

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Sumter County

Honorable George C. James, Jr., Circuit Court Judge  
Honorable Jocelyn Newman, Circuit Court Judge

---

THOMAS LEE GEDDIE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-002155

---

APPENDIX

---

LAURA R. BAER  
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON  
Attorney General

JULIE COLEMAN  
Assistant Attorney General  
Rembert Dennis Building  
1000 Assembly Street, Room 519  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

RECEIVED

JUN 08 2016

S.C. SUPREME COURT

**INDEX**

|                                                                    |     |
|--------------------------------------------------------------------|-----|
| INDEX .....                                                        | i   |
| TRIAL TRANSCRIPT (June 4-7, 2012) .....                            | 1   |
| <b><u>DIRECT APPEAL</u></b>                                        |     |
| <i>ANDERS</i> BRIEF OF APPELLANT .....                             | 306 |
| UNPUBLISHED COURT OF APPEALS OPINION .....                         | 321 |
| REMITTITUR .....                                                   | 323 |
| <b><u>FIRST PCR ACTION, 2014-CP-43-02142</u></b>                   |     |
| POST-CONVICTION RELIEF APPLICATION .....                           | 324 |
| STATE'S RETURN .....                                               | 340 |
| STATE'S AMENDED RETURN .....                                       | 347 |
| TRANSCRIPT OF POST-CONVICTION RELIEF HEARING (Apr. 14, 2015) ..... | 355 |
| POST-CONVICTION RELIEF HEARING EXHIBITS 1 AND 2                    |     |
| PLAINTIFF'S EXHIBIT NO. 1 (INDICTMENT) .....                       | 388 |
| PLAINTIFF'S EXHIBIT NO. 2 (SENTENCING SHEET) .....                 | 389 |
| ORDER OF DISMISSAL .....                                           | 390 |
| <i>PRO SE</i> NOTICE OF APPEAL .....                               | 403 |
| SUPREME COURT'S LETTER TO COUNSEL .....                            | 406 |
| <i>PRO SE</i> LETTER TO SUPREME COURT .....                        | 408 |
| SUPREME COURT ORDER DISMISSING APPEAL .....                        | 410 |
| REMITTITUR .....                                                   | 411 |

SECOND PCR ACTION, 2016-CP-43-00049

|                                                                   |     |
|-------------------------------------------------------------------|-----|
| POST-CONVICTION RELIEF APPLICATION .....                          | 412 |
| STATE’S RETURN AND MOTION TO DISMISS.....                         | 422 |
| TRANSCRIPT OF POST-CONVICTION RELIEF HEARING (July 25, 2016)..... | 428 |
| CONSENT ORDER .....                                               | 434 |
| INDICTMENT .....                                                  | 438 |

State of South Carolina       )  
                                           )  
 County of Sumter               )  
                                           )

The State of South Carolina, )  
 Plaintiffs                        )

)  
 )

Trial  
 2011-GS-43-01155

vs.

Thomas Lee Geddie,                )  
 Defendant                            )

June 4th-7th, 2012  
 Sumter, S.C.

BEFORE THE HONORABLE W. Jeffrey Young, Judge.

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

Mr. John P. Meadors,  
 Assistant Solicitor for the State

Mr. Timothy Ward Murphy,  
 Attorney for the Defendant

Margaret T. Sullivan,  
 Court Reporter



|    | Witnesses                  | Direct   | Cross | Redirect | Recross |
|----|----------------------------|----------|-------|----------|---------|
| 1  | Jury qualified             | 3        |       |          |         |
| 2  | Jury impaneled             | 13       |       |          |         |
|    | Jury Sworn                 | 16       |       |          |         |
| 3  | Preliminary Remarks        | 6        |       |          |         |
|    | Opening Statements         |          |       |          |         |
| 4  | by Mr. Meadors:            | 25       |       |          |         |
|    | by Mr. Murphy:             | 36       |       |          |         |
| 5  | Cedric Hilton              |          |       |          |         |
|    | by Mr. Meadors             | 39       |       | 66       |         |
| 6  | by Mr. Murphy              |          | 62    |          |         |
|    | Corporal Blake Weathersbee |          |       |          |         |
| 7  | by Mr. Meadors             | 69       |       |          |         |
|    | Captain Eddie Hobbs        |          |       |          |         |
| 8  | by Mr. Meadors             | 74       |       |          |         |
|    | Sergeant Michael Bean      |          |       |          |         |
| 9  | by Mr. