? The gentleman who was shot in the
19 leg. You went to Palmetto.

20 A. That would be Mr. Jenkins.

21 Q. Mr. Jenkins, I'm sorry.

22 A. Yes, sir.

23 Q. You took statements from him.

24 A. Yes, sir.

25 MR. JOHNSON: Your Honor, may I approach

Investigator Greg Hawkins-Cross by Johnson

1 the witness?

2 THE COURT: Yes, sir.

3 Q. Would please look at that? Do you
4 recognize that?

5 A. That appears to be part of my
6 investigative report.

7 Q. A report that you wrote, right?

8 A. Yes, sir.

9 Q. Now down in that paragraph.

10 A. The highlighted part. Yes, sir.

11 Q. I have a highlighted part down there.

12 Would you please read it to yourself, first.

13 A. Yes, sir.

14 Q. Now that's something that you wrote in
15 your report, correct?

16 A. Yes, sir.

17 Q. Now let me ask you a question. Isn't it
18 true from your knowledge, as you say, you've dealt
19 with Rodney on different things before. And you've
20 dealt with Mr. Jenkins before, haven't you?

21 A. Yes, sir.

22 Q. Isn't it true that Mr. Jenkins knew Rodney
23 before this thing happened?

24 A. We discovered that later on, yes, sir.

25 Q. That he knew who Rodney was, right?

Investigator Greg Hawkins-Cross by Johnson

1 A. Yes, sir.

2 Q. Now when you asked him the night of -- now
3 when did you ask him question that I just
4 highlighted there?

5 A. It would have been the day we went to his
6 grandmother's house and interviewed him.

7 Q. And you asked him who was the person that
8 shot him, or did he know the person, right?

9 A. Yes.

10 Q. What did you write down? Please read it
11 to the jury.

12 A. It appears that I made a typographical
13 error. I was saying he and Archie. But what I
14 actually wrote or what came out was, Jenkins said he
15 as he reached Archie, a man dressed in all white,
16 began shooting at the two of them. It should have
17 been Jenkins and Archie, and the man in all white.

18 Q. Keep reading.

19 A. What the statement says.

20 Q. And keep reading it.

21 A. Jenkins did not know who the man dressed
22 in all white was. And went on to say that he was
23 the only person at Club Miami he saw wearing all
24 white. Investigator Hawkins administered a gunshot
25 residue test on Jenkins, and took photographs of

Investigator Greg Hawkins-Cross by Johnson

1 Jenkins; was unable to give written statements due
2 to monitors hooked up to him at the hospital. My
3 apology, this when I talked to him at the hospital,
4 not at his home.

5 Q. That was the hospital, right?

6 A. Yes, sir.

7 Q. Now at the hospital, he told you that he
8 did not know who the man was that shot him.

9 A. That's correct.

10 Q. And he came in this courtroom and stated
11 that it was Rodney.

12 A. That's correct.

13 Q. And that's inconsistent with what he told
14 you, isn't it?

15 A. That's correct.

16 Q. Let's move on. Did you talk -- you heard
17 Dr. Ross testify today, right?

18 A. Yes, sir.

19 Q. Did you talk to Dr. Ross before she came
20 in here today?

21 A. No, sir, I did not.

22 Q. You just assumed that she was going to
23 have evidence that would have been consistent with
24 your theory of what happened, correct?

25 A. I had assumed she would speak to as what

Investigator Greg Hawkins-Cross by Johnson

1 she had in her report.

2 Q. Right.

3 A. I have got no idea what else she would
4 have to say.

5 Q. Right. So you didn't question her as to
6 the result of her examination after you sent that
7 information to her, have you?

8 A. I didn't send any information to her. She
9 sent us a report---

10 Q. Right.

11 A. ---with the findings of her autopsy.

12 Q. If you had known then as you heard today,
13 that the rounds found in the gun, the 45, was not
14 consistent with her opinion, consistent with a round
15 that would have killed the victim in this case,
16 wouldn't that have shown you there was a possibility
17 that there was another person out there shooting?

18 A. I believe her testimony was that's it
19 possible for the skin to be elastic; that it would
20 be possible that those rounds could have been the
21 rounds.

22 Q. You can -- the jury can make their own
23 mind about that. I'm asking you, if you had been
24 aware that it was a possibility as she stated, that
25 it was a medium to small caliber weapon that killed,

Investigator Greg Hawkins-Cross by Johnson

1 and you're aware that a 45 is a large weapon.

2 Wouldn't that indicate to you to look for a second
3 shooter?

4 A. Yes, sir.

5 Q. Did you?

6 A. This is the first I found out about a
7 smaller caliber weapon was when she testified today.

8 Q. Because it's the first time you ever asked
9 her. Or anybody ever asked her, right?

10 A. Yes, sir.

11 Q. Because you made up your mind you had the
12 right man.

13 A. Based upon the statements and the evidence
14 we had in hand, yes, sir.

15 Q. Based on what you did, correct?

16 A. Yes, sir.

17 Q. And you didn't do everything you could do.

18 A. Yes, sir.

19 Q. I keep saying you. Your department didn't
20 do everything it could do, did it?

21 A. I think we did everything well within
22 reason as to...

23 Q. But we're not in to reason. We're trying
24 to do everything we can do for evidence. Isn't that
25 what you trying to do, or are you just trying to say

Investigator Greg Hawkins-Cross by Johnson

1 well it's reasonable, and let's stop?

2 A. No, I mean we gathered everything that --
3 or I gathered everything that I could.

4 Q. It keeps jumping back to you. But your
5 department didn't get that round out of the car, did
6 it?

7 A. No, it didn't.

8 Q. It was other cars out there that had
9 bullet holes in it.

10 A. I have got no idea.

11 Q. Because you only did what you had to do.

12 A. Well I mean, as the doctor -- or as the
13 expert testified, the bullets could have go through
14 and through. So if the bullet went through the
15 victim, it's possible those bullets could have hit
16 another car. But that's the only ones that we found
17 in the parking lot.

18 MR. JOHNSON: Your Honor, can I approach
19 the witness?

20 Q. This State's Exhibit No. 38, please take a
21 look at that. Do you recognize that?

22 A. Yes.

23 Q. What is that?

24 A. It's a picture of Rodney Green.

25 Q. Now that's a picture of Rodney Green with

Investigator Greg Hawkins-Cross by Johnson

1 a white hat on, correct?

2 A. Yes.

3 Q. And that was a white hat collected,
4 correct?

5 A. Yes.

6 Q. Now you took a picture with him without
7 the white hat on.

8 A. That's correct.

9 Q. And then you took one with the white hat
10 on, right?

11 A. Yes.

12 Q. Because you didn't know what he had on,
13 did you?

14 A. At the time I did not.

15 Q. And you had evidence there was another man
16 with a white hat -- white with a black hat on,
17 correct?

18 A. No, sir.

19 Q. Because you didn't ask that question, did
20 you?

21 A. No, sir.

22 MR. JOHNSON: Can I pass this to the jury?

23 Q. So if the individual that had a white---

24 THE COURT: Wait just a second. Before
25 you do it, let me address them.

Investigator Greg Hawkins-Cross by Johnson

1 MR. JOHNSON: I'm sorry.

2 THE COURT: If you're looking at that
3 exhibit, ladies and gentlemen, please make sure that
4 you continue to pay attention. Go ahead,
5 Mr. Johnson.

6 MR. JOHNSON: If anybody missed anything,
7 please raise your hand.

8 THE COURT: No, you can't.

9 MR. JOHNSON: I'm sorry. I can't talk to
10 the jury. I'm sorry, Your Honor. I'll just wait,
11 Your Honor.

12 THE COURT: That's fine.

13 Q. In short, you have some evidence that
14 might indicate that my client committed a crime,
15 correct?

16 A. Yes.

17 Q. But you also have evidence to indicate
18 that he didn't do it don't know?

19 A. No.

20 Q. You don't?

21 A. No.

22 MR. JOHNSON: No other questions.

23 THE COURT: Redirect?

24 MR. FINNEY: I beg the court's indulgence.

25 THE COURT: All right.

Investigator Greg Hawkins-Redirect by Finney

1 Redirect Examination by Mr. Finney:

2 Q. Officer Hawkins, can you tell the ladies
3 and gentlemen of this jury, any information that was
4 given to you that you didn't go check out?

5 A. No, sir. We checked out every lead that
6 was given to us.

7 Q. Did you have the occasion to generate
8 another suspect in a shooting that night at the
9 Club Miami?

10 A. Other than the Carter Man person that we
11 never verified that he actually fired any shots.

12 Q. And did you ever talk to anybody who heard
13 shots, or saw shooting other than the sparking that
14 came from the gun that the man in white had?

15 A. No, sir.

16 Q. Did anybody else report to you that a man
17 in white with a black hat on, was out there shooting
18 at Club Miami?

19 A. All the reports we got was that the man
20 was wearing all white.

21 Q. Did the security guard that came in here,
22 and said he thought the man might have had on a dark
23 hat, do you remember which security guard that was?

24 A. Mr. Conyers.

25 Q. Did Mr. Conyers give you a written

Investigator Greg Hawkins-Recross by Johnson.

1 statement before he came up here and testified?

2 A. Yes, he did.

3 Q. Did he mention, Mr. Conyers mention
4 anything in that statement about the man having on a
5 hat?

6 A. No, he didn't.

7 Q. Did he mention anything about a dark hat?

8 A. No, he didn't.

9 Q. Did he mention anything about a white hat?

10 A. No, he didn't.

11 MR. FINNEY: Nothing further. Thank you.

12 THE COURT: Anything else?

13 MR. JOHNSON: Just follow up.

14 Recross Examination by Mr. Johnson:

15 Q. Nobody in any of their statements
16 mentioned anything about a white hat, did they?

17 A. The statements just said wearing all
18 white.

19 Q. Wearing all white.

20 A. Yes, sir.

21 Q. So but having that white hat is not -- but
22 there was other people that had white on that night,
23 didn't they?

24 A. There were some folks that had white, but
25 based upon the witnessed we talked to, he was the

Investigator Greg Hawkins-Recross by Johnson

1 only one wearing all white.

2 Q. But there was other witnesses that you
3 didn't talk to, or people that wouldn't cooperate,
4 correct?

5 A. Either they didn't come forward or didn't
6 cooperate, no, sir.

7 Q. Right. So you based your theory on just
8 the evidence that you had, correct?

9 A. Yes, sir. The people we interviewed and
10 the evidence we collected.

11 Q. Right. And there was evidence you didn't
12 collect, correct?

13 A. Yes, sir.

14 MR. JOHNSON: No other questions.

15 THE COURT: You can step down. Thank you.
16 can I see the lawyers up here for just a minute?

17 (Whereupon, the attorneys approach the
18 bench and confer with judge.)

19 THE COURT: Ladies and gentlemen, we are
20 going to stop for the evening and start back
21 tomorrow morning at 10:15. Please be in your jury
22 room at that time. In the meantime, you may not
23 discuss the case in any way at all. No research.
24 No investigation. No nothing. No tweetering,
25 Facebooking. Whatever else you might do on the

1 MR. FINNEY: No, Your Honor.

2 THE COURT: I've got to take care of that
3 proceeding tomorrow morning at 10 o'clock. And my
4 part is at the very beginning. It's very short. So
5 I'll be up here quickly after that. Let's assume
6 for the moment that the State rests. And let's
7 assume for the moment, I know that we don't know if
8 the defendant doesn't put up any evidence. Do
9 either of you have any written charges you want me
10 to give? Written jury charges. I know we'll have
11 motions and all, but any written jury charges that
12 you have with you now?

13 MR. JOHNSON: Your Honor, for the defense,
14 as of right now, I don't have any.

15 THE COURT: Mr. Finney, do you have any at
16 hand now?

17 MR. FINNEY: No, sir, I don't.

18 THE COURT: I think -- I think that the
19 charge itself will be straightforward. There will
20 be no room for lesser included as I see, based on
21 the evidence that's been presented. It was either
22 Mr. Green or it was not. Now that may change if
23 Mr. Green puts up a defense and something else comes
24 to light. I don't see any lesser included at least
25 at this stage. The verdict form as I foresee, I

1 think my clerk has already typed it; drafted one, it
2 would say, as to the charge of murder or Count 1,
3 however it is. Not guilty, guilty. Two, would be
4 attempted murder. Count 3, would be possession of a
5 weapon during the commission of a violent crime.
6 And 4, would be possession of a stolen pistol.

7 Certainly all that can change based on the
8 outcome of any directed verdict motions. I know
9 that you've got your motion for a mistrial pending.
10 Do you want to be heard further on that now?

11 MR. JOHNSON: I just have a small
12 statement. I can do it now or later.

13 THE COURT: Go ahead.

14 MR. JOHNSON: Well my statement is, the
15 motion I have for a mistrial, was based on, as
16 stated by the testimony of the witnesses,
17 Investigator Bean was the person that collected the
18 evidence. The shell casings was an important issue.
19 Assuming that the shell casings had been held out,
20 then I don't think that the State would be in a
21 position to then connect the gun to the shooting.
22 If they said he had a gun.

23 THE COURT: A gun to those casings anyway.

24 MR. JOHNSON: Right.

25 THE COURT: Which were in turn obviously

1 fired or at least dropped at the scene.

2 MR. JOHNSON: Right. By the casings being
3 there, the casings shows that the gun had been
4 fired. Without the casings, the State's evidence
5 would have been that a gun had been found near my
6 client. They could get that in. But they couldn't
7 then say that a gun had been fired or connected to,
8 to anything, because they didn't recover a rounds.
9 I mean they didn't recover a round in connection to
10 the gun.

11 THE COURT: Mr. Finney.

12 MR. FINNEY: Mr. Johnson is just about
13 correct, but I think he gets to the wrong
14 conclusion. I could have, and did get the shell
15 casings that were found to the sled lab, as a result
16 of them being picked up by law enforcement. And law
17 enforcement did the analysis at the sled lab,
18 connecting the shells to the gun. I think that
19 connection came in before they came in to evidence.
20 And by the virtue of that, I believe that that gets
21 us around any problem with the chain. I believe the
22 chain is complete once we've got the analysis of the
23 shell casings connected to the gun, which are both
24 in same field.

25 Now you can add all the stuff in about

1 what the citizen witnesses saw that night. But the
2 fact of the matter is that the cases that I think
3 would apply, Brockmeyer and Hatcher, don't require
4 Mr. Bean, the evidence collector, to testify, in
5 order for the casings and the gun to be put into
6 evidence, if I can show and that the investigation
7 was handled in a reasonable manner; that the
8 evidence was collected in a manner in which it's
9 normally collected. And it's a non-fungible item
10 that has specific identifying features. Which they
11 did, they marked each one individually, took
12 pictures of their location. And then collected them
13 and sent them to sled.

14 MR. JOHNSON: But that would be my point
15 exactly, Your Honor. The person that collected the
16 rounds, took the pictures, and for the court or
17 anyone to make, whether it was collected reasonable
18 was Mr. Bean. Without him being here, without
19 giving my client his constitutional rights to cross
20 examine his accuser as to how they were collected
21 and whether it was done reasonably, the court cannot
22 make an assessment of that.

23 THE COURT: I think where we're headed
24 gentlemen on that is, I am likely going to deny your
25 motion. Certainly I will reserve the right to

1 change my ruling. I don't think that the chain
2 evidence has been damaged enough to require a
3 mistrial. Obviously where this came up is when the
4 sled agent was called out of order because she was
5 here in the morning. And that's not an unusual
6 thing. I am not faulting anyone for that, but
7 that's what happened. But when it became apparent
8 that Mr. Bean wasn't going to be here to testify
9 about what he did with them, the question was going
10 to be then, what other witnesses would perhaps cover
11 that sufficiently to have a suitable chain of
12 custody.

13 I think that Captain Burnish and
14 Investigator Hawkins adequately covered it for
15 admissibility purposes. So I respectfully deny your
16 motion for a mistrial. And to the extent you're
17 also asking for the jury to be told that they are to
18 disregard the sled, I know that's not your motion.
19 But to the extent you would ask for sled firearm's
20 expert's testimony to be excluded, I would
21 respectfully deny that too. You made the cat out of
22 the bag argument earlier. And I understand exactly
23 where you're coming from.

24 I think the chain is in tact under our
25 case law. The fact remains whether or not the jury

1 thinks that it's been persuaded that those casings
2 came from that gun, and that that gun came from your
3 client and so forth and so on. I think all that's
4 going to be sorted out, or will have to be sorted
5 out by the jury.

6 Now as far as tomorrow, Mr. Johnson, if
7 Mr. Finney rests the first thing in the morning, if
8 you do any witnesses, would you have more than one
9 or two, or what are you talking about?

10 MR. JOHNSON: If I do have witnesses, Your
11 Honor, it'll probably be 2 or 3. We haven't made
12 that decision yet.

13 THE COURT: I understand. I am not asking
14 you. I'm just trying to get kind of an idea in my
15 mind. What we will do since tomorrow is Friday,
16 there will be market delay between the last
17 evidence presentation and the arguments and the
18 charge. So you might as well go ahead and get your
19 arguments prepared. Whether you give those at 10:15
20 or whether you give those at 3:15 or 4:15, they are
21 going to be given right after the last witness
22 testifies.

23 MR. JOHNSON: And for the record, Your
24 Honor, as of right now, I have not submitted any
25 evidence, is that correct?

1 everybody's head is spinning, because you all have
2 been doing a lot of hard work. I don't want to get
3 in here at 10:15, and then there be 30 minutes we
4 have to go over some issue that came up. Can you
5 all think of anything right now?

6 MR. FINNEY: No, Your Honor.

7 MR. JOHNSON: I can't think of anything
8 else.

9 THE COURT: I'll go out on the limb, and I
10 would assume you want the new circumstantial
11 evidence charge?

12 MR. JOHNSON: Yes, I do, Your Honor.

13 THE COURT: Limited charge.

14 MR. JOHNSON: Yes, I do.

15 THE COURT: And State v. Belcher at least
16 at this point would not prohibit the charge in the
17 murder count about the use of a firearm is, at least
18 evidence of malice. I've never been a fan of that
19 charge to begin with, but I think it's giveable.

20 MR. JOHNSON: And, Your Honor, I think I
21 need to put this on the record. I probably already
22 know your ruling on it, but just to preserve the
23 record. I think need to make a motion that the
24 court consider a lesser included of manslaughter.
25 There's been mention that there was a fight between

1 two groups, where there might have been a heat of
2 passion involved in this matter. It was evidence
3 presented by the State. And I think that that would
4 be sufficient enough to include.

5 THE COURT: I'll research that. And If
6 the State agrees, that doesn't mean I will give it.
7 But if the State objects or agrees, I've got to sort
8 it out on my own. Mr. Finney, any immediate
9 thoughts on that?

10 MR. FINNEY: My preliminary thought is, I
11 would be opposed to any lesser included.

12 THE COURT: Well you all be prepared to
13 argue that right before -- well as part of maybe
14 directed verdict motions.

15 MR. JOHNSON: That's correct.

16 THE COURT: Well are you prepared to make
17 any directed verdict motions now, or do you want to
18 wait until he fully rests? Let's just wait until he
19 fully rests.

20 MR. JOHNSON: I'll be prepared then, Your
21 Honor.

22 THE COURT: If anybody could -- if the
23 defendant could be in the courtroom no later than
24 10, and everybody else involved in the case be here
25 at 10 o'clock. And I'll come upstairs as soon as I

1 you would go ahead and go to the jury room where you
2 just came from, and I will have you back out
3 momentarily. You may not discuss the case, and
4 leave your notepads in the chairs.

5 (Whereupon, the following takes place
6 outside the presence of the jury.)

7 THE COURT: Mr. Johnson.

8 MR. JOHNSON: Your Honor, at this time I
9 would like make a directed verdict. I'll take one
10 at a time. And I will take one at a time on the
11 four counts.

12 THE COURT: Okay.

13 MR. JOHNSON: As far as the murder charge
14 goes, Your Honor, it is our position that the State
15 did not present sufficient evidence to go forward to
16 present to the jury. The doctor's testimony in
17 which she indicated it was medical opinion that it
18 didn't -- that the injury could not have been caused
19 by the gun. As well as, there was no evidence we
20 believe connecting the gun to my client. There was
21 no DNA evidence. No fingerprints. No evidence that
22 that round actually caused the death of the victim.
23 There was no actual pellet found within the victim
24 that could be identified to the gun.

25 We believe it would only cause the jury to

1 speculate with the evidence that was given.

2 Therefore we ask for a directed verdict, as it
3 relates to the murder.

4 THE COURT: And that same would go for,
5 well because of that testimony you've centered on.

6 MR. JOHNSON: Because of that testimony
7 there.

8 THE COURT: Would you like for these to be
9 argued separately?

10 MR. JOHNSON: Yes.

11 THE COURT: So you're finished with the
12 murder?

13 MR. JOHNSON: Right.

14 THE COURT: Any other motions for a
15 directed verdict pertaining to the murder charge
16 only?

17 MR. JOHNSON: Not pertaining to the
18 murder.

19 THE COURT: Mr. Finney.

20 MR. FINNEY: Please the court.

21 THE COURT: Yes, sir.

22 MR. FINNEY: Your Honor, the State of
23 South Carolina believes that there is an abundance
24 of direct testimonial evidence from at least four
25 people who were at the scene that night, that saw

1 Mr. Rodney Green dressed in white, firing a handgun,
2 at not only at Mr. Ray'Quann, but also at
3 Mr. Archie, who died of his injuries. It's
4 uncontroverted that the shooter fired at least, or
5 at least it's uncontroverted by one witness that she
6 heard 3 gunshots; that there are there shell casings
7 at the scene of the shooting, and that the gun that
8 fired those shell casings was found 20 feet from
9 Mr. Green, a few moments later.

10 The security guards testified there was
11 no interruption in their viewing of Mr. Green firing
12 the weapon, and running away, and being captured by.
13 I believe on that testimony, there is sufficient
14 evidence to submit this case to the jury on the
15 ground of murder.

16 THE COURT: How about Mr. Johnson's
17 argument in his words that the expert said that this
18 gun, or the 45, could not have been the gun to
19 inflict the wounds on Mr. Archie.

20 MR. FINNEY: I disagree with that
21 characterization. I believe the witness says that
22 she believed based on her experience that it was a
23 medium caliber. She thought it was a medium caliber
24 round that inflicted the fatal wound. But she not
25 say. And she said clearly, the skin is elastic;

1 that it has the ability to go back together. And
2 she did not say it was physically impossible for
3 that larger round to cause that injury.

4 THE COURT: Mr. Johnson, any response?

5 MR. JOHNSON: Yes, Your Honor. I think
6 her -- I do not want to misquote her, but I think
7 the solicitor asked her, because she said to a
8 medical certainty, that that round did not do it.
9 And I think her response was, while nothing is
10 completely 100 percent, it is my opinion, she said,
11 I guess, yes, it is my opinion that that type of
12 caliber gun did not cause that wound. Maybe we ask
13 the court reporter to say exactly how she recorded
14 it. But I remember the solicitor specifically
15 saying, can you say it was a medical certainty. And
16 I think her response was, yes.

17 THE COURT: I am respectfully deny the
18 motion. That's an interesting point, because
19 Mr. Johnson was very crafty I would think and did an
20 excellent job in focusing on that particular gun.
21 But ironically I guess in this particular situation,
22 the jury could conclude that there were two
23 shooters, and that Carter Man had the 45. Because
24 Mr. Johnson's at least philosophically, or perhaps
25 not physically, trying to distance Mr. Green from

1 the gun that was on the dirt pile. And if the jury
2 for some reason chose to believe that that wasn't
3 Mr. Green's gun, but he had another of a medium
4 caliber, and somebody saw him fire a black gun
5 conceivably. I don't know whether Mr. Finney would
6 go so far as to argue that. You might be satisfied
7 with the elasticity argument more. The jury could
8 conclude that Mr. Green fired another gun. I don't
9 know. But even aside from that, I think that the
10 witness' testimony was enough for the jury to
11 conclude that there was one gun, with one shooter,
12 fired by the defendant.

13 The elasticity argument, or the elasticity
14 point she made, I think is enough to send it to the
15 jury. The final question Mr. Finney asked her was,
16 could she state to a reasonable degree of medical
17 certainty that a 45 was not used. I don't know
18 whether that is technic under the rules, the right
19 way to ask it. But I think that that all creates a
20 jury question. I am not saying you did anything
21 wrong, it was just kind of a side door, if you will,
22 to get to the same point. I think that that is
23 enough to get it to the jury.

24 I think the jury frankly is going to have
25 a lot to chew on with that, but I think there's

1 enough to go to the jury. Attempted murder,
2 Mr. Johnson.

3 MR. JOHNSON: On attempted murder, Your
4 Honor, we move for a directed verdict based on the
5 fact that the only evidence presented by the State
6 was the testimony of the victim saying that he
7 believed that my client shot him. But there's also
8 testimony that he told the State that he did not
9 know who shot him. As well as the State, has
10 presented no other evidence. There's no medical
11 evidence. Nothing else to even indicate that the
12 victim was actually shot. There's no medical
13 evidence presented by the State.

14 THE COURT: He said he was shot.

15 MR. JOHNSON: He said he was shot, but
16 he's not a medical expert. He -- that was good
17 enough and reasonable for -- then that would be
18 enough for probable cause to issue a warrant. But
19 to take to a jury, there was no medical evidence
20 given by the State. There was no testimony by any
21 medical personnel. No one. The only thing that was
22 entered by the State as related to attempted murder
23 was the testimony of the victim, and a picture of
24 the victim in the hospital. No other evidence.

25 THE COURT: Mr. Finney.

1 MR. FINNEY: Judge, again, the record
2 shows the witness himself did talk about the injury.
3 He stated he was in the hospital for 3 weeks.
4 Mr. Hawkins testified that he had to go the
5 hospital, and that he was on a lot of medications
6 because of the type of injury he sustained. He was
7 unable, I believe we asked the question about that
8 night, he unable to walk or run away. Once he --
9 he said he tried to get up, and he couldn't use the
10 leg once he got up. I believe there's an abundant
11 amount of evidence that jury could find that he
12 suffered a serious gunshot injury that night, and he
13 did know who fired the weapon that hit him. And
14 that it is a jury issue.

15 THE COURT: What did Mr. -- I have got a
16 note pad, actually I finished my last page just now.
17 What did Mr. Jenkins say in court in front of the
18 jury, as to who shot him?

19 MR. FINNEY: He said that---

20 THE COURT: I know he said at one point he
21 didn't tell the police the whole truth, because in
22 his words, I didn't want to get between it.

23 MR. FINNEY: Right.

24 THE COURT: What did he say? I know he
25 said he did not see who shot Mr. Archie, which is

1 not what Mr. Johnson is talking about. Did he ever
2 tell the jury that Mr. Green shot him?

3 MR. FINNEY: Yes, sir. And he described
4 not only in the statement that we talked about, but
5 the written statement that Mr. Hawkins took, he
6 described the man as being dressed in all white. He
7 described him from the witness stand as being brown
8 skinned, and having I think what they call a low
9 haircut.

10 THE COURT: Did he did identify
11 specifically Mr. Green.

12 MR. FINNEY: In court he did.

13 THE COURT: But he does impeached with his
14 statement to the police that he just described what
15 the person was wearing.

16 MR. FINNEY: That's correct.

17 THE COURT: Not by name.

18 MR. FINNEY: That's correct.

19 THE COURT: Mr. Johnson, any response to
20 Mr. Finney's argument?

21 MR. JOHNSON: Yes, Your Honor. He
22 testified that he had his back to -- he said he saw
23 someone with white on. In court he testified that
24 it my client. And he turned his back to help his
25 friend up.

1 THE COURT: But he also said he saw your
2 client with a gun.

3 MR. JOHNSON: With a gun. And he said --
4 and then he testified that he was shot. And he
5 assumed since my client was there, that that was the
6 person who shot him.

7 However, Your Honor, I still go back to
8 the point that the State has not presented any
9 evidence that he was shot. That was his opinion he
10 was shot. He was injured, but there was no evidence
11 presented that was actually shot. There was no
12 round recovered. There was no medical records
13 entered. There was no testimony by anybody that he
14 actually -- the wound that he received was a gunshot
15 wound. And the State still has to prove, or show
16 some evidence for the jury to do that. Other than
17 that, you're asking the jury to speculate.

18 THE COURT: Is there any case law that
19 says someone who is supposedly shot and has a
20 through and through wound, has to have a medical
21 expert to say in fact that he or she was shot?

22 MR. JOHNSON: I could not find anything on
23 point on that. But there is a requirement that just
24 an individual saying I was shot, without any
25 additional individual testimony alone without any

1 additional evidence to support an injury, without
2 supporting documents to support an injury, cannot be
3 given to a jury. It's not sufficient.

4 THE COURT: What case law is that?

5 MR. JOHNSON: I couldn't find a particular
6 case, Your Honor. But if my client, I'm just going
7 from just memory. But the State is required to
8 show, an example---

9 THE COURT: Let me ask a question perhaps
10 definitely. Let's say this was an ABHAN case or I
11 guess now A and B first. And the perpetrator had a
12 baseball bat and hit Mr. Jenkins in the knee cap and
13 shattered it. And there was no, and the facts were
14 basically the same. There was guy with a baseball
15 bat. I turned my back; people saw a man swinging a
16 baseball bat at a person, and I ended up with a
17 shattered knee. Or shattered femur or whatever.
18 You still have to have medical testimony to say that
19 it was caused by a bat?

20 MR. JOHNSON: I think if the -- see in
21 that case, Your Honor, the element, the main element
22 of that is not necessarily the injury, I mean
23 itself. In attempted murder, that's a whole
24 different case. He is charged with attempted
25 murder.

1 THE COURT: Well you can try to murder
2 somebody with a bat too.

3 MR. JOHNSON: I understand, Your Honor.
4 But the injury in that particular case, the part
5 that he put in there, that other people saw him
6 shooting. The only person that testified that my
7 client even injured Mr. Jenkins is Mr. Jenkins.
8 There is no other testimony that anybody said they
9 saw my client even shoot Mr. Jenkins. All the other
10 testimony presented by the State was related to the
11 death of Mr. Archie.

12 THE COURT: Again, that's an interesting
13 argument. But I think there is enough of direct
14 and circumstantial evidence, number one, for the
15 jury to conclude if it chooses to do so, that
16 Mr. Green was the sole shooter, and that Mr. Jenkins
17 was shot.

18 MR. JOHNSON: That's fine, Your Honor. I
19 just want to clarify for the record that it was my
20 point that a jury could conclude that, but I think
21 the jury would still have conclude as one of the
22 elements that he was actually injured. And the
23 State did not give any evidence on that. So
24 therefore, the jury would speculating as to the
25 injury itself. And I think that's the element of

1 the attempted murder.

2 THE COURT: What evidence -- you're saying
3 the State did not present any evidence that
4 Mr. Jenkins was hurt?

5 MR. JOHNSON: They did not give any
6 evidence on that, so therefore a jury would be
7 speculating as to the injury itself. And I think
8 that's the element of the attempted murder.

9 THE COURT: What evidence? You're saying
10 the State didn't present any evidence that
11 Mr. Jenkins was hurt?

12 MR. JOHNSON: They didn't present any
13 evidence as to what caused his injuries.

14 THE COURT: I see. I understand. You're
15 saying there's no -- I got you. I understand. I am
16 going to respectfully deny your motions. Possession
17 of a weapon during the commission of a violent
18 crime?

19 MR. JOHNSON: Possession of a weapon
20 during a violent crime, Your Honor, it would be our
21 contention similar to what I just stated, that if by
22 his testimony of the doctor, my understanding of
23 what the doctor said was that that injury was caused
24 by the small to medium size gun.

25 THE COURT: She said medium, not small.

1 MR. JOHNSON: Well a medium size gun.
2 She identified the weapon that allegedly that my
3 client used, as being a large caliber weapon. And
4 she stated as my understanding, that when solicitor
5 Finney asked her beyond a medical certainty whether
6 that gun caused the injuries, her answer was, it's
7 my belief that it didn't.

8 THE COURT: Okay.

9 MR. JOHNSON: And as a result of that, you
10 couldn't be found guilty of possession of a weapon
11 during a a violent crime, if he didn't commit a
12 violent crime.

13 THE COURT: How about possession of a
14 stolen pistol?

15 MR. JOHNSON: Possession of a stolen
16 pistol, Your Honor, there is no evidence that my
17 client had knowledge that if he did have a pistol,
18 that it was stolen. And there was no evidence that
19 he had possession of a pistol as well.

20 THE COURT: Mr. Finney -- well let me back
21 up. Mr. Johnson, on possession of a weapon during a
22 violent crime, you're incorporating all your
23 previous arguments on murder and attempted murder?

24 MR. JOHNSON: That's correct, Your Honor.
25 Because without those, he wouldn't be guilty of

1 the...

2 THE COURT: Mr. Finney, I'll accept your
3 incorporation of your prior arguments on possession
4 of a weapon during the commission of a violent
5 crime, and I am going to deny that motion to. But
6 how about possession of a stolen pistol?

7 MR. FINNEY: Your Honor, I believe that
8 the central factor is, not only did we prove the
9 weapon was stolen, but we proved that the gentleman
10 that we have charged with that crime, Mr. Green, ran
11 for a distance with the weapon that we allege he
12 used in the crime, and only threw it away when he
13 saw that law enforcement was getting ready to
14 tackle, because he did not want to be caught with
15 that stolen weapon.

16 THE COURT: Well if it was him, I doubt
17 that his main concern was not getting caught for a
18 5-year offense, but I understand what you're saying.

19 MR. FINNEY: Yes, sir. And so we are
20 alleging to the jury the guilty knowledge of
21 throwing away the weapon after carrying it for,
22 according to Hawkins, a football field, and then
23 attempting to throw it only when he was about to be
24 captured, shows the guilty knowledge that he did
25 intend -- that he did know it was stolen.

1 THE COURT: Mr. Johnson, anything else on
2 that point?

3 MR. JOHNSON: Nothing else, Your Honor.

4 THE COURT: I am going to allow that to go
5 to the jury too. There's certainly a lot of room
6 for argument on both sides. But all of the counts
7 can go to the jury. While I'm on this subject, the
8 verdict form in South Carolina inconsistent verdicts
9 in criminal cases are entirely appropriate. In
10 other words, I think the cases say they're not
11 illegal. The jury could find him not guilty of both
12 attempted murder and murder. Guilty of one, not
13 guilty of the other, or not guilty of both. So
14 that's the instruction I'll give them.

15 My question is this, if they find him not
16 guilty of murder, not guilty of attempted murder,
17 would both sides agree that I should tell the jury
18 in that instance, they cannot find him guilty of
19 possession of a weapon during the commission of a
20 violent crime?

21 MR. FINNEY: Yes, Your Honor. That's
22 correct.

23 MR. JOHNSON: Yes, Your Honor.

24 THE COURT: Does it suit you to tell the
25 jury? Now possession of stolen pistol, quite

1 frankly, the way it developed yesterday, they could
2 find him not guilty of murder, attempted murder and
3 possession of a weapon during the commission of a
4 violent crime based on the fact they didn't think
5 the 45 did it. And that therefore, he didn't do it,
6 but he had possession of a stolen 45. So they could
7 find him guilty of that, and not guilty of the
8 others.

9 MR. FINNEY: We agree with that, Your
10 Honor.

11 THE COURT: I'm not going to get that
12 specific. What I'm going to tell the jury on 1 and
13 2, murder and attempted murder, if they find him not
14 guilty on both of those, they cannot find him guilty
15 of Count 3. If they find him guilty of murder, or
16 attempted murder or both, then they consider whether
17 he's guilty or not guilty of possession of a weapon
18 during the commission of a violent crime. Is that
19 okay?

20 MR. FINNEY: Yes, sir.

21 THE COURT: Mr. Johnson?

22 MR. JOHNSON: That's fine, Your Honor.

23 THE COURT: The jury charge, I would
24 assume that none of you have anything in writing
25 that you want me to give. I am going to go over in

1 general what I going to give you. I'll be happy to
2 give you a photocopy, even though you won't be able
3 to put it up on that machine, I'm not going to let
4 you do that. If you would, could you come up and
5 get a copy of the verdict form?

6 At the defendant's request, I will give
7 the additional language from State vs. Logan on
8 circumstantial evidence. I will talk to the jury
9 about credibility, the presumption of innocence,
10 reasonable doubt. I'll will be happy to give you a
11 copy of that reasonable doubt charge.

12 Certainly I'll tell the fact -- the jury
13 the fact that he is charged, arrested or indicted is
14 not evidence of guilt. I will talk to them about
15 expert witnesses. I will give the statutory charge
16 on attempted murder and murder. And here's what I
17 tell the jury as far as intent to kill and attempted
18 murder; that a specific intent to kill is not an
19 element of attempted murder, but there must be a
20 general intent to commit serious bodily injury.
21 There has been some debate on that point. Do either
22 of you have any input on what I charge about a
23 specific intent to kill versus a general intent to
24 kill?

25 MR. JOHNSON: Could you say it one more

1 time, Your Honor?

2 THE COURT: A specific intent to kill is
3 not an element of attempted murder, but there must
4 be a general intent to commit serious bodily injury.

5 MR. FINNEY: Do you have anything in there
6 about transferred intent?

7 THE COURT: No, I do not.

8 MR. FINNEY: We would request that either
9 if the jury thought that he was -- that the shooter
10 was trying to kill Mr. Archie or harm Mr. Archie,
11 and that he shot and hit Mr. Jenkins.

12 THE COURT: Well that's what a general
13 intent to kill is.

14 MR. FINNEY: All right.

15 THE COURT: But I'll be happy to -- If you
16 have got a proposed charged on it, I'll consider it.
17 I will also tell the jury that murder and attempted
18 murder are violent crimes within the context of
19 Count 3.

20 MR. JOHNSON: Your Honor, when we discuss
21 it now, it actually goes back to my original
22 objection in the beginning concerning the evidence
23 that the second person was actually injured by our
24 gun. Because now there's -- because with the
25 transferred intent, or what the State is requesting,

1 it would indicate to the jury that Mr. Jenkins was
2 actually in the fired the gun; whereas, as I stated
3 before, there's no evidence that that is the case.

4 THE COURT: Well I guess what I hear
5 Mr. Finney saying is, that if he is shooting at
6 Mr. Archie and hits Mr. Jenkins, he can still be
7 guilty of attempted murder.

8 MR. JOHNSON: I understand that. And as I
9 say, by the court's prior ruling, I understand the
10 court's prior ruling, but that was my concern when I
11 made my initial argument. There is no evidence
12 presented, and I guess I could make that to the jury
13 myself, but there's no evidence presented that
14 Mr. Jenkins was even injured by a bullet.

15 THE COURT: Mr. Finney, anything else on
16 that?

17 MR. FINNEY: I will have my staff bring up
18 a transferred intent charge, Your Honor. If you
19 want me to submit it. I thought you had one in the
20 charge book. I was going to ask you to charge the
21 standard transferred intent. But I'll have one up
22 here in just a few minutes.

23 THE COURT: Well there is a case, and this
24 is not transferred intent. There's a case called
25 State vs. King. It came out this April from the

1 Court of appeals. Let's see. It is 412, S.C., 403.
2 In that case Judge Few writing said that the trial
3 court erred by charging the jury that a specific
4 intent to kill is not an element of attempted
5 murder. And that was one of the errors. That's
6 what our charge book says. That's styled after the
7 old ABWIK. I may be so bold as to say that I
8 disagree with that opinion. But it is the Court of
9 Appeals opinion. I don't know, let me see if it is
10 on certiorari. The only thing noted is that
11 rehearing was denied. Let me go further.

12 In the King case, the defendant argued the
13 State must prove that an element of attempted murder
14 that King acted with specific intent to kill the
15 victim. And it said we agree. We find the trial
16 court erred when it charged a jury a specific intent
17 to kill is not an element of attempted murder, but
18 it must be a general intent to commit serious bodily
19 injury. I don't really understand the rational.
20 This is a very long opinion.

21 MR. JOHNSON: I think I read that, Your
22 Honor. It was my understanding, I think because you
23 have assault and battery first, which I think you
24 can charge someone that was injured when someone
25 else was intentionally injured. And by attempted

1 murder, I think that that particular ruling was --
2 that you had to show intent for attempted murder.

3 THE COURT: And that's what this case
4 says. It says, Judge Few says, the legislature must
5 have meant something if when they defined attempted
6 murder. I can't base my refusal to charge what the
7 Court of Appeals has charged on disagreement with
8 it. I have to charge what the law is at this stage.
9 So I'll tell the jury that they must find that the
10 defendant attempted -- shot with the intent to kill
11 Mr. Jenkins. Common sense tells you that if I am
12 shooting at a crowd of people trying to hit
13 Mr. Finney, but he ducks at the perfect moment, and
14 I hit the person behind him and either kill or
15 almost kill him, I should be subject to being
16 convicted for attempting to murder the person who
17 was hit by the bullet, not just Mr. Finney, because
18 he was wise enough to duck. It doesn't make any
19 sense, but that's what that opinion says. I didn't
20 say that. I didn't say it doesn't make any -- it
21 makes perfect sense according to the Court of
22 Appeals, so let's just leave it at that. Let's just
23 say it makes no practical sense in some settings.

24 So the transferred intent, Mr. Finney, I
25 think is -- I think as a practical matter, a right

1 thing to charge, but I don't see how I can charge it
2 based on this opinion.

3 MR. FINNEY: I don't see a conflict
4 between your having to charge specific intent, and
5 the transferred intent that would apply if because
6 and I understand this. You don't have to have an
7 injury to be guilty of attempted murder. And that's
8 the fallacy of Mr. Johnson's argument this morning
9 about there's no proof, or medical proof of
10 Mr. Ray'Quann Jenkins injury, because the fact is,
11 the defendant could be guilty of attempted murder,
12 and the bullet could have missed Mr. Ray'Quann
13 Jenkins.

14 And in this case, what we're claiming and
15 what we want to tell the jury is, if they find the
16 specific intent of the shooter to harm and kill and
17 attempt to kill, and then it can be transferred one
18 from the other. Because quite frankly, we don't
19 know what was in the shooter's mind about whether he
20 wanted to kill Mr. Archie, Mr. Jenkins or both.

21 THE COURT: I will tell you that on -- for
22 your information on the circuit bench, on 49 circuit
23 judges, you have pretty much an even split on what
24 we all think should be charged. Let's take 5
25 minutes, and I'll go over that. If either of you

1 gentlemen would like to have just a copy of the
2 reasonable doubt charge, I will be happy to give
3 that to you. If not, I'll just keep it up here.
4 Do either of you want a copy?

5 MR. JOHNSON: I would like a copy, Your
6 Honor.

7 MR. FINNEY: Yes, sir, I would like one.

8 THE COURT: Just make two. You all can be
9 at ease. I'm going to read up here.

10 (Whereupon, the court takes a short
11 recess.)

12 THE COURT: Let me have your attention for
13 just a moment. Here's what I think the appropriate
14 interpretation of King is. The court said that a
15 specific intent to kill is necessary. It doesn't
16 say there has to be a specific intent to kill any
17 certain person. And I think common sense has to
18 prevail at some point, and I think transferred
19 intent charge in some fashion would be appropriate.
20 Mr. Johnson, of course, you object to that.

21 MR. JOHNSON: That's correct, Your Honor.

22 THE COURT: Now lesser includes,
23 Mr. Johnson? Any request for that?

24 MR. JOHNSON: One second, Your Honor.
25 Your Honor, I have no requests for any lesser.

1 THE COURT: Any from the State?

2 MR. FINNEY: None, Your Honor.

3 THE COURT: Both sides agree that the
4 State will argue first and the defendant will argue
5 last?

6 MR. FINNEY: Yes, sir, Your Honor.

7 THE COURT: I'm certainly not ever going
8 to call time on a lawyer. I think the jury will
9 nonverbally do that if that happens. Anything else
10 that we should cover before we begin?

11 MR. FINNEY: Judge, I have a charge or
12 request to charge on the way up here. But the
13 transferred intent cases are State v. Bryan and
14 State v. Horn.

15 THE COURT: Do you have -- I've got a --
16 the transferred intent charge that I have, says if a
17 person with malice aforethought attempts to kill
18 another person, but by mistake injures or kills a
19 different person, and the defendant still has the
20 specific intent to kill.

21 MR. FINNEY: Yes, sir.

22 THE COURT: That's the charge you
23 certainly object to, Mr. Johnson.

24 MR. JOHNSON: That's correct, Your Honor.

25 THE COURT: I'll give that in simple

1 terms. I think that it, you know, quite frankly
2 would defy common sense that someone could shoot.
3 Just in any given case, shoot into a crowded room of
4 people meaning to kill person A, but hits person Z.
5 And you can't be found guilty of that crime by the
6 reason of the transferred intent.

7 MR. JOHNSON: Your Honor, the problem I
8 have with the transferred intent just for the record
9 is that, there is no evidence that my client was
10 aiming at Mr. Archie.

11 THE COURT: I understand that.

12 MR. JOHNSON: There was no testimony of
13 that. So....

14 THE COURT: But there's also evidence that
15 he said Yo, Stymie. Circumstantially if he shot,
16 circumstantially he would be firing at Stymie.

17 MR. JOHNSON: I understand.

18 THE COURT: And it has so many, it's kind
19 of like a porky pine. It's got quills going
20 everywhere. And so I think your argument is
21 certainly well put, but I think under the law I
22 have to charge correct and complete law.

23 MR. JOHNSON: I understand.

24 THE COURT: You can hand it up and give
25 Mr. Johnson a copy, please.

1 MR. FINNEY: If a person is shot at, but
2 doesn't die, it says something about maybe found
3 guilty of intent to kill. Assault with intent to
4 kill.

5 THE COURT: Well that's AWIK. That's the
6 old law. I understand what you're saying.

7 Mr. Green, if you could stand again,
8 please. You are still under oath. Have you had a
9 chance to discuss with Mr. Johnson and other people
10 you see fit to do so, about your decision of whether
11 you will or will not testify?

12 THE DEFENDANT: Yes, sir.

13
14
15
16
17
18
19
20
21
22
23
24
25

1 THE COURT: Thank you. You can have a
2 seat. Now let me tell you something else,
3 Mr. Green. When the jury is walking in, you have a
4 moment where you say, gosh, I think I've just
5 changed my mind, let him Mr. Johnson know and he'll
6 bring it to my attention okay.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you have now formally
9 rested, Mr. Finney?

10 MR. FINNEY: I have, Your Honor.

11 THE COURT: And, Mr. Johnson, I'll call on
12 upon you when the jury comes in, and you can
13 announce whether you will or will not have
14 witnesses.

15 MR. JOHNSON: And, Your Honor, if I could
16 ask the court, could you, are you going to use this
17 transferred intent that the solicitor just issued to
18 you?

19 THE COURT: No, here's what I am going to
20 say. If a person with malice aforethought,
21 attempts to kill another person, but by mistake
22 injures a different person, the defendant still has
23 the -- a person may be based on your view of the
24 evidence, still have a specific intent to kill.

25 MR. JOHNSON: Okay.

1 THE COURT: Okay.

2 MR. JOHNSON: Okay.

3 THE COURT: Mr. Finney's recitation is
4 correct, but most of it is pertaining to old case
5 law, the State v. Bryant, Horn and Fennell are
6 all -- those are murder cases, and it's going to cut
7 both ways. Okay. I'm talking about murder and
8 attempted murder. We know what's in evidence and
9 what's been marked for Id. only. If it's in
10 evidence, you can certainly use it with the jury. I
11 just don't want to get it all jumbled up again. So
12 do the best you can to keep it straight. Are you
13 ready, Mr. Finney?

14 MR. FINNEY: Yes, sir.

15 THE COURT: Mr. Johnson?

16 MR. JOHNSON: Yes, Your Honor.

17 THE COURT: You can bring in the jury.
18 And everybody in the courtroom needs to understand
19 that once the arguments are over, we will take a
20 break. But once I start the charge, the door is
21 going to be locked. And that will be probably 12:30
22 or 12 at the earliest.

23 (Whereupon, the following takes place
24 within the presence of the jury.)

25 THE COURT: Ladies and gentlemen, we are

1 the conclusions that they believe the evidence or
2 lack of evidence would compel you to reach in this
3 case. So please give them your undivided attention.
4 Mr. Finney, you have the floor.

5 MR. FINNEY: Thank you very much, Your
6 Honor. Mr. Johnson. Good morning, Ladies and
7 gentlemen. I have been up since 4:45 this morning.
8 Couldn't sleep; had coffee, two cups before 6
9 o'clock this morning. I've been trying, I've been
10 here early for the doors to open. Because this is
11 the time that I get to take this case. This is the
12 time that I get to put all of the work, all of the
13 meetings, all of the family meetings, and I have to
14 give them you.

15 I want to thank Ms. Mattie Wright, the
16 mother of Tyrese Archie, for letting me help her
17 with this case. I want to thank Tiffany Lewis
18 White, for trusting me to handle the case. I want
19 to thank the officers: Hawkins, Addison, Burnish,
20 the ones that you didn't get to see because they
21 were doing other things, for helping us bringing
22 these cases to court. I can't do this by myself.
23 The lawyers are putting the lawyer's spin on it.
24 We might put it in the oven and take it out. But
25 they really make the case.

1 I'm proud to work with them. I'm proud of
2 the job they did. I'm especially proud in this
3 case. We called 17 witnesses to the stand to tell
4 you what happened at Club Miami that night. Not all
5 of them were at the Club Miami. Some of them were
6 from sled. But everyone of those witnesses is like
7 a candle that added light to the picture. And right
8 now you're not going to hear any more evidence.
9 There isn't any more light coming. And it should be
10 crystal clear.

11 The State of South Carolina charged Rodney
12 Green in this indictment with the murder of
13 Mr. Archie, of attempted murder of Mr. Jenkins, of
14 possession of a weapon during a violent crime.
15 Murder and attempted murder are violent crimes.
16 The judge will tell you that. If you find that we
17 have proved our case, possession of the weapon,
18 using the weapon to shoot these two gentlemen, is a
19 violent crime, he's guilty. The last charge is
20 that he possessed a stolen firearm. We showed you
21 through the witness Hawkins, that the gun was bought
22 at Simpson Hardware, stolen out of a man's car.
23 That gun was the gun that Mr. Green used to kill
24 Mr. Archie and shoot, seriously injure, Mr. Jenkins.

25 The reason you can know that he possessed

1 it knowing it was stolen is because when the police
2 officer tried to tackle him, he didn't want to be
3 arrested with that gun. He threw it over the sand
4 berm. Misty Lee found it 20 feet away from where
5 Rodney Green was tackled and arrested. I told you
6 on Tuesday, it's not what you say, it's what you do.
7 Rodney Green pled not guilty. Rodney Green got his
8 lawyer. Rodney Green got a copy of everything that
9 we, State met some witnesses, police reports, maps.
10 What is said now, now that you heard from those 17
11 witnesses. Now that you've heard from those young
12 people who were out at that club that night, and how
13 they felt.

14 First of all, being pushed outside because
15 there was some fighting going on. It had nothing to
16 do with Mr. Archie. It probably had nothing to do
17 with Mr. Green. Then Mr. Archie. I know you're
18 proud of him, trying to get his cousins and people
19 home. Get in your car. Get on out of here.
20 There's too much trouble out here. Get on out of
21 here. He wasn't aggravated. He wasn't upset. He
22 wasn't looking for trouble. And here comes the man
23 in white, out of the darkness of the field, holding
24 a 45 caliber gun and firing it. Not once, not
25 twice, three times. We know that the gun was fired

1 3 times, because the gun has been matched by the
2 sled agents in Columbia in Columbia to these
3 3 shells. No question about that. There's not
4 going to be any controversy about that. This gun
5 fired 3 times.

6 Well what are they going to argue then.
7 They've got to say something. They can't just sit
8 there and not say anything. Well what's he going to
9 say. Okay, you don't have any proof solicitor that
10 the bullets that were fired, that came out of these
11 3 shells, hit and killed Mr. Archie, hit and
12 injured Mr. Jenkins. Hit and stuck in the dashboard
13 of that car. No, I don't. I cannot prove to you
14 that bullet that came out of that shell casing
15 killed Mr. Archie. I can't prove it through the
16 bullet, but I can prove it through circumstances
17 that lead a reasonable person like yourself, to
18 understand that if the gun fired the bullet, and
19 the bullet hit Mr. Archie, and went through him, and
20 we don't have that, then you have to go back. Go
21 back to the testimony. Who fired the bullet? Who
22 did Davontae say fired the bullet? Who did the
23 girls that came out of the club, Diamond and them,
24 say fired the bullet? Who did the security guards,
25 two of them say, fired the bullet? The man in

1 white. The man that they saw running away after he
2 fired the bullet. The man that they chased,
3 uninterrupted. They didn't have to go get in the
4 car. They didn't have to turn their back.

5 When he, when Washington who was trying to
6 straighten out a situation, when he heard the shots,
7 he turned, he saw the man in white, pointing,
8 firing. And then he saw him running. And he took
9 off after him. And the other security guard had a
10 flashlight, was following him. Thank God that
11 somebody had called in the fight earlier so there
12 was a police officer on the way, Pozzino. Ladies
13 and Gentlemen, this case couldn't get any better.
14 This thing should be at the movies. It's tight.
15 There's no gaps in this case. But guess what, they
16 got to say something. So what do they say?

17 MR. JOHNSON: Your Honor, I have to
18 object. He's transferring, my client doesn't have
19 to say anything. But he's transferring the intent
20 to saying that my client has to say anything to the
21 jury.

22 THE COURT: Mr. Finney.

23 MR. FINNEY: I'm just talking about the
24 -- I'm am not saying anything about any burden. I'm
25 just saying that they -- I'm getting ready to get

1 into it, Your Honor.

2 THE COURT: Objection is overruled.

3 Mr. Johnson, it is noted.

4 MR. FINNEY: What do they talk about when
5 the witness says they say, did he have on a hat.
6 Yeah, I think he had on dark hat. You think they
7 hadn't seen the picture of Mr. Green standing in the
8 police station with his white hat on? Two or 3
9 hours after they took him off that sand berm that
10 night, do you think they didn't realize by the time
11 the trial started, that the bag of evidence had the
12 white hat it in. But let a witness come up here and
13 tell you that the man might have had on a black hat
14 or a dark hat, and oh, my goodness, guess what, now
15 we've got another shooter. We've got another
16 suspect. The police got it all wrong. You've got
17 the wrong man sitting at the table. Because there's
18 a black hat shooter.

19 Where is the evidence of other shots
20 fired? What witness told the police officers or
21 told you this week that there was another shooter
22 out there that night? None. What evidence did the
23 police come across that showed that other shell
24 casings were on the ground? That showed evidence
25 that there was another shooter? None. What that

1 came from, is that these two young ladies who were
2 in that car that came and talked to you, told the
3 police officers, we were there when the shots ran
4 out. We heard the shots, and it scared us so bad we
5 went and got in our car. And when we got in our
6 car, we saw this other guy with dreadlocks, holding
7 a gun, and we think he fired at us.

8 Let me tell you my theory. My theory is
9 that those girls were scared. There was shooting
10 going on. And they were in such a rush to get out
11 of there that night, that they wrecked their car in
12 the ditch trying go get over their on Eagle Road so
13 they could get out of that club. You'll have the
14 picture in the jury room. It's pretty clear. They
15 wrecked in the ditch and caused damage to the car.
16 But guess what, State's Exhibit No. 27, those ladies
17 didn't get out of the car. They testified they got
18 out of the car to see what the damages were. They
19 thought they had been shot at, but they came back to
20 the night club about 5 minutes later to check on
21 their people. That's what the Diamond, young lady
22 Diamond said. We want to see if our people were all
23 right. We came right back. I think the next day
24 when they saw the car they thought they had been
25 shot at. And that's why they took the car down to.

1 Mr. Hawkins and said, can you tell, look at what
2 happened to our car that night.

3 Mr. Hawkins checked it out, and he
4 testified to you all, that wasn't a gunshot. That
5 was damage that was sustained when you all were
6 trying to leave out. So even though they thought
7 this Carter Man was shooting, there's no evidence of
8 that. But there's going to be a claim that there
9 was other shooters. It's very clever how the smoke
10 got in the room. The smoke got in the room. The
11 smoke got in the room when they said there were
12 other people out there shooting. Didn't you know
13 there was other people out there shooting. You
14 didn't check every car out there that night.

15 By the time the police got there and
16 got people safe and made sure that the gun was
17 locked up, and made sure that the man in white was
18 locked up, people had left. That's speculation that
19 there was other cars. Where's the facts? If other
20 cars were shot up, you would have proof of it. You
21 would have people that say, I got up the next
22 morning and my car got shot. They would call the
23 police. That didn't happen. There would be bullet
24 holes. There would be shell casings. That didn't
25 happen. There would be people who saw somebody else

1 with a gun. Just like we brought those witnesses.
2 We brought those witnesses that thought Carter Man
3 shot. We explained everything. We didn't hide
4 anything. That didn't help my case, that Carter Man
5 was out there with a gun. But that's part of the
6 case. That's part of what you would consider.
7 That's not the only gun out there. As far as we
8 know. Mr. Patrick Washington said he chased the guy
9 down, because the guy was going to his car, and said
10 something about, I am going to get my gun. We never
11 found out if that man had a gun. Because while
12 Patrick Washington was making sure that situation
13 was under control, the man in white started
14 shooting. And Patrick Washington and other officers
15 and great people who ran after him that night, got
16 that man.

17 Ladies and gentlemen, this case boils
18 down to this. You have heard clearly from several
19 people, who were close to the scene, that Rodney
20 Green was the man in white. His own girlfriend,
21 Lavitra Harvin came in here and told you that. It's
22 in her statement. Now Lavitra Harvin didn't want to
23 come in here and cooperate and hurt Rodney. I
24 understand that. That's human nature. She's got
25 kids with Rodney. But she also knew that she had

1 information that she had to talk to the police
2 officers about and tell them straight. Now when the
3 police officer Addison told her that she better
4 cooperate; that she better tell the truth because
5 their were consequences, all of a sudden that became
6 a threat. That meant that all the information she
7 said was no good. No, that's how you interview.
8 You tell the witness, if you don't tell the truth,
9 there's going to be consequences. Those
10 consequences could put you in jail. Lavitra Harvin
11 got that message. She wasn't under pressure. Not
12 the kind of pressure from the police. She was under
13 pressure, because she had information against her
14 man.

15 Lavitra Harvin, Ladies and gentlemen,
16 didn't have to say that the gun was in the console.
17 She did. That didn't help her man. Because guess
18 what, when the police officers went over to the
19 house where she had parked the car the next day, the
20 gun wasn't in the Mercury. It wasn't there. Do you
21 know why it wasn't there? Because it was laying in
22 the sand berm next to Rodney Green, because he had
23 taken it and shot it three times at a couple of
24 fellows who were trying to move their cousins to
25 that to get them home safe.

1 How do you account for the fact that the
2 shell casings are 25 or 30 feet away from the club
3 in the parking lot? And let's not forget while
4 we're talking about the shell casings, we had a
5 witness who said that Rodney Green was shooting.
6 And that in one situation, the witness said he was
7 running towards, if you remember the young man
8 Mr. Jenkins, said that after he got shot, he kind of
9 fell down toward the truck, and he saw Rodney Green
10 run by him going towards Archie. The other witness,
11 I believe it was the security guard, said from where
12 he was, which he wasn't as close maybe as Mr. Green.
13 But he thought that the man was shooting and backing
14 up. That's an inconsistency. You can believe
15 that's an inconsistency. But look at the physical
16 evidence. Look at the markers on the ground. Look
17 at what the police officers found when they got
18 there.

19 The gun was moving. It was moving in a
20 straight line, because the shell casings that were
21 kicked out of that gun, one here, one here, one
22 here. It's not manipulation by the police. They
23 didn't manipulate the evidence. This is what they
24 found. Somebody, the man Rodney Green, as he was
25 shooting, he was moving. Whether he was moving

1 backwards or forwards, that may be inconsistent,
2 because different people see different things. But
3 it doesn't mean that he wasn't doing what the
4 evidence, this evidence shows he was doing. Moving.
5 Trying to hit his target. Trying to get away from
6 his target so he could get into field and get into
7 that darkness. How come those shell casings that I
8 am showing you in that picture were somewhere about
9 20 or 25 feet away from the door somewhere in the
10 area of this parking lot. But the gun that fired
11 those shell casings is 500 feet out here in this
12 field, laying next to Rodney Green as he gets
13 arrested.

14 Come on, Ladies and gentlemen, there
15 wasn't nobody else that shot that gun that night.
16 There wasn't but one shooter that night. This is a
17 case of a man who lost his ability to control
18 himself. And we know it's not accidental, because
19 he fired more than one time. Oh, yeah, he had 6
20 other bullets he could have shot. But once he got
21 that third round off, once those guys were running,
22 once they got hit, the last, the only mistake, the
23 only mistake that I can say we made is that black
24 car. Mr. Johnson is right, we should have dug the
25 bullet out of that dashboard. State's Exhibit No.

1 18. There's a dashboard hole in the dashboard, that
2 the officer who took this picture, put a quarter up
3 beside it, to show you it's a pretty sizeable hole.
4 I wish I had brought you that bullet.

5 Anybody who is using their common sense
6 will know, that once that bullet went into the
7 dashboard, it changed. It broke up. It changed
8 shape. It's not going to be nice round whole bullet
9 sitting in that dashboard once it goes in there.
10 It's already gone through the back window of the
11 car, traveling through the whole car, and into the
12 dashboard. Maybe that's why they didn't dig it out.
13 I apologize. I wish I had brought that bullet.
14 That bullet would not prove to you -- guess what, if
15 I could prove to you that that was a 45 caliber
16 bullet, it still wouldn't prove to the sufficiency
17 of the arguments that you're going to hear after me,
18 that Mr. Green fired a 45 caliber at Mr. Archie, and
19 that Mr. Green fired a 45 caliber at Mr. Ray'Quann
20 Jenkins. That's the nature of the adversary
21 position that we have. But you have the common
22 sense, and you have the evidence. And you have all
23 of the technical information about what has been
24 looked at and analyzed under the microscope.

25 One more inconsistency, we have to bring

1 the pathologist here from the autopsy to tell what
2 was the cause of death. In this case it was a
3 perforating gunshot wound to the chest. She was
4 asked, do you think this 45 bullet caused that
5 injury. She said, I don't think so. I think it was
6 a 380 or a 38. But she said two other things that
7 you need keep in mind. She said the skin is
8 elastic. And in this particular case, it could
9 have stretched and gone back. So that whatever she
10 examined and the measurements she made, she
11 wasn't -- she might not have been accurate about it.

12 The other thing she said, because
13 Mr. Johnson asked her a question about gunshots.
14 And she said, I am not a firearm's expert. That
15 doesn't bring about enough reasonable doubt in my
16 mind that you have to let this case go; that you
17 have to find as a matter of law that we have not
18 proved Rodney Green fired that weapon 3 times that
19 night; took a young man's life, and injured another
20 young man, and then he damaged a car. You have to
21 make this decision based on all of the evidence, not
22 just one little piece. Because the law requires
23 that there be reasonable doubt. Not just
24 Mr. Johnson's coming up here and saying there's a
25 little doubt about this hole in the dash. Or

1 there's a doubt because the doctor thinks it was a
2 medium bullet and not a large bullet. That's not
3 reasonable doubt to cut loose a case. This case
4 from start to finish is about Rodney Green being at
5 the club that night, dressed in all white, seen by a
6 number of people. Pulling a gun, firing more than
7 once. Running into a field. Resisting the orders
8 of the police. Throwing an object while fleeing.
9 The security guard couldn't tell us what it was, but
10 he threw something. And was arrested 20 feet from
11 the gun which matched the three shell casings.

12 And if I haven't mentioned this, he had
13 GSR on his right hand. GSR is gunshot residue.
14 Gunshot residue comes from being, firing a weapon,
15 or being in close contact to a weapon. And when
16 they checked the Mercury, they found a white shirt,
17 extra, extra large, that had gunpowder on it. The
18 same car where the gun had been described by
19 Ms. Lavitra Harvin. Is that circumstantial
20 evidence. Yes, it is. Is circumstantial evidence
21 good evidence? Yes, it is. The judge will tell you
22 that. Here's what the judge is going to tell you.
23 There's no distinction between weight or value --
24 the weight or value to be given to either direct or
25 circumstantial evidence. Direct evidence is what

1 they saw, those witnesses that came in here. The
2 man in white, the running. Him throwing something
3 over the berm. That's direct evidence. You weigh
4 that. You weigh the credibility of those people who
5 came in here and talked to you. But circumstantial
6 evidence is no difference in weight. Even though
7 it's circumstances, if the circumstances are
8 consistent with each other and taken together, point
9 conclusively to the guilt of the accused.
10 Circumstantial evidence is good evidence. And in
11 this State, that's as you need. I don't have to
12 have direct evidence to get a conviction. You don't
13 have to direct evidence to find him guilty. In this
14 case, you've got both. The circumstantial evidence
15 ties right in with what the witnesses said. The
16 direct evidence of the 3 shots, ties right in to
17 what the witnesses heard. Oh, yeah, one witness
18 maybe heard 4 or 5 shots. And he thought -- he's
19 going to say maybe it was an automatic weapon. An
20 automatic weapon though, kicks out shells, casings.
21 They didn't find any.

22 There was a lot going on that evening.
23 Please put yourself in the position of those people
24 that were out there, and how they were trying to be
25 helpful and testify. Some of them said things that

1 I wish they hadn't said about a black hat. I didn't
2 know there was a black hat. We don't have any
3 evidence of a black hat. So they're going to say
4 that there was another man dressed in white with a
5 gun, who was shooting, but he had a black hat on.
6 No, Ladies and gentlemen, there is no evidence of
7 that. That's not a reasonable doubt. That is a
8 theory just like a lot of other theories you're
9 going to hear in a few minutes, but it's supported
10 by the evidence. It's not supported by the
11 testimony. It's not supported by your common sense.

12 You've got Count 1 in the indictment of
13 murder. Murder is the malicious killing of another
14 human being with malice aforethought. The judge is
15 going to charge you what the law is. Malice is
16 evilness, wickedness, meanness, mean spiritedness.
17 Malice must be present for you to find that Rodney
18 Green killed Mr. Archie illegally and intentionally.
19 You've got to have malice. You've got to have
20 intent. The judge is going to charge you though,
21 that there is something called transferred intent.
22 Transferred intent means that if you find that
23 Mr. Green was really trying to shoot Mr. Archie, but
24 he also hit Mr. Jenkins, that transferred intent,
25 that intent to fire that weapon transfers, and he

1 can be found guilty under that theory of the law as
2 well. That's for you to consider.

3 We don't -- we can't tell you what
4 Mr. Green was thinking at the moment he pulled the
5 gun. We can prove the circumstances that he fired
6 three times; that after he hit Mr. Ray'Quann
7 Jenkins, he didn't stop firing. He didn't come
8 over to him and say, oh, man, I'm sorry, I hit you.
9 I wasn't trying to hit you. Let me call an
10 ambulance for you. He didn't do that. The man who
11 fired that weapon started running into the field,
12 after he chased down Mr. Tyrese Archie, and shot
13 Mr. Archie. This wasn't something where, you know,
14 it was a mistake. He brought the gun to the club.
15 He got the gun out of the car. He used the gun
16 several times, and he fled with the gun. This is
17 serious business.

18 Rodney Green gave a statement to the
19 police officers later on that night when they took
20 his picture. The officer read it to you. Go back
21 in the jury room. This is his statement. This is
22 supposed to be a complete, true and honest
23 statement given on my own free will. Me and Lavitra
24 got to the club. We were holding hands. We heard
25 some shooting. We started running. I lost her

1. hand. And the next thing I know, I was getting
2 locked up. A little bit of a gap in that statement,
3 don't you think.

4 What about the gun you used. What about
5 the shots you fired. What about the running across
6 the 300 yards field. What about getting tackled.
7 The next thing I know, I was getting locked up. He
8 doesn't know what happen that night. He didn't want
9 to tell what happened that night. Lavitra Harvin.
10 Read her statement. She talks about going to the
11 other club. She talks about being with her friends
12 that night. She didn't -- read her statement. It
13 says in her statement, she got calls from people
14 that night saying that there was something --
15 someone told me someone had died. This has been
16 going be like for -- be for like 10 years or so over
17 something dumb.

18 Then she says I never saw Rodney shoot, I
19 just heard the gunshots. Then she talks about
20 getting another phone call. She told us about the
21 people, what they had on that night. Then she gave
22 this statement to the police officers, and was
23 hoping they would let her go home. But Ms. Addison
24 said, no, ma'am, you haven't told us everything,
25 because we've talked to other people. We think you

1 were with him. We think you know more than you're
2 telling us. And if you don't tell us the whole
3 story, there's going to be consequences.

4 And she thought about it. And she thought
5 about how she was going to be, because she's in a
6 bad situation now. This is the woman who saw her
7 man, according to her statement, getting arrested on
8 Mayfield Drive. She didn't get out the car. She
9 didn't go see what was wrong. She didn't check on
10 it. She broke the window out of the back of the
11 car, because he had the keys in his pocket. She
12 broke the window to get in so she could get the
13 spare keys, so she could go on home and put the car
14 behind somebody else's house.

15 I saw the cops had Rodney on Mayfield
16 Drive in handcuffs, taking him to a car. She didn't
17 even stop. She knew what was going on. On the
18 inside of the club, I saw a lot of white shirts.
19 Delvin called me and said that Head killed some
20 body. Stymie is dead. Head is Rodney Green.
21 That's his nickname. I didn't tell the truth
22 earlier, Rodney had a black handgun in the console
23 in my Mercury. When we got outside, I saw Rodney
24 firing a black handgun and running across the field.

25 This is the indictment brought by the

1 Sumter County Grand Jury by my office. I sign my
2 name on every indictment. I put my name on it,
3 because I believe in the case. And that's the way
4 it has to be brought to you. You are getting ready
5 to go in the jury room, and you're going to be asked
6 to sign your name basically, to say that this case
7 was given to you, that you considered the evidence,
8 and you found from the evidence that Rodney Green
9 killed Tyrese Archie and he tried to kill
10 Mr. Jenkins. He possessed a weapon during that
11 violent crime, and that the weapon -- he knew the
12 weapon was stolen. He was trying to throw it away
13 when he was arrested. He knew he didn't want to get
14 caught with it. He was possessing a stolen weapon.

15 Sign your name to the paper. Find him
16 guilty for what he did, because he is guilty. Not
17 because Finney said it. Not because Hawkins said
18 it, but because all of the evidence and all of the
19 pictures, and everything we've brought to you this
20 week supports that position. Thank you.

21 THE COURT: Thank you, Mr. Finney.
22 Everybody on the jury okay? Does anybody need to
23 take a break? Mr. Johnson.

24 MR. JOHNSON: Thank you, Your Honor. May
25 it please the court.

1 THE COURT: Yes, sir.

2 MR. JOHNSON: Ladies and gentlemen of the
3 jury, good morning.

4 THE JURY: Good morning.

5 MR. JOHNSON: I want to thank you for
6 sitting through this week. It's been a long week.
7 We had a day off, so I guess you got to rest. But
8 it's very important that you are here. You are the
9 most important part of this trial. You make the
10 decision and you decide by your judgment today on
11 how this community deals with crime in your
12 community. Our system of justice is set up that
13 citizens such as yourself, you're like the middle
14 people. You really are the judges of the truth.
15 The solicitor would put up evidence in support of
16 his position. I would examine that evidence in
17 support of my position, but you are the people that
18 decide the truth here.

19 The stuff you see on TV where smoking
20 mirrors and Perry Mason, as you saw in this trial,
21 it doesn't happen that way. It's not just that
22 straight and forward. And you can't started a
23 crime, solve a crime, convict someone in an hour.
24 It take days. It takes months, weeks of different
25 things before you come to a conclusion. Well now

1 we're at that conclusion.

2 You have been given all of the evidence.

3 There was no need -- my client is not required to
4 prove himself innocent. Because as he sits there
5 right now, he is an innocent man. The only way that
6 he can be guilty of anything, is once you return
7 your verdict. If you find so that the State has
8 proven their burden of proof. But what I asked you
9 in the beginning, is the same thing, I am going to
10 ask you now. Take your time in this case, and look
11 at the evidence. Because there's a lot of
12 assumptions that have been made in this case. A lot
13 of assumptions. The police when they went to the
14 scene, they had evidence that my client had had a
15 gun. He had discharged the gun. And they had him,
16 they found a gun. They found rounds. And they
17 made up their mind that he was person that committed
18 the crime.

19 Then like my argument with police all the
20 time; is that, they get someone, decide who
21 committed the crime. Then they go back and try to
22 find evidence to support their belief. And anything
23 that doesn't support that belief, they consider that
24 as not being evidence. And that was shown in this
25 case. The proper procedure is, you find out as much

1 as you can about everything. You collect as much
2 evidence as you can. You look at the evidence and
3 then you make a determination as to who could have
4 committed the crime.

5 The police never even asked the doctor was
6 the wounds consistent with the gun. They were just
7 as shocked the other day as everybody in this
8 courtroom when that doctor said that that gun, and
9 the bullets from that gun, did not cause the injury
10 to Mr. Archie, and cause his death. Caught them off
11 guard. They didn't know what to do. The defense
12 didn't put that up. That was the State's own
13 evidence. They did not even question him, because
14 they assumed that they could not be wrong. That was
15 the first time they ever heard that. Because you
16 know why, nobody ever asked. But wouldn't it be
17 important that before you decide that someone killed
18 someone with a gun, that you determine that that gun
19 actually caused the crime. If that gun did not
20 cause the crime, it's very simple for you. He's not
21 guilty of murder.

22 If you believe the doctor, and what the
23 doctor said on the stand, being questioned by the
24 solicitor, he's not guilty of murder. This case is
25 really that simple. Regardless of whether you

1 believe he had a gun and was shooting. And whether
2 you believe that he didn't have the gun, if he
3 didn't kill the man, he's not guilty of murder.
4 Their own evidence stated that. They can't change
5 what she said. And believe me, she's not a defense
6 witness.

7 I think she said she's done thousands,
8 thousands of these autopsies. This is the first
9 time I ever heard her give me anything as a defense
10 attorney that I could use. But she was always
11 honest about her statement. She no had reason to be
12 biased. She had no reason to say anything. She was
13 an expert. And her statement was, it was a medium
14 size to a small gun. And anybody that knows
15 anything about a gun, knows that a 45 is not a
16 medium or small gun. And these rounds, 45's, are
17 not small ammunitions. This is a large caliber gun,
18 with large ammunition. And the forensic expert
19 stated that it was her medical opinion, that that
20 gun did know cause the death of Mr. Archie.

21 You as a jury, get to decide the truth of
22 her testimony, just like you would the truth of
23 Diamond that testified. You have to weigh it and
24 give the same amount of weight that you would
25 anything. But I submit to you that there's no

1 evidence that what she says was not true. The next
2 most important thing is that what I attempted to do
3 when I attempted to do when I cross examine people
4 was not to trip them up. My attempt was to show you
5 as a jury that things that seem to be a certain way,
6 aren't always that way. People make assumptions all
7 the time. But remember, here's the important part.
8 The reason that it was important that there was a
9 man in white with a black hat shooting, or a man in
10 all white with a white hat, was not trying to trick
11 you and say that was somebody else shooting. It was
12 to show you that maybe the person that was
13 describing what he saw to you, really didn't know
14 what was going on. And if can't be sure about a
15 black hat from a white hat, how can you be sure
16 about who you saw shooting. Or how can you be sure
17 about where you were pointing the gun.

18 I don't know about you, but if someone is
19 shooting, it could be down the street. I
20 automatically duck. I get down. I get scared. My
21 blood pressure goes up. I think about what's going
22 on. And a lot of things I think about, my heart
23 rate goes up. And if you're not using to being
24 under that type of atmosphere all the time, you see
25 things, and things come by. You notice things. You

1 don't notice things. What I was trying to show in
2 the cross examination of these witnesses, is that
3 nobody really don't know exactly what happened.
4 That's reasonable doubt. I'm not trying to suggest
5 to you what happened. I wasn't there. You wasn't
6 there.

7 It's the State's duty, obligation, in
8 order before they can effect someone's life for the
9 rest of their life, to prove that what they are
10 charging him with he actually did. I award just as
11 much justice for that lady for the death of her son
12 as anybody. But is it justice to send the wrong man
13 to jail so that everybody can have a warm, fuzzy
14 feeling that we did something. Does it make it any
15 more just for you to send the wrong person to jail
16 to satisfy one person. And the person that did do
17 it, or the person that could have done it, is not
18 even charged. Or the State didn't do their job.
19 That's not right.

20 It's the State's job to come in here and
21 prove their case. If they didn't have enough
22 evidence, they needed to go back and get more
23 evidence. I do not believe that anybody came in
24 here or started their case with intent of harming or
25 doing anything to people. But just as we know in

1 our day to day job, there's a lot of people that
2 don't do their job properly. They get up every day,
3 and do the very minimum. And that might be fine, if
4 you are putting air in a tire. It might be fine if
5 you're working at a grocery store, if you're working
6 at a supermarket. But we're talking about people's
7 lives here. This affects people's lives. It
8 affects the family of someone that was killed. It
9 affects the family of a person that is charged with
10 that killing. It affects your community.

11 And when you start sending people to jail
12 and convicting them just on assumptions, without
13 requiring the State to do their job, believe me
14 there's a ripple effect that comes right back on
15 your community. It affects people. There's a
16 reason that people do not want to deal with the
17 police. The same way that that officer got up there
18 and said that she not threaten Lavitra. Then after
19 reconsidering, she gets back on the stand, and
20 admits, yeah, I said something about her children to
21 her. Think if you sitting there and the officer
22 tells well if you don't this, we could arrest you,
23 and take your children. And they tell you that
24 that's threatening. Think what you would do for
25 your children, or you might be persuaded to do or

1 say.

2 Everybody doesn't have the strength or
3 fortitude to stand up there and do the right thing.
4 Because the reason people don't do the right thing,
5 because it is always easier to do the wrong thing.
6 It's always easier to get high on drugs than it is
7 to get high off of going to school for 7 years and
8 getting a diploma. That's why people do the wrong
9 thing. That's why people lie. That's why people
10 change their stories. The gentleman that was shot
11 in the leg even testified that initially he said he
12 didn't know who shot him. But the investigator
13 stated that he knew Rodney before the incident
14 happened. And his testimony in the hospital to the
15 investigator was that, it was a man in white, and I
16 don't know who it was.

17 That is not what you do to someone that
18 shot you if you know who it was. But when he came
19 in the courtroom he identified Rodney as being the
20 person with the gun. But he also stated he decided
21 to do that because he didn't want to get in between
22 with Mr. Hawkins and the police. Pressure.
23 Everybody wants to do whatever they got to do, so
24 that they're not sitting over there later on.
25 That's what this is about. It's not about me trying

1 to trick you. You sit there and you took notes.

2 You looked at the evidence.

3 As it relates to Mr. Jenkins that was shot
4 in the leg, I am going to try to explain to you why
5 you should find my client not guilty of that. It's
6 very simple, the State has presented no evidence to
7 you that he was even shot. Think about it. There
8 was no doctor testimony that he even had a bullet in
9 his leg. There was no medical records. There was
10 no statement by the hospital. All they did was
11 bring Mr. Jenkins in, and he said that he saw my
12 client with a gun after he initially said he didn't
13 know who it was. He turned his back to pick his
14 friend up, and he felt a shot in his leg. And then
15 they give you a picture of him in the hospital.
16 That's how much time they took on his case. That's
17 all the evidence they give you, and want you to
18 decide for one, to assume that first of all, he was
19 shot with a 45, which you have no evidence on.

20 As a matter of fact, you don't even have
21 any evidence given to you that was he was even shot.
22 He could have ducked and fell from and running away
23 from a gun and cut himself on the side of the car.
24 But you don't know. I don't know. They have not
25 given you any evidence on that. How can you go back

1 in that jury room and make a decision about that. I
2 don't know. But guess what, you're going to have
3 to. That's reasonable doubt. That is a reasonable
4 doubt.

5 If my client as the doctor said, assuming
6 he had the gun, if that gun did not kill Mr. Archie,
7 there's no evidence that that gun even shot
8 Mr. Jenkins. If he did not kill Mr. Archie or
9 injure Mr. Jenkins, he could not be guilty of having
10 a gun during a violent crime, because he didn't
11 commit a violent crime. That's if you believe he
12 had the gun. If you believe he had the gun, the
13 only other possible verdict would be one of
14 possession of a stolen weapon. But let me tell you
15 what the evidence the State gave you of that. They
16 give you evidence that the weapon was stolen, but
17 they didn't give no evidence that my client even
18 knew if he had the gun, that the gun was stolen. No
19 evidence.

20 Take your time. The judge will give you
21 charges on everything. I could go over the
22 witnesses, and what they said, but you heard what
23 they said. You saw what they said. You heard the
24 inconsistency in their statements. But as I stated
25 before, if you believe one witness Dr. Ross, my

1 client is innocent. If you don't believe her, he's
2 guilty. Decide all the rest of the evidence. But
3 that is something that as a jury have to decide.
4 You have to decide want to do like the solicitor
5 suggests that we just make assumptions, or whether
6 we hold the solicitor and the police of your
7 community. And remember these are the people in
8 your community that operate within your community,
9 are elected by you, work for you. They could affect
10 any one of the members of anybody in your community.
11 You decide the standard that you determine on how
12 people are convicted in this community. And if this
13 is how people are convicted in this community, then
14 let that be with you.. I suggest that he is not
15 guilty of anything, and the State has not proven
16 their case. Thank you.

17 THE COURT: Thank you, Mr. Johnson.
18 Ladies and gentlemen, we are going to take about a
19 10 minute recess. And when we do come back in, I'll
20 go straight into the charge. The charge itself
21 probably will take 30 minutes. After that, you will
22 be released to deliberate. Now in the meantime, the
23 clerk of court is going to be ordering lunch in, so
24 you will be eating here today. If anybody on the
25 jury has any particular dietary issues, please let

1 your foreperson know. And, ma'am, you can let the
2 bailiff outside know what any issues might be. That
3 will kind of help us figure out where to order lunch
4 from.

5 And do not discuss the case yet. That
6 time is coming soon. Okay, we'll have you back out
7 in just a minute.

8 (Whereupon, the following takes place
9 outside the presence of the jury.)

10 THE COURT: Mr. Finney, Mr. Johnson,
11 anything for the record concerning arguments before
12 we briefly recess.

13 MR.. FINNEY: No, Your Honor.

14 THE COURT: Mr. Johnson.

15 MR. JOHNSON: Your Honor, my only thing is
16 just renew my initial argument when I felt that the
17 Solicitor Finney was trying to shift the burden of
18 proof when he said, what we were saying when he was
19 doing his closing arguments. I think I just need to
20 make that part of the record.

21 THE COURT: I understand. Any objection ,
22 or motion is respectfully overruled. Now just makes
23 sure everybody in the room understands, you can come
24 and go you want when the doors aren't locked, as
25 long as it's orderly. But when the charge begins,

1 THE COURT: Mr. Johnson, is your
2 investigator going to be inside?

3 MR. JOHNSON: No. No, Your Honor.

4 THE COURT: Would you all check outside in
5 the hall and make sure nobody is going to be shaking
6 the doors to get in?

7 THE COURT: The State's ready.

8 MR. FINNEY: Yes, sir.

9 THE COURT: The defendant's ready.

10 MR. JOHNSON: The defendant is ready, Your
11 Honor.

12 THE COURT: Bring in the jury.

13 (Whereupon, the following takes place
14 within the presence of the jury.)

15 THE COURT: Ladies and gentlemen, I am
16 going to give you now what is called the charge on
17 the law. You may have heard it referred to as jury
18 instructions. And that's what it is. I am going to
19 instruct what the law is. And as I told you at the
20 beginning of the case what you're to do to reach
21 verdicts in this case is to take your common sense
22 view of the evidence, and put it together with the
23 charge on the law that I am going to give you. In
24 that instance, you will be reaching verdicts that in
25 your estimation will speak the truth. Your

1 deliberations will end with your foreperson's
2 completion of this one page verdict form. And as I
3 will tell you now and tell you at the end of the
4 charge, your verdicts must be unanimous. That means
5 all of you are going to have to agree. This is not
6 going to be a majority -- a majority vote. You
7 verdicts on each count in order for them to be final
8 must be 12 to 0. There is no in between.

9 That is why it says on this verdict form
10 at the end, Madame Forelady, that I certify, that's
11 you, that this decision is the unanimous decision of
12 the jury. Now your responsibility in the case to
13 this point has been to pay very close attention,
14 and use your common sense. And that's going to
15 continue through this charge, and will most
16 importantly continue when your are deliberating.
17 Because when you are in the deliberation room,
18 you'll have the responsibility of giving all the
19 issues in this case the very serious consideration
20 that they deserve. And that will still require you
21 to pay attention to each other as you deliberate,
22 and to use your common sense to allow your
23 foreperson to accurately and completely reflect your
24 verdicts on this form.

25 Obviously during the course of this trial,

1 you and I have had certain duties to perform. It's
2 been your responsibility to be the judges of facts,
3 to pay close attention to the testimony, weigh the
4 testimony, weigh the evidence. And in the end as
5 you're in that jury room use your common sense to
6 reach verdicts. My responsibility has to preside as
7 the judge of law.

8 In that regard, you've seen firsthand
9 objections, rulings on objections, certain
10 procedural matters come to bear. Those are all my
11 responsibility. Now if I'm said or done anything
12 during the course of this trial that makes you think
13 that I favor one particular verdict over another,
14 please put that out of your mind, because I do not
15 have a position. I'm not allowed to state a
16 position if I had one. So again don't think that
17 even impliedly that I favor one particular result
18 over another.

19 I will tell you this, before I get into
20 the gist of this charge, all of the evidence that is
21 going to be introduced in this case, has been
22 introduced, testimony and exhibits. Those have been
23 introduced. There is not going to anything new
24 given to you at all. If there is an exhibit that
25 has been entered into evidence, you'll have it back

1 there with you. If It has been marked for the
2 identification only, and is not accurately in
3 evidence as I've told you at the beginning, there
4 are reasons for that, that I am not going in to
5 here. If it's only been marked for Id., it's not
6 going to be back there with you. You might ask for
7 it to come back in evidence, if it's marked for Id.,
8 I am going to tell you it's not going to go back
9 there with you.

10 By the same token as I just mentioned,
11 you're not going to hear anything new. I'm not
12 going to give you any new information. All the
13 evidence is in. There is a firearm in evidence.
14 Before that box goes back into the courtroom, the
15 State and the defendant with the people that know
16 how to do that, will confirm for me, and if it goes
17 back with you, it's confirmation to you that that
18 weapon is incapable of being fired. What I don't
19 want you to do is to handle the weapon. You can
20 hold the box. And make sure that it's pointed down
21 when you're holding it, but don't handle the weapon
22 itself.

23 Likewise, if there's any evidence in a
24 bag, and the evidence, if it's like a ziplock bag
25 that we all get, maybe put a sandwich in, you can

1 unzip the Ziploc bag. But if it's a sealed bag,
2 don't unseal it. And for heaven's sake, if you take
3 anything out of an unsealed bag, put it immediately
4 back in. Okay.

5 Now insofar as, there will be a box of
6 latex gloves if we have those available. I don't
7 think there's anything that needs to be handled with
8 latex gloves. But that's just a brief instruction
9 of your handling of the evidence. What you're to
10 consider in this case, other than the law as I am
11 going to give it to you, is the evidence that comes
12 in this case. You're not to base your verdicts in
13 this case on anything that is not founded in the
14 evidence that's been presented and the law as I give
15 it to you. So you're to go into the deliberations
16 free from any outside and improper motivations. The
17 parties have fought long and hard to bring this case
18 to you, and they're counting on you to be fair and
19 impartial to all parties, for the State and the
20 defendant, and to reach verdicts that do speak to
21 that fairness and impartiality.

22 Now you might also come into the case with
23 a preconceived notion of what you think the law is
24 or what you think it should, for the purposes of
25 this case and any case, you have to put those

1 notions aside and accept the law exactly as I give
2 it to you. The example I usually give is this.
3 Let's say on Liberty Street down there by Swan Lake,
4 the speed limit is 45 miles an hour, and there's
5 somebody on trial for speeding. And the evidence
6 shows you they were going 30. Well the speed limit
7 is 40. If you think the speed limit should have
8 been 25, you can't just find them guilty, because
9 you think the law ought to be that. You have to
10 base your verdict in that speeding case, to what the
11 speed limit actually was. That perhaps is very
12 fundamental explanation of how you're to do that.
13 But please note that, that's very important that you
14 base your verdict on what the law is, not what you
15 think it should be. Even if you disagree with the
16 law as I give to it you.

17 Now Ladies and gentlemen, obviously as you
18 know by now, the indictment in this case charged the
19 defendant with four separate offenses: Murder,
20 attempted murder, possession of a weapon during the
21 commission of a violent crime, and possession of a
22 stolen pistol. I am going to give you in just a few
23 minutes, exactly what the State will have to have
24 proven to you beyond a reasonable doubt. Now as I
25 go through this charge, I am going to refer to legal

1 principles. I am going to refer to definitions.
2 And I will guarantee you that I will be repeating
3 myself. That is not because I have lost my place
4 or forgotten what I wanted to say. The law is that
5 I must give you a full and accurate charge on the
6 law. Legal principles intertwine with each other.
7 So If I talk about principle A, it may intertwine
8 with principle K, so I have to talk about the other
9 one again. Please don't begin at least mentally
10 rolling your eyes. It's simply that I have to go
11 through this completely and accurately.

12 Now the indictment in this case is not
13 evidence. The fact that a person is charged,
14 arrested or indicted is not evidence of anything.
15 The indictment process as I've previously explained
16 to you is the process by which cases get into the
17 courtroom in the State of South Carolina. The
18 indictment is simply charging document. The
19 defendant has entered not guilty pleas to all four
20 charges. He does not have to prove, he does have to
21 disprove anything. The State at all times, has the
22 burden of proving elements of the crimes charged
23 beyond a reasonable doubt. If I tell you at any
24 stage that the State has to prove something to you,
25 the proof must be beyond a reasonable doubt.

1 Now, ladies and gentlemen, as I will tell
2 you later, well I'm not going to get into that now.
3 I'm going to talk to you about how your verdict on
4 one count might not control your verdict on the
5 other. I'll tell you about that at the end when I
6 go over the verdict form.

7 Obviously, you are the ones who have to
8 evaluate the credibility or believability of
9 witnesses who testify. The way our courts are set
10 up, when the witnesses testify, the chairs are
11 largely pointed to you. And there's a reason for
12 that. It's because you have to determine whether
13 you believe what they have to say. If you will
14 notice that when they testify, they're not turned,
15 looking at me. They don't have to convince me of
16 anything. You can believe every word that comes
17 out of a witness' mouth. You can disbelieve every
18 word, or you can believe some, and reject the rest.
19 Use your common sense.

20 You can take into account certain things;
21 such as, what was the witness' ability to know what
22 he or she claimed to know. You can take into
23 account whether or not the witness might have a bias
24 or a prejudice for or against one result over
25 another. You can take into account, the witness'

1 demeanor, were they hesitant or straightforward when
2 they were answering questions. You can also take
3 into account, whether or not the witness may have
4 said something different or the same on a prior
5 occasion. You can believe one witness over many or
6 many over one. And that's common sense. We do that
7 every day.

8 Now, Ladies and gentlemen, I've talked to
9 you about expert witnesses for a brief time during
10 the trial, because you heard testimony from certain
11 experts. Expert witnesses are witnesses who are
12 qualified by education, training or experience in a
13 certain field. Those witnesses can give opinions.
14 And they give the reasons for those opinions. You
15 consider an expert opinion, or the testimony, of an
16 expert, just like you would any other witness, and
17 you give it the weight you believe it deserves. If
18 you believe that the expert's qualifications are not
19 sufficient or if you consider the reasons given for
20 the opinion are not sufficient, or if you think the
21 expert's opinion is outweighed by other evidence,
22 you can disregard that expert's opinion in its
23 entity. You are not required to accept the
24 testimony of an expert just because it comes from an
25 expert, even though that testimony might be

1 uncontradicted.

2 Now, Ladies and gentlemen, I've told you
3 the different ways that evidence generally comes in:
4 testimony, exhibits, and sometimes by stipulation or
5 agreement. I'm going to shift gears for just a
6 moment and talk to you about two different types of
7 evidence that are generally presented during a
8 trial. You may have heard of these before. These
9 are called direct evidence and circumstantial
10 evidence. Direct evidence is an example of that is
11 the testimony of a person who claims to have actual
12 knowledge of a fact. It could be what that witness
13 says that he or she saw or heard or smelled or
14 touched. That's, I smelled smoke. I saw a dog.
15 That's an example of direct evidence.

16 If you choose to believe that witness,
17 that evidence -- that's evidence that immediately
18 establishes the existence of a fact. Circumstantial
19 evidence is proof of a chain of facts and
20 circumstances that indicate the existence of a fact.
21 The law makes absolutely no distinction between the
22 weight or the value that you are to give to either
23 direct or circumstantial evidence. However, Ladies
24 and gentlemen, to the extent the State relies on
25 circumstantial evidence, all of the circumstances

1 must be consistent with each other and when taken
2 together, they must point conclusively to the guilt
3 of the accused beyond a reasonable doubt. If the
4 circumstances in your judgment merely portray a
5 defendant's behavior as suspicious, then the State's
6 proof has failed.

7 So in closing on that point, the State has
8 the burden of proving the elements of the crimes
9 charged beyond a reasonable doubt. And that burden
10 is on the State regardless of whether the State
11 relies on direct evidence or circumstantial evidence
12 or some combination of the two. As I've told you,
13 the defendant has pled not guilty to the charges in
14 the indictment. And as I've told you, that plea
15 puts the burden on the State to prove him guilty. A
16 person in this State who is charged with a crime,
17 never is required to prove himself innocent or not
18 guilty. It's a very important rule of law. It's an
19 extremely valuable and important legal principle
20 that the defendant in a criminal trial no matter
21 what the charge, no matter how serious it might be,
22 is always presumed to be innocent of the crime
23 charged unless guilt is established by proof beyond
24 a reasonable doubt.

25 The presumption of innocence does not end

1 in a few minutes when you stand up and walk to the
2 jury room. The presumption of innocence remains
3 around the defendant's shoulders like a cloak unless
4 and until it's stripped away by evidence that
5 satisfies you of guilt beyond a reasonable doubt.
6 So those words presumption of innocence don't
7 represent a phrase that we casually toss around.
8 Again, the presumption of innocence is a substantial
9 right to which every defendant is entitled unless a
10 jury is satisfied from the evidence that the
11 defendant is guilty beyond a reasonable doubt.

12 You probably haven't counted, I counted
13 one time how many times I would have used the
14 word -- term reasonable doubt up to now, I think
15 it's probably 12. What is a reasonable doubt in the
16 law. I am going to tell you that now. A
17 reasonable doubt is the kind of doubt that would
18 cause an honest, sincere, conscientious and
19 reasonable person who is in search of the truth to
20 hesitate to act.

21 The State has the burden of proving a
22 defendant guilty beyond a reasonable doubt. Some of
23 you may have been on a jury in a civil case. I
24 don't know, but if you have, you probably heard the
25 judge or saw the judge hold up his hands or her

1 hands, and say these hands represent the scales of
2 justice. When you look at a statue or a painting of
3 lady justice, she's always blindfolded. She's
4 always holding up scales. And those scales if the
5 art is done correctly, they're even. And that's how
6 these parties walk into a courtroom. In a civil
7 case, the party who has the burden of proof, has the
8 burden of proving something by the greater weight of
9 the evidence. And what that means is, that party
10 has to tip those scales ever so slightly to satisfy
11 the burden of proof. In criminal cases. The
12 State's proof must be powerful than that. It must
13 -- the State must present prove beyond a reasonable
14 doubt. Proof beyond a reasonable doubt is proof
15 that leaves you firmly convinced of a defendant's
16 guilt.

17 Now there are very few things on this
18 earth that we know with absolute certainty, and the
19 law does require the State present proof that
20 overcomes every possible doubt. It requires the
21 State to present proof that overcomes reasonable
22 doubt. If based on your consideration of the
23 evidence, you are firmly convinced that the
24 defendant is guilty of the offense you are
25 considering at that time, you find him guilty. If

1 on the other hand, based on your view of the
2 evidence, if you believe there is a real possibility
3 that the defendant is not guilty, you must give him
4 the benefit of the doubt and find him not guilty.

5 Now I instruct you and I emphasize to you
6 that the fact that the defendant did not testify in
7 this case, is not a factor to be considered by you
8 in any way in your deliberations and your
9 considerations of whether the defendant is guilty or
10 not guilty. That's extremely important. You're not
11 to even think about it. You're not to talk about
12 it. And again, the fact that the defendant did not
13 testify is not be considered by you in any manner
14 whatsoever in your deliberations. A defendant has
15 the constitutional right to remain silent. And the
16 assertion of that right may not under any
17 circumstances be considered by you in your
18 deliberations. So under the oath that you have
19 taken to follow the law, you are draw no conclusions
20 whatsoever from the fact that the defendant did not
21 testify.

22 Now, Ladies and gentlemen, I'll get more
23 specific now and talk to you in the order that they
24 are on the verdict form about the particular counts
25 against the defendant. First of all, I'll preface

1 this by saying that your verdict as to the murder
2 charge, does not control your verdict on the
3 attempted murder charge. You can find defendant
4 based on your view of the evidence, guilty of both,
5 not guilty of both, or guilty of one and not guilty
6 of the other. Because your examination and
7 deliberations on these two counts, must be separate
8 based on your view of the evidence.

9 Now first all, the defendant is charged
10 with the offense of murder. In that regard, or on
11 that count, in order for you to find the defendant
12 guilty, the State must proof beyond a reasonable
13 doubt, that the defendant killed another person
14 with malice aforethought. The word malice is
15 hatred, ill will or hostility towards another
16 person. It is the intentional doing of a wrongful
17 act without just cause or excuse, and with an intent
18 to inflict an injury or under circumstances that the
19 law would infer an evil intent. The term malice
20 aforethought does not require that malice exist for
21 any particular time before the act is committed.
22 But malice must exist in the mind of the defendant
23 just before and at the time the act is committed.
24 So there has to be combination of the previous evil
25 intent and the act itself.

1 Malice aforethought, I will also charge
2 you can be either express or it can implied. Now
3 those terms express and implied don't mean different
4 kinds of malice, but simply mean the difference in
5 manner in which malice might be shown or proven to
6 exist. And again that's by either direct evidence
7 or circumstantial evidence. Express malice may be
8 shown when a person speaks words that express hatred
9 or ill will for another person. Or when the person
10 prepared beforehand to do the act which was later
11 accomplished.

12 Malice may be implied from conduct showing
13 a total disregard for human life. Implied malice
14 may also arise when the act is done with a deadly
15 weapon. A deadly weapon is any article, instrument,
16 or substance which is likely to cause death or great
17 bodily harm. And whether an instrument has been
18 used as a deadly weapon, depends on all the facts
19 and circumstances of each case. Here are some
20 examples of instruments which might be deadly
21 weapons: A pistol, shotgun, rifle, knife, dagger,
22 slingshot, brass knuckles, a razor, gasoline or a
23 fire bomb. If facts are proven beyond a reasonable
24 doubt sufficient to raise an inference of malice to
25 your satisfaction, then that inference would be

1 simply an evidentiary fact you are to consider with
2 all the evidence, and you give it the weight you
3 believe it should receive.

4 Now, Ladies and gentlemen, the defendant
5 is also charged with the offense of attempted
6 murder. In order to prove this crime, in order for
7 you to find the defendant guilty, the State must
8 prove beyond a reasonable doubt that the defendant
9 with the intent to kill, attempted to kill another
10 person with malice aforethought express or implied.
11 Malice again is hatred, ill will or hostility
12 towards another person. It's the intentional doing
13 of a wrongful act without just cause or excuse and
14 with an intent to inflict an injury or under
15 circumstances the law will infer an evil intent.

16 Again, I am going to summarize this in
17 just a moment. Malice aforethought just as it as
18 with murder, is not required that malice exist for
19 any particular time before the act is committed.
20 But malice must exist in the mind of the defendant
21 just before and at the time the act is committed.
22 So there has to be a combination of the previous
23 evil intent and the act itself.

24 Now the earlier instructions I gave you
25 about express and implied malice apply to your

1 analysis of attempted murder as well. And again, a
2 deadly weapon is any article, instrument or
3 substance which is likely to cause death or great
4 bodily harm. And the earlier examples of deadly
5 weapons apply here as well. And again, if facts are
6 proven beyond a reasonable doubt to raise an
7 inference of malice to your satisfaction, that
8 inference is simply evidentiary fact you are to
9 consider, and you give it the weight you believe it
10 should receive.

11 Now, Ladies and gentlemen, on the issue or
12 the count of attempted murder, proof of attempted
13 murder requires proof of a specific intent to kill.
14 Specific intent does not mean an intent to kill a
15 specific person, but rather that the defendant
16 consciously intended the completion of acts that
17 comprise the act of attempted murder. And the word
18 intent as I will tell you in more detail later,
19 means intending the result which actually occurs and
20 not accidentally or involuntary.

21 Now, Ladies and gentlemen, intent can also
22 be shown by acts and conduct of the defendant and
23 other circumstances from which you may naturally and
24 reasonably infer intent. Evidence of the character
25 of the act, the character of the instrument used,

1 the manner in which it was used, the purpose sought
2 to be accomplished and the resulting wounds or
3 injuries may be considered by you in determining the
4 intent with which the act was committed.

5 Now, Ladies and gentlemen, intent may also
6 be inferred when the act -- when it is demonstrated
7 rather that the defendant voluntarily, and willfully
8 commits an act, the natural tendency of which is to
9 destroy another person's life. Now, Ladies and
10 gentlemen, I further charge you that if a person
11 with malice aforethought attempts to kill another
12 person, but by mistake injures or kills a different
13 person, then that person based on your view of the
14 evidence, has the specific intent to kill. The
15 intent to kill in that regard would be merely
16 transferred from the original person the defendant
17 attempted to kill, to the person who was actually
18 killed or injured.

19 Now, Ladies and gentlemen, the third count
20 on the indictment is possession of a weapon during
21 the commission of a violent crime. I first will
22 tell you that under the law of this State, the
23 crimes of murder and attempted murder, are violent
24 crimes. And if the defendant is charged with that
25 offense, the State must prove beyond a reasonable

1 doubt that the defendant was in the possession of a
2 firearm during the commission of a violent crime. A
3 firearm is defined in our law as a machine gun, an
4 automatic rifle, a revolver, a pistol, or any weapon
5 which will or is designed to expel a projectile.

6 Now, Ladies and gentlemen, in order to
7 find the defendant guilty of possession of a weapon
8 during the commission of a violent crime, you must
9 first of course find him guilty of either committing
10 a violent crime, or attempting to commit a violent
11 crime. As I told you a moment ago, murder and
12 attempted murder are violent crimes under the laws
13 of this State. And the State must prove beyond a
14 reasonable doubt that the weapon in question,
15 further advanced or helped in the commission of the
16 crime. Now the fourth count on the indictment is
17 possession of a stolen pistol. The State must prove
18 beyond a reasonable doubt that the defendant
19 knowingly possessed a stolen handgun. And the term
20 knowingly means with knowledge, and not accidentally
21 or unintentional.

22 Now, Ladies and gentlemen, I'm about
23 concluded. I have a couple more things to go over
24 before I get to the verdict form specifically. In
25 order establish proof of a criminal offense, the

1 State also must prove what is called the element of
2 criminal intent. Now, Ladies and gentlemen,
3 criminal intent is always a matter that must be
4 determined by a jury from direct evidence,
5 circumstantial evidence, or some combination of the
6 two. There is no way that you can or one can prove
7 criminal intent to a mathematical certainty. There
8 is no way that medical science can at least yet,
9 dissect a person's brain and look at the brain and
10 decide what that person intended to do, if anything.
11 So the law says that criminal intent may be
12 established or proven beyond a reasonable doubt by
13 direct evidence or by circumstantial evidence.

14 Now, Ladies and gentlemen, what you're to
15 do in that regard is to consider all the facts and
16 circumstances and the actions of the parties in
17 order to determine what if anything the defendant
18 intended to do in this particular case. Criminal
19 intent is a mental state. It's a conscious
20 wrongdoing. And again it's up to you to determine
21 what if anything the defendant intended to do based
22 on the evidence in this case. Another issue in this
23 case is the identification of the defendant as the
24 person who committed the offenses charged. The
25 State has the burden of proving the identity of the

1 defendant beyond a reasonable doubt. You must be
2 satisfied again beyond a reasonable doubt of the
3 accuracy of the identification of the defendant
4 before you may convict the defendant.

5 Identification testimony from a witness is
6 an expression of belief or impression. You must
7 determine the accuracy of the identification of the
8 defendant. You must consider the believability of
9 each identification witness in the same manner as I
10 told you before when you evaluate the credibility of
11 witnesses. You might consider in your judgment
12 whether the defendant had an adequate opportunity to
13 observe the offender at the time of the offense.
14 And that's effected things such as how long, or how
15 short a time was available, how far or close was
16 the witness to the offender, lighting conditions and
17 whether the witness had had the chance to see or
18 know the person in the past.

19 And again I instruct you that the burden
20 of proof on the part of the State extends to every
21 element of the crime charged. And that specifically
22 includes the burden of proving beyond a reasonable
23 doubt, the identify of the defendant as the person
24 who committed the crime. If after examining the
25 testimony and the other evidence, if you have a

1 reasonable doubt as to accuracy of the
2 identification of the defendant as the one who
3 committed the offense, you must find the defendant
4 not guilty of the offense you're considering at that
5 particular time.

6 Now, Ladies and gentlemen, the verdict
7 form is on this sheet. And it has the word verdict
8 form and the word verdict on it. It says No. 1, as
9 to Count 1, murder, we unanimously, there's that
10 word, find the defendant, and there are two choices,
11 not guilty or guilty. Madam forelady, once you are
12 sure what the unanimous decision of the jury is, you
13 put a check or an x, in the appropriate space.
14 Either not guilty or guilty.

15 Count or No. 2 says as to Count 2,
16 attempted murder, we unanimously find the defendant,
17 two choices, not guilty, guilty. Again your
18 unanimous decision, Madam Forelady, will be
19 reflected by a check or an x in that appropriate
20 space. Count 3, possession of a weapon during the
21 commission of a violent crime, we unanimously find
22 the defendant two choices, not guilty, guilty. You
23 may not find the defendant guilty of that count
24 unless you have found him guilty of either murder or
25 attempted murder or both. Count 4, it says

1 possession of a stolen pistol. We unanimously find
2 the defendant, and the choices would be not guilty,
3 guilty.

4 At the bottom again, Madam Forelady, it
5 says I certify this decision is the unanimous
6 decision of the jury. It has a place for you to
7 sign it and to date it. When you reached unanimous
8 verdicts, you complete the verdict form accordingly,
9 sign it and date it and tap on the door, and let the
10 bailiff know you have reached a verdict. That's
11 even on the bottom. I had a case one time with a
12 lawyer where the jury stayed back for about 8 hours.
13 They reached a verdict after 2, they just didn't
14 know what to do. It wasn't 8 hours. It was a
15 pretty long time. But there is an instruction when
16 you finish, notify the bailiff that you have reached
17 a verdict.

18 If you have questions, there will be a
19 note pad in there for you to write the question
20 down. You sign it again. Madam Forelady, you
21 date the question, tap on the door and let the
22 bailiff know that you have a question. You might
23 want me to repeat part of the charge. You might
24 want to hear some testimony played. You might have
25 another question. I don't know what it might be.

1 Now law dictates if and how I respond to your
2 question. But whatever your question is, I'll
3 receive it, but I will answer it if and how the law
4 permits me to answer it.

5 And your responsibilities are really just
6 beginning. You have not discussed the case amongst
7 yourselves or with anyone else until now. Now is
8 the time. You're going to have that opportunity,
9 and please make sure that if have to leave the jury
10 room for any reason like to use the phone, you've
11 got to get my permission. If somebody does leave
12 stop your deliberations until that person comes
13 back. Even if somebody goes to use the rest room,
14 wait until thy come back before you start talking
15 about the case anymore.

16 The State of South Carolina and the
17 defendant expert and they entitled to a fair and
18 impartial verdict at your hands. And I certainly
19 expect that you will continue to be very
20 conscientious as you have been throughout the trial.
21 The next order of business is going to be this. You
22 are going to get up and leave and go to your jury
23 room, except for I believe it's Mr. Kriner and
24 Ms. Thompson, you will remain in the hallway. Don't
25 start deliberating yet, because when you leave under

1 these rules that I've mentioned, the lawyers have
2 the right to tell me if I left something out, or if
3 I said something incorrectly. And I certainly may
4 have. And that will their opportunity to let me
5 know about that.

6 Your signal to deliberate will be when the
7 bailiff comes your door with this form and with
8 those exhibits and tells you that you can start.
9 Okay. If you would please go to your jury room. And
10 Mr. Kriner, and, Ms. Thompson, you can stay out in
11 the hall. You can take your note pads now.

12 (Whereupon, the following takes place
13 outside the presence of the jury.)

14 THE COURT: Exceptions or additions from
15 the State?

16 MR. FINNEY: None from the State.

17 THE COURT: Other than those previously
18 noted, Mr. Johnson, any exceptions or additions?

19 MR. JOHNSON: No, Your Honor. Except
20 that, did you say something about mere presence?

21 THE COURT: No, I didn't. I apologize.
22 I'll bring them back out and do that. And I'll
23 also explain to them again about the note taking.

24 MR. JOHNSON: And just for the record, I
25 renew all my previous objections.

1 THE COURT: Bring them out, please. I
2 guess the two alternates too.

3 (Whereupon, the following takes place
4 within the presence of the jury.)

5 THE COURT: My apologies, Ladies and
6 gentlemen. I do have to tell you two more things,
7 not to draw any particular emphasis to them.
8 Obviously about the note taking. If you took notes,
9 you certainly are able to have those back there with
10 you while you deliberate. But as you recall me
11 telling you when we started, some people are better
12 note takers than the others. The fact that some
13 person took notes, and another juror didn't, doesn't
14 give that person's notes any greater authority than
15 another person's independent memory.

16 I will also tell you, Ladies and
17 gentlemen, that under the law of this State,
18 mere presence at the scene of the crime is not
19 sufficient in and of itself to prove someone guilty
20 of a crime. A defendant's presence where a crime is
21 being committed or mere association with a person
22 who commits a crime does not make that defendant
23 guilty of committing that crime. The burden is on
24 the State to prove every element of the crimes
25 charged. And if you find after reviewing all the

1 evidence that the State has proven that the
2 defendant was only present at the scene of the
3 crime, and the State has not proven beyond a
4 reasonable doubt participation in the crime, then
5 you must find the defendant not guilty.

6 So in essence the law is that proof of
7 presence at the scene of a crime is not sufficient
8 to find someone guilty. That concludes that, Ladies
9 and gentlemen. There will be one brief moment for
10 me to ask the lawyers again if I left something out
11 and if they bring something to my attention again,
12 then I will let you, I will bring you back out. But
13 if not, your signal to deliberate will be as I told
14 you earlier. You can go to your jury room except
15 for Mr. Kriner and Ms. Thompson.

16 (Whereupon, the following takes place
17 outside the presence of the jury.)

18 THE COURT: Any addition or exceptions
19 from the State?

20 MR. FINNEY: None, your honor.

21 THE COURT: Mr. Johnson.

22 MR. JOHNSON: I have none, Your Honor.

23 THE COURT: Any objection to me releasing
24 both alternates? That's my interpretation of the
25 statute. They must be released. Mr. Finney.

1 both sides did an excellent job.

2 (Whereupon, At 12:55 p.m. jury commences
3 deliberations.)

4 (Whereupon, at 1:40 p.m. jury has a
5 question.)

6 THE COURT: The jury has a question. Is
7 Mr. Johnson outside?

8 THE CLERK: I didn't see him no place,
9 Your Honor.

10 MR. FINNEY: I don't have my phone. I can
11 call him.

12 THE COURT: Mr. Finney, and, Mr. Johnson,
13 you can come up and look at the jury's note. It
14 says, can we have statements of Diamond Brooks,
15 Ray'Quann Jenkins, Davontae Blanding, and Conyers
16 Washington. Of course, I specifically told the jury
17 twice, that they weren't going to get anything new,
18 and that certain items had been marked for
19 identification only, if at all. And that they only
20 for identification. They weren't going to go back
21 to the jury room. Mr. Finney, what does the State
22 suggest I do or want me to do?

23 MR. FINNEY: The simplest thing, Your
24 Honor, we would request you to write them a note in
25 reply stating that those statements are not

1 available to them, because they were not put in to
2 evidence.

3 THE COURT: Mr. Johnson.

4 MR. JOHNSON: I agree.

5 THE COURT: I will have them out and I'll
6 tell them that, but I am not going to send a note
7 back. In civil court I guess probably could. In
8 criminal, I can't do that. I will just tell them
9 that the extent that they're asking for statements,
10 that they are paper form given by those witnesses.
11 If they're not in evidence, they're not going back
12 out there.

13 MR. JOHNSON: They have to use their
14 memories then. Their notes.

15 THE COURT: Bring in the please.

16 (Whereupon, the following takes place
17 within the presence of the jury.)

18 THE COURT: I have your question, Ladies
19 and gentlemen. It says, can we have statements of
20 Diamond Brooks, Ray'Quann Jenkins, Davontae
21 Blanding, Conyers Washington, were signed by your
22 foreperson and dated. As I mentioned to you, as far
23 as exhibits are concerned or any other evidence for
24 that matter, there's not going to be anything new
25 given to you. If there was a statement before this

1 trial given by a witness, and that statement is not
2 in evidence and back in the jury room with you,
3 you're not going to get the paper form of that
4 statement.

5 As I mentioned to you, there are certain
6 reasons why things are marked for identification,
7 and then not actually put into evidence. But to the
8 extent you're asking for paper copies of those
9 statements under the rules, they will not be
10 presented to you in the jury room. If you have any
11 other questions, or need any other specific
12 information, I will be happy to fill the question,
13 just like I did this one. And as I mentioned to
14 you, the law dictates if and how I respond to your
15 question. Thank you.

16 You might, you can ask the foreperson, I
17 can't fill questions individually for the jury. But
18 if you want to relay it to the foreperson and
19 everybody wants me to consider it, I'll certainly do
20 that. Okay.

21 THE COURT: Any exceptions or additions
22 from the State?

23 MR. FINNEY: No, Your Honor.

24 MR. JOHNSON: No, Your Honor.

25 THE COURT: And the record will show that

1 a juror on the back row did raise her hand. But I
2 think appropriately that will have to come from the
3 jury in the form of a written question. Okay. We
4 will go back at ease. Just remain close at hand in
5 case they have a follow up question or any other
6 questions as we go forward. Thank you.

7 (Whereupon, at 2:30 p.m. jury has a
8 question.)

9 THE COURT: We have another question from
10 the jury. No. 1, what's the legal definition for
11 murder. No. 2, all the testimony from the court
12 reporter. In parenthesis, the word, "possible."
13 There is a No. 3, but it's crossed -- the number is
14 crossed out and nothing else is written. If you
15 want to look at that, Mr. Bradley, you can show it
16 to them. And then I'll hear your objection.

17 Mr. Finney, any -- well obviously I'll
18 recharge them on murder. I would assume that nobody
19 disagrees with that.

20 MR. FINNEY: I don't.

21 MR. JOHNSON: I don't.

22 THE COURT: Question No. 2, all testimony
23 from court reporter. I must say I am a bit
24 mystified. You said in your closing it was 17
25 witnesses.

1 MR. FINNEY: Yes, sir.

2 THE COURT: I'm at a loss.

3 MR. JOHNSON: I think you can say if you
4 have got specific questions that we can maybe. I
5 won't have an objection to that. But just to play
6 the whole thing back.

7 THE COURT: Well the testimony began at
8 10:09 a.m. on Tuesday. And it ended yesterday at
9 4:53 p.m. And we didn't very many long breaks.
10 That's about probably a good solid 7 hours of
11 testimony.

12 MR. JOHNSON: I think it's more than that.

13 MR. FINNEY: You're saying cumulative over
14 two days?

15 THE COURT: I'm talking about cumulative.
16 In removing breaks, lunch, recess, things of that
17 nature. The jury going in. The jury going out.
18 Maybe more, I don't know.

19 MR. JOHNSON: I think we've got about 3,
20 about 6 hours each day.

21 THE COURT: Well I know, it's never as
22 much actual live testimony from the jury as you
23 think. But whatever it is, if they want to hear it
24 all, I don't know of any rule against it. But I
25 don't think the trial system is set up to have a

1 replay, but I can't argue with them. What I intend
2 to do is to tell them that I will give them a charge
3 on murder again. And as far as question No. 2, I
4 guess I would say, unless either side objects, do I
5 interpret your question to mean that you want to
6 hear everything played back that took place over 2
7 days.

8 MR. FINNEY: I think you should ask.

9 MR. JOHNSON: That's fine.

10 (Whereupon, the following takes place
11 within the presence of the jury.)

12 THE COURT: Ladies and gentlemen, I have
13 your second set of questions. No. 1, what's the
14 legal definition of murder. I can certainly give
15 you that. Question 2, all testimony from court
16 reporter. And then in parenthesis it has the word,
17 "possible." Do I interpret your question to mean
18 that the jury wants to hear back all testimony from
19 all 17 witnesses?

20 THE FORELADY: Do I speak?

21 THE COURT: Yes, ma'am.

22 THE FORELADY: I don't think we know how
23 it would see it, if we wanted to see bits and pieces
24 of all the testimony.

25 THE COURT: Oh, it would be played back.

1 It would not be typed. It would be played back
2 exactly with the same -- it would be -- it's a
3 recording.

4 THE FORELADY: We didn't understand how it
5 would be presented.

6 THE COURT: Yes, ma'am. It would played
7 back on a speaker. That's what you all want to
8 hear?

9 THE FORELADY: I didn't think we
10 understood that.

11 THE COURT: If there is specific witness
12 testimony you want to hear or specific parts of
13 witness testimony you want to hear, that is doable,
14 It just takes a while to find it. That's why I
15 write times down. But if your question is to have
16 the entire -- all 17 witnesses testimony played back
17 in its entity, that's, you know, obviously doable,
18 but I just want make sure I focused in on your
19 question.

20 THE FORELADY: No, we---

21 THE COURT: What, if you want, would you
22 like for me to recharge you on the definition of
23 murder, and you go back and refine the question?

24 THE FORELADY: Yes, please.

25 THE COURT: Well I'll do that first. And

1 I'm not trying to hamstring on your question, but I
2 just want to make sure I understand the focus of it.
3 But to answer your question back, it would not be
4 given to you in typed form. It would be given to
5 you exactly as you heard by the way of speaker
6 played over through a microphone.

7 THE FORELADY: And would do the listening
8 here in the courtroom or back in the?

9 THE COURT: You will do the listening here
10 in the courtroom.

11 THE FORELADY: Okay.

12 THE COURT: In answer to your question or
13 request of what's the legal definition of murder, I
14 charges you, Ladies and gentlemen, as I did earlier,
15 that defendant is charged with murder. The State
16 must prove beyond a reasonable doubt that the
17 defendant killed another person with malice
18 aforethought.

19 Malice is hatred, ill will, or hostility
20 towards another person. It is the intentional doing
21 of a wrongful act without just cause or excuse, and
22 with an intent to inflict an injury, or under
23 circumstances that the law will infer an evil
24 intent. Malice aforethought does not require that
25 malice exist for any particular time before the act

1 is committed. But malice must be proven to exist in
2 the mind of the defendant just before, and at the
3 time the act is committed. So there has to be a
4 combination of the previous evil intent and the act
5 itself.

6 Now the term malice aforethought may be
7 express malice aforethought or implied malice
8 aforethought. Those two terms express and implied
9 do not mean different kinds of malice, but merely
10 the manner in which malice may be shown proven to
11 exist. And that is either by direct evidence or
12 circumstantial evidence based on the facts and the
13 circumstances which are proven.

14 Express malice may be shown when a person
15 speaks words which express hatred, or ill will for
16 another or when the person prepared beforehand to do
17 the act which was later accomplished. Malice may
18 be implied from conduct showing a total disregard
19 for human life. And implied malice may also arise
20 when the act is done with a deadly weapon. A deadly
21 weapon is any article, instrument or substance which
22 is likely to cause death or great bodily harm. And
23 the following are examples of instruments which may
24 be deadly weapons: Pistol, shotgun, rifle, dagger,
25 knife, a slingshot, brass knuckles, razor, gasoline

1 or a fire bomb.

2 If the facts are proven by beyond a
3 reasonable doubt sufficient to raise an inference of
4 malice to your satisfaction then that inference
5 would be simply an evidentiary fact you to consider,
6 if at all, along with other circumstances in the
7 case, and you give it the weight you believe it
8 deserves. Now that is a recharge on murder. Do you
9 think it covers it, Madam forelady?

10 Let me back up. I must also mention since
11 you asked about the murder charge, in every single
12 case, the State also has to prove criminal intent
13 which as I told you earlier is a mental state. It's
14 a conscious wrongdoing. And criminal intent must be
15 determined by you based on the facts and
16 circumstances surrounding the situation. As I told
17 you earlier, it does not have to be proven to a
18 mathematical certainty. And there's no way medical
19 science can dissect a person's brain and determine
20 what if anything that person intended at any given
21 time.

22 So the law says that criminal intent may
23 be proven if at all, by circumstantial evidence and
24 direct evidence. And finally as I mentioned,
25 criminal intent is a mental state. It's a conscious

1 wrongdoing. That is also part of definition of
2 murder as well. If you have any follow up questions
3 on that or with anything else, just follow the same
4 process you followed. Okay. Thank you.

5 (Whereupon, the following takes place
6 outside the presence of the jury.)

7 THE COURT: Are there any exceptions or
8 additions from the State?

9 MR. FINNEY: None from the State.

10 THE COURT: The defendant?

11 MR. JOHNSON: I have none from the
12 defendant, Your Honor.

13 THE COURT: We'll wait for any further
14 questions or a verdict. You can be at ease.

15 (Whereupon, at 4:24 p.m. jury reaches
16 verdict.)

17 THE COURT: Mr. Finney and, Mr. Johnson,
18 the jury has reached a verdict. Are you ready to
19 receive the verdicts?

20 MR. FINNEY: Yes, Your Honor.

21 MR. JOHNSON: Yes, Your Honor.

22 You may bring in the jury.

23 (Whereupon, the following takes place
24 within the presence of the jury.)

25 THE COURT: Madam Forelady, have you

1 reached a verdict on all four counts?

2 THE FORELADY: Yes, we have.

3 THE COURT: You can hand the form to
4 Mr. Bradley. Mr. Bradley, you can publish the
5 verdicts. Mr. Green, if you will please stand and
6 face the jury.

7 THE CLERK: For the State of South
8 Carolina, County of Sumter, in the Court of General
9 Sessions, Case Number 2014-GS-43-0524, The State of
10 South Carolina versus Rodney R. Green, defendant.
11 As to Count 1 murder, we unanimously find the
12 defendant, guilty. As to Count 2, attempted murder,
13 we unanimously find the defendant guilty. As to
14 Count 3, possession of a weapon during the
15 commission of a violent crime, we unanimously find
16 the defendant guilty. As to Count 4, possession of
17 a stolen pistol, we unanimously find the defendant
18 guilty. Signed Suzanne Sersun, foreperson. Dated
19 November 13th 2015.

20 Ladies and gentlemen of the jury, if this
21 is your verdict, so say you all by raising your
22 right hand, please. Thank you very much.

23 THE COURT: Thank you. You can have a
24 seat. Mr. Johnson, any polling of the jury?
25 Anything else before the jury is released?

1 THE COURT: And why is that?

2 THE OFFICER: That's what we always do
3 after they have been sentenced. We usually put the
4 chains back on, and bring them back into the
5 courtroom.

6 THE COURT: How long that take?

7 THE OFFICER: Just a couple of minutes.

8 MR. FINNEY: I probably will need that
9 much time. The sentencing sheets I have all except
10 the one about the stolen pistol. So I will need to
11 go and get that one and bring it up here.

12 THE COURT: Let's take a 5 minute recess,
13 okay.

14 MR. JOHNSON: That's fine.

15 (Whereupon, the court takes a short
16 recess.)

17 THE COURT: Mr. Johnson, you indicated a
18 few minutes ago you wanted 10 days to file your
19 motions. Of course that would not be the -- what's
20 talking about appealing. Do you want the 10 days?

21 MR. JOHNSON: No, Your Honor. I was
22 referring to the 10 days I had to file notice of
23 appeal.

24 THE COURT: Okay.

25 MR. JOHNSON: But as far as the standard

1 motions after a verdict of guilty, I want to
2 address the court concerning that. That would be I
3 asked for a verdict, I mean, directed verdict,
4 notwithstanding the judgment of the jury of the
5 guilty verdict.

6 THE COURT: Verdict in arrest of judgment?

7 MR. JOHNSON: That's correct, Your Honor.
8 I'll file a motion concerning that. I'd like to
9 renew all my prior motions, prior, and make that a
10 part of the record as well.

11 THE COURT: As I go through these, just
12 speak up when you see fit. The motion for a
13 mistrial you made yesterday---

14 MR. JOHNSON: That's correct.

15 THE COURT: ---was based on the ground
16 that Mr. Bean, who was simply not able to be here
17 for reasons out of everyone's control, was not
18 present to testify as to where the shell casings
19 were found, and how they were collected and sent to
20 the evidence technician, is that correct?

21 MR. JOHNSON: That's correct. As well as
22 setting a foundation for the pictures that he took.

23 THE COURT: Okay. And you also argued in
24 that regard, if he had not been here, and if the
25 firearm's expert had not testified out of order so

1 to speak, which again is not an unusual thing, you
2 would not have -- or you would seen fit to object to
3 her opinion as being lacking a crucial link in the
4 chain of custody.

5 MR. JOHNSON: That's correct, Your Honor.

6 THE COURT: That's was the gist of your
7 argument on that. Explain to me about the pictures
8 again.

9 MR. JOHNSON: The Investigator Bean was
10 the one -- was the individual that took the pictures
11 that was given to the jury. In order, because my
12 understanding in order for the pictures to have
13 shown, that there would have been a proper
14 foundation set by the State in saying when the
15 pictures were taken, where they taken and what
16 condition they were taken under.

17 THE COURT: Okay.

18 MR. JOHNSON: The person that could have
19 done that would have been Investigator Bean.

20 THE COURT: Mr. Finney, any response to
21 any of the arguments made by Mr. Johnson?

22 MR. FINNEY: Just, Your Honor, I believe
23 that the law requires us to put in enough evidence
24 for the court to know there's no bad faith on the
25 part of the State, and that the evidence that's

1 going to be admitted was substantially like --
2 substantially like or supported by the exhibit
3 that's being sought to be introduced. And we did
4 that through the other on scene investigators who
5 were there and who corroborated all the information
6 that was shown in the photographs.

7 THE COURT: Mr. Johnson, anything else?

8 MR. JOHNSON: Nothing else concerning
9 that.

10 THE COURT: Any other motions you have at
11 this stage?

12 MR. JOHNSON: I think---

13 THE COURT: I'll treat that as a motion
14 for a new trial based on refusal to grant a
15 mistrial.

16 MR. JOHNSON: That is correct, Your Honor.
17 As I said, except for just for the record saying
18 that all my motions previously made, if I had not
19 renew them at this time. I just want to make it
20 part of the record. I think I'm require by the
21 court do that.

22 THE COURT: Okay. The cases Mr. Finney
23 mentioned yesterday, I don't know if it was, I
24 guess, last night or whatever you would call night,
25 or during one of the extended breaks yesterday while

1 the jury was in the jury room, He cited Hatcher.

2 MR. FINNEY: Brockmeyer.

3 THE COURT: Brockmeyer. The Hatcher case
4 is one of the relatively recent cases on the issue.
5 In my -- the gist of it is that the proof not need
6 to negate all evidence or suggestion of tampering.
7 Simply the evidence has to be sufficient enough to
8 establish that the items were in fact what they were
9 purported to be. I was concerned about that until I
10 heard the testimony of Lieutenant Burnish,
11 Investigator Hawkins. And I believe those might
12 have been the two. Because I can tell when
13 Mr. Finney had Mr. Soloman on the stand, that there
14 was some uncertainty. And I was waiting for what
15 you said. How were we going to get from A to B.
16 But I think that the testimony as a whole
17 established that gunshots were fired from an
18 automatic or a semiautomatic weapon. The spent
19 chambers or the spent casings were ejected. And
20 they were in the general area where witnesses
21 identified the defendant as being.

22 Now that part is not crucial for chain of
23 custody, that last part. What is crucial is that
24 those shell casings that Mr. Hawkins identified as
25 being on the ground, Lieutenant Burnish, Captain

1 Burnish identified as being on the ground, are the
2 same ones that were delivered to the evidence room,
3 sent to sled for testing. Sent back to this
4 courtroom and presented to the jury. While it
5 wasn't a perfect chain, I think under the law in
6 this state, the evidence establishes how those items
7 were obtained, and how they were handled in a
8 sufficient manner for the jury to reasonably
9 conclude that they were what the State claimed them
10 to be. I perhaps unartfully stated that, but in
11 short, I think the chain has been sufficiently
12 established.

13 Your argument is very interesting, but I
14 think under the current law, I am satisfied with my
15 ruling on it.

16 MR. JOHNSON: Your Honor, can I add one
17 more, an additional thing? Can I add an additional
18 comment so that I can make sure I have a complete
19 record?

20 THE COURT: Yes, Sir.

21 MR. JOHNSON: The comment that I would
22 like to add is my reasoning in this case was based
23 on the testimony by Investigator Hawkins and then I
24 guess would be Lieutenant Burnish, was inconsistent,
25 as far as locations.

1 THE COURT: And it was inconsistent with
2 the suggestion offered by somebody else that --
3 captain Burnish said Bean collected them. Hawkins
4 excuse me, marked them first. Then Bean---

5 MR. JOHNSON: Right.

6 THE COURT: Let me back up. Investigator
7 Hawkins said he marked them with his marks, and he
8 doesn't know whether Bean took his markers up and
9 put his own markers down. Captain Burnish said Bean
10 marked them. Is what you're talking about?

11 MR. JOHNSON: That's correct. And
12 therefore by that statement, the only person that
13 could testify that the rounds was the rounds that
14 both individuals was identifying, would have been
15 Investigator Bean. And he was not here to testify
16 that the three rounds that the two individuals was
17 talking about was the same three rounds that was
18 presented to the jury.

19 THE COURT: Well I agree that testimony
20 was relatively inconsistent. But even so, I think
21 that the chain is sufficiently there for
22 admissibility purposes. Your argument to the jury,
23 can certainly be, that they should have convinced
24 them of anything. Because the chain was faulty from
25 a proof standpoint not an admissibility standpoint.

1 Sentence. Whatever the sentences are, I certainly
2 don't take any pleasure in issuing this sentence.
3 You are 32 years old. You have your life in front
4 of you. It's either going to be spent in prison.
5 Out of prison, or substantially in prison and
6 perhaps you might get out. I have to fashion a
7 sentence that I think is just under the
8 circumstances. I do not exact any -- I do not pass
9 a sentence to exact any revenge on my part. On the
10 indictment Count 1 for murder, you are committed to
11 the Department of Corrections for the balance of
12 your life without the possibility of parole.
13 Concurrently with that, 30 years on attempted
14 murder. Concurrently with that, 5 years on
15 possession of a weapon during the commission of a
16 violent crime. And the sentence on possession of a
17 stolen pistol is the time you have already done.

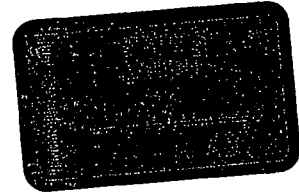
18 And again, I am looking you eye to eye, I
19 have no pleasure. I get no thrill in doing this. I
20 wish this had never happened. I just wish that we
21 could roll the clock back to the March 15th.
22 Everybody could go to the white party, all white
23 party, and go home. But unfortunately for
24 Mr. Archie and Mr. Jenkins and their families, and
25 now Mr. Green and his family, that didn't happen.



SUMTER COUNTY SHERIFF'S OFFICE

1281 NORTH MAIN STREET • SUMTER, SC • 29153
TELEPHONE (803) 436-2000 • FAX (803) 436-2018

MIRANDA WARNING WAIVER OF RIGHTS



1. You have to right to remain silent. R.G.
2. Anything you say can and will be used against you in a Court of Law. R.G.
3. You have the right to talk to an attorney and have him/her present with you while you are being questioned. R.G.
4. If you cannot afford to hire an attorney, one will be appointed to represent you before any questioning, if you wish. R.G.
5. You can decide at any time to exercise these rights and not answer any questions or make any statements. R.G.

I understand each of the above rights which I have been read and explained by Inv G Hawkins
of the Sumter County Sheriff's Office at 1281 N Main St at 0544 A m.

Rodney Green
Inv G Hawkins asid
WITNESSED BY

WAIVER OF RIGHTS

Having been advised of my rights and fully understanding my rights, I do wish to answer questions at this time & I do not wish to have an attorney present. My decision to answer questions now, without an attorney, is made freely and is my own choice. No one has threatened me in any way or promised me anything.

Rodney Green
Inv G Hawkins asid
Michael J. (0433)
WITNESSED BY

3-16-2014 0551 AM
Date and Time

CASE # 14039109

VOLUNTARY STATEMENT

LAST NAME <u>Green</u>		FIRST NAME <u>Rodney</u>		MIDDLE NAME <u>Rodriguez</u>	AGE <u>31</u>	DOB <u>[REDACTED]</u>
NICKNAME/AKA		M ☒ F ☐ SSN <u>[REDACTED]</u>		STREET ADDRESS <u>[REDACTED]</u>		
CITY <u>Sumter</u>		STATE <u>SC</u>	ZIP <u>29154</u>	MAILING ADDRESS IF DIFFERENT		
HOME TELEPHONE	WORK TELEPHONE	CELL TELEPHONE <u>803-651-6409</u>		OCCUPATION <u>Home Improvement</u>		
EMPLOYER <u>Mickens Home Improvement</u>		EMPLOYER ADDRESS				
DRIVER'S LICENSE NUMBER/STATE		DATE AND TIME OF INTERVIEW <u>3-16-2014 0551 AM</u>				
LOCATION OF INTERVIEW <u>1281 N Main St Sumter, SC 29153</u>						
INTERVIEWING AGENT <u>G. Hawk Kins 0519</u>		DEPARTMENT <u>SCSO</u>		INTERVIEWING AGENT		DEPARTMENT

I, Rodney Green understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the 11th grade in school.

I was at the catchhall center at my R.B. cousin Eric peoples party. Me and my girlfriend Larita having left and went to club minima. as soon as we pulled up to the club we got out the car and heard alot of noise like people was fighting so we kept walking and the next thing I heard was gun shots. we was holding hands walking until then and we started crying and I lost her hands, and the next thing I knew I was getting locked up.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 3/16/14 Time: 6:46 am Rodney Green
Signature of person giving voluntary statement

WITNESS: Tau G Hawk Kins 0519 WITNESS: _____

I certify that I have been given a copy of this statement consisting of 1 pages.



SUMTER COUNTY SHERIFF'S OFFICE

ANTHONY DENNIS, SHERIFF

CONSENT FORM

I, Rodney Green, having been advised of my rights, consent to allow the Sumter County Sheriff's Office to have hair, saliva and blood samples from my person for analysis in reference to the crime of Hamlet/Murder which occurred on March 16, 2014.

This consent is given freely and is my own choice. No one has threatened or coerced me in any way or promised me special treatment. To show that I am consenting to this procedure, I am signing my name in the space below.

SIGNED: _____

Rodney Green

DATE: _____

3/16/14

TIME: _____

6:30am

WITNESS: _____

JAN G. Houskins 2512

PHYSICIAN: _____



VOLUNTARY STATEMENT

CASE # 14039 109

LAST NAME <u>Harvin</u>		FIRST NAME <u>Lavitra</u>		MIDDLE NAME	AGE <u>30</u>	D.O.B. [REDACTED]
NICKNAME/AKA		M ☐ F ☐	SSN [REDACTED]		[REDACTED]	
CITY	STATE	ZIP	MAILING ADDRESS IF DIFFERENT			
HOME TELEPHONE	WORK TELEPHONE	CELL TELEPHONE <u>840-6860</u>	OCCUPATION <u>Cashier</u>			
EMPLOYER <u>McDonalds</u>		EMPLOYER ADDRESS <u>Lafayette Dr.</u>				
DRIVER'S LICENSE NUMBER/STATE		DATE AND TIME OF INTERVIEW				
LOCATION OF INTERVIEW						
INTERVIEWING AGENT <u>Melissa Adziewicz</u>		DEPARTMENT <u>SCSO</u>		INTERVIEWING AGENT		DEPARTMENT

I, Lavitra Harvin understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can cannot read and write and completed the 10th grade in school.

Yesterday Rodney cousin had an all white party we got dressed at 10:30 or so we left home like 11 we got there 11:15 ~~am~~. Everyone decided lets ride to clubs miami so we left party like 11:45. Me and Rodney drove my car 2001 Grand Marquis to miami we got there like 2:00 we were following Mayra Pinkoi ~~saye~~ saye ~~saye~~ saye her husband. We got out the car we saw Whitney (Rodney's cousin) when we (Mayra saye ~~saye~~ saye her husband my best) we waited in line like 30 mins or so before entering the club. We walked to the bathroom and then went to the back bar we were in the back about 10 mins before we got our drinks. As I was getting my drink Mayra said oh shit my brother fighting (Bruce) so me and saye were like not fight him but Mayra made her way to the front so we followed her that's when we got to the club and saw a bunch of people so when we got a drink saye was standing by the club so I started to dance and was taking pictures off and talked over the club and then saye was in the club so we came later that's when we

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 3-16-14 Time: 12:27

Signature of person giving voluntary statement

WITNESS:

WITNESS:

I certify that I have been given a copy of this statement consisting of 2 pages.

VOLUNTARY STATEMENT SUPPLEMENTAL

Statement of, Continued.

heard gun shots so me maya and faye
dropped to the ground I saw a bunch of
people running and screaming. So once it stop
we ran to maya truck so I sat there for
a min before we tried to get in my car. So
when I got in faye drove me to Rodney
Aunt house so I left car there. I ~~got~~^{3:30}
at call from my nephew Delwan Harris he ^{4:00}
told me someone died. This has been on
going beef for like 10 yrs or so over something
dumb. I never saw Rodney shoot I just
heard gunshots. My nephew Sani Tyris Archie
got killed and RaQuan got shot also.

Page 4 Maya had on all white. Whop - prairie shirt.
Esra's husband white & denim. Whitney ^{pink shirt} pink shirt with red and
black or blue
Kerian white ^{shirt} blue jeans white ^{black or blue} clark jeans
Peggy ^{pink shirt} pink shirt

laydra white blue mixed shirts long sleeve ^{base} face shirt
leopard shoes

I saw cops had Rodney on Mayfield Dr in handcuffs taking him to car. On the inside club I saw alot of white t-shirt I didnt see pants when light started at the front by the front bar. Deivan called me and said "Head killed somebody Stoney dead". Head is Rodney Green. I didnt tell the truth earlier Rodney had a blk handgun in a console in my mercury. When we got outside I saw Rodney firing a blk handgun and running across the field.

Person giving statement to place initials behind last word of statement as appears on last page.

St. Helena


Signature of person giving voluntary statement

**SUMTER COUNTY SHERIFF'S OFFICE
CONSENT TO SEARCH**

Date: 03/16/2014

Location: 1056 Babbette Dr

I, Lavitra Harvin do hereby consent to the search of my premises and/or automobile located in Sumter County without a search warrant by officers of the **Sumter County Sheriff's Office**, Sumter County, S.C. These officers are authorized by me to take from my premises and/or automobile, any letters, papers, materials, illegal drugs, contraband, or other property which they may desire, and that may be used in their investigation of any criminal activity. Description of property to be searched

2001 Mercury Grand Marquis bearing
VIN# 2MEFM75W91X704428 Champagne in color
I have been advised that I do not have to give my consent and I am aware that any evidence obtained as a result of the search can be used against me in a court of law.

This written permission is being given freeley and voluntarily and without any threat or promises by any officer of the Sumter County Sheriff's Office.

SIGNED: Lavitra Harvin

Deputy conducting Search: Melissa Addison
(Print Name)

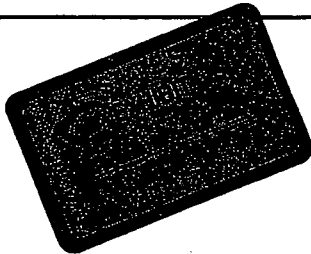
Witness: _____

Description of property removed: Black in color
"Motorola" Flip Phone Silver

White in color "Polo by Ralph Lauren" Long
Sleeve Shirt size 3X

Agency Name Sumter County Sheriff's Office			ORI SC SC0430000	Date / Time Reported 03/16/2014 02:49 Sun	OCA File No. 14039109
Location from which property was obtained 4888 BROAD ST SUMTER				Collecting Officer BEAN, MICHAEL D (0542)	
Date / Time Seized 03/16/2014 02:49				Locker	
No.	Bag	Item	Description of articles (Include model, serial no., identifying marks, condition, etc.)	Category	Property Value
1	2	1	Sc Driver's License - Tyrus Archie 1.000 007923764, SC DL # [REDACTED] [03/17/2014 10:10, BEANM, 182, SCSO] <i>Owner: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154, Seized From: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154,</i>	EVID	\$0.00
2	3	1	Cell Phone - Tyrus Archie MOTOROLA, A956 1.000 BLK IMEI 355494043632278, Recoverd from left front pocket of deceased Archie. [03/17/2014 10:12, BEANM, 182, SCSO] <i>Owner: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154, Seized From: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154,</i>	EVID	\$0.00
3	4	1	Wallet - Tyrus Archie GIANFRANCO, RUFFINI 1.000 BLK, Wallet containing: (1) South Carolina Visa debt card - Tyrus Archie <i>Owner: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154, Seized From: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154,</i>	EVID	\$0.00
4	5	1	Elite Cigarette Lighter ELITE, 1.000 BLK, Recovered from front left pants pocket of deceased Archie. [03/17/2014 10:22, BEANM, 182, SCSO] <i>Owner: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154, Seized From: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154,</i>	EVID	\$0.00
5	6	1	Gsr Kit - Tyrus Archie 1.000, Collected at crime scene from Tyrus Archie. [03/17/2014 10:27, BEANM, 182, SCSO] <i>Owner: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154, Seized From: ARCHIE, TYRUS, 4760 CANE SAVANNAH RD, WEDGEFIELD, SC 29154,</i>	EVID	\$0.00
6	7	1	Sand Bearing Blood 1.000, Sand from parking lot containing blood. Photo marker # 6. [03/17/2014 10:31, BEANM, 182, SCSO] <i>Owner: <Unknown> Seized From: <Unknown></i>	EVID	\$0.00
7	8	1	Cash & Coin - Tyrus Archie 1.000, Currency recovered from deceased front left pants pocket in the following amounts: <i>Owner: <Unknown> Seized From: <Unknown></i>	EVID	\$57.06
8	9	1	Fired Bullet Cartridge - 45cal 45 1.000, Photo Marker #1. Cartridge marked RP 45 AUTO, [03/17/2014 11:25, BEANM, 182, SCSO] <i>Owner: <Unknown> Seized From: <Unknown></i>	EVID	\$0.00

Narrative

		
Officer's Name/ID Number HAWKINS, GREGORY (0519)	Supervisor Name/ID Number DUKES, JAMES (0497)	Case Status Cleared By Arrest / Juvenile Custody
Officer's Signature	Submitted Date	Case Disposition

PROPERTY AND EVIDENCE VOUCHER

04/10/2014 14:07

Agency Name <i>Sumter County Sheriff's Office</i>			ORI <i>SC SC0430000</i>	Date / Time Reported <i>03/16/2014 02:49 Sun</i>	OCA File No. <i>14039109</i>
Location from which property was obtained <i>4888 BROAD ST SUMTER</i>				Collecting Officer <i>BEAN, MICHAEL D (0542)</i>	
Date / Time Seized <i>03/16/2014 02:49</i>				Locker	
No.	Bag	Item	Description of articles (Include model, serial no., identifying marks, condition, etc.)	Category	Property Value
9	10	1	Fired Bullet Cartridge - 45cal 45 1.000, Photo Marker #2. Cartridge marked RP 45 AUTO. [03/17/2014 11:27, BEANM, 182, SCSO] Owner: <Unknown> Seized From: <Unknown>	EVID	\$0.00
10	11	1	Fired Bullet Cartridge - 45cal 45 1.000, Photo marker #3. Bullet cartridge marked RP 45 AUTO. Owner: <Unknown> Seized From: <Unknown>	EVID	\$0.00
11	12	1	Firearm - S&W 45 S&W, MP45 45 1.000 BLK DT86455, 10 round magazine and 6 unfired 45 cal bullets included. [03/17/2014 11:33, BEANM, 182, SCSO] Owner: GREEN, RODNEY RODRIUGUZ, 1780 RICHBOW, SUMTER, SC 29150, 803-651-6409 Seized From: GREEN, RODNEY RODRIUGUZ, 1780 RICHBOW, SUMTER, SC 29150, 803-651-6409	EVID	\$0.00
12	13	1	Dvr - Cinturon CINTURON, DVR-1614 1.000 0708003267, Collected from "Warren" at Club MiAmi. [03/17/2014 11:38, BEANM, 182, SCSO] Owner: CLUB MIAMI, 4880 BROAD ST, SHAW, SC 29152, 803-494-9592 Seized From: CLUB MIAMI, 4880 BROAD ST, SHAW, SC 29152, 803-494-9592	EVID	\$0.00
13	14	2	Shirt - Rayquann Mondell Jenkins 1.000 TAN, Recoverd from parking lot. Photo marker # 5. [03/17/2014 11:44, BEANM, 182, SCSO] Owner: <Unknown> Seized From: CLUB MIAMI, 4880 BROAD ST, SHAW, SC 29152, 803-494-9592	EVID	\$0.00
14	19	2	Bio-bag Containing R Jenkins Cloths 1.000, R. Jenkins cloths removed by EMS then given to Inv. G. Hawkings who passed them to Sgt. M. Bean to enter in evidence. [03/17/2014 11:55, BEANM, 182, SCSO] Owner: <Unknown> Seized From: <Unknown>	EVID	\$0.00
15	20	1	Cell Phone - Samsung SAMSUNG, GALAXY S3 1.000 BLK, Phone was collected from rear pants pocket of R. Jenkins black pants. [03/17/2014 12:00, BEANM, 182, SCSO] Owner: <Unknown> Seized From: <Unknown>	EVID	\$0.00
16	21	1	Cigarette Lighter 1.000 WHI, Collected from pocket of R. Jenkins pants. [03/17/2014 12:02, BEANM, 182, SCSO] Owner: <Unknown> Seized From: <Unknown>	EVID	\$0.00

Agency Name <i>Sumter County Sheriff's Office</i>			ORI <i>SC SC0430000</i>	Date / Time Reported <i>03/16/2014 02:49 Sun</i>	OCA File No. <i>14039109</i>
Location from which property was obtained <i>4888 BROAD ST SUMTER</i>				Collecting Officer <i>BEAN, MICHAEL D (0542)</i>	
Date / Time Seized <i>03/16/2014 02:49</i>				Locker	
No.	Bag	Item	Description of articles (Include model, serial no., identifying marks, condition, etc.)	Category	Property Value
17	22	1	Ring 1.000 GLD, Broken gold in color ring with clear stones collected from pocket of R. Jenkins pants. [03/17/2014 12:03, BEANM, 182, SCSO] Owner: <Unknown> Seized From: <Unknown>	EVID	\$0.00
18	24	1	Cash And Coin - R. Jenkins 1.000, Cash & Coin collected from pocket of R. Jenkins pants. As Follows: Owner: <Unknown> Seized From: <Unknown>	EVID	\$0.00

WITNESSES

G. Hawkins Sumter County Sheriff

DOCKET NO. 2014-GS-43-0524

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

July TERM 2014

THE STATE

vs.

RODNEY R. GREEN

Indictment for

Murder / Murder
Attempted Murder
Poss Weapon DVC
Poss Stolen Handgun

ARREST WARRANT NUMBER

2014A4310200229 2014A4310200230
2014A4310200231

Direct Presentment

ACTION OF GRAND JURY

M. T. Anderson
Foreperson of Grand Jury

Date: 7-10-2014

VERDICT

True Bill

Foreperson of Petit Jury

Date:

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Murder / Murder
 Attempted Murder
 Poss Weapon DVC
 Poss Stolen Handgun

At a Court of General Sessions, convened on July 10, 2014 the Grand Jurors of
 SUMTER County present upon their oath:

COUNT ONE-MURDER

That Rodney R. Green did in Sumter County, on or about March 16, 2014, willfully, feloniously, and intentionally kill the victim, Tyrus Archie, with malice aforethought, either express or implied, by means of shooting, and the victim did die as a proximate result thereof on or about March 16, 2014 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWO-ATTEMPTED MURDER

That Rodney R. Green did in Sumter on or about March 16, 2014, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, in that the said Rodney R. Green did with intent to kill, attempt to kill another person, Tyrus Archie, with malice aforethought, either express or implied, by shooting Rayquann Jenkins.

**COUNT THREE-POSSESSION OF A WEAPON DURING THE COMMISSION OF A
 VIOLENT CRIME**

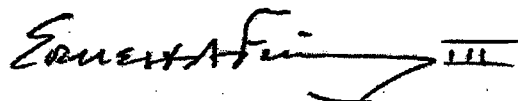
That Rodney R. Green did in Sumter County, on or about March 16, 2014, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT FOUR-POSSESSION OF A STOLEN PISTOL

That Rodney R. Green did in Sumter County, on or about March 16, 2014, knowingly buy, sell, transport, pawn, receive, or possess a stolen handgun or one from which the original serial number has been removed or obliterated, in violation of Section 16-23-0030, S.C. Code of Laws, 1976, as amended.

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

Solicitor



COUNTY OF Sumter
 STATE VS.
Rodney R. Green
 AKA:
 Race: Black Sex: M Age: 32
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: Sumter, SC 29154
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2014-GS-43-0524
 A/W#: 2014A4310200229
 Date of Offense: 3/16/2014
 S.C. Code § : 16-03-0010
 CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Murder

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 2014
Finney, III, Ernest A SC Bar# [REDACTED] Defendant Attorney for Defendant SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of Life w/ Prob days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: other sentence
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
 Total: \$ plus 20% fee: \$
 Payment Terms:
☐ Set by SCDPPPS

Recipient:

*Fine:
 § 14-1-206 (Assessments 107.5 %) \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 56-1-286 (DUI Breath Test) \$25 \$
 Proviso 47.9 (Public Def/Prob) \$500 \$
 § 14-1-212 (Law Enforce. Funding) \$25 \$
 § 14-1-213 (Drug Court Surcharge) \$150 \$
 § 50-21-114(BUI Breath Test Fee) \$50 \$
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 Proviso 90.5 (SCCJA Surcharge) \$5 \$
 3% to County (if paid in installments) \$
 TOTAL \$

 days/hours Public Service Employment
 Obtain GED ☐
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning
 Substance Abuse Counseling ☐
 Random Drug/Alcohol testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning
 \$ paid to Public Defender Fund
 Other:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk James C. Campbell
 Court Reporter: Margaret Sullivan
 SCCA/217 (03/2011)

Presiding Judge [Signature]
 Judge Code: 2143
 Sentence Date: 11/13/15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

709

COUNTY OF
STATE

Sumter

VS.

Rodney R. Green

AKA:

Race: Black Sex: M Age: 32

DOB: SS#

Address:

City, State, Zip: Sumter, SC 29154

DL#: SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Murder / Attempted Murder

INDICTMENT/CASE#: 2014-GS-43-0524

A/W#: 2014A4310200230

Date of Offense: 3/16/2014

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Finney, III, Ernest A

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. From 3/16/14 to present☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

James C. Campbell
Margaret Sullivan

Presiding Judge

Judge Code:

Sentence Date:

11/13/15 2143

710
STATE OF SOUTH CAROLINACOUNTY OF Sumter
STATE VS.
Rodney R. GreenAKA:
Race: Black Sex: M Age: 32
DOB: SS#:
Address:
City, State, Zip: Sumter, SC 29154
DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Finney, III, Ernest A

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: other sentence☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 3/16/14 - 7 years☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

INDICTMENT/CASE#: 2014-GS-43-0524

A/W#: 2014A4310200231

Date of Offense: 3/16/2014

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSPTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2143Sentence Date: 11/13/15

STATE OF SOUTH CAROLINA

IN THE COURT GENERAL SESSIONS

COUNTY OF Sumter

STATE VS.

Rodney R. Green

AKA:

Race: Black Sex: M Age: 32

DOB: [REDACTED] SS# [REDACTED]

Address: [REDACTED]

City, State, Zip: Sumter, SC 29154

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pistol

INDICTMENT/CASE#: 2014-GS-43-0524

A/W#: 2014A4310200231 DIRECT PRESENTMENT

Date of Offense: 3/16/2014

S.C. Code §: 16-23-0030

CDR Code #: 2364

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0030 of the S.C. Code of Laws, bearing CDR Code # 2364

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

TEST:

Finney, III, Ernest A

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Time served days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. From 3/16/14 to present☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge

Judge Code: _____

Sentence Date: _____

Clerk of Court/ Deputy Clerk

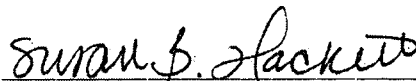
Court Reporter: Margaret Sullivan

SCCA/217 (03/2011)

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,



Susan B. Hackett
Appellate Defender

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

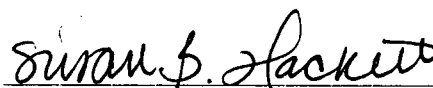
ATTORNEY FOR APPELLANT

This 19th 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,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 19th day of May, 2017.

RECEIVED
MAY 19 2017
SC Court of Appeals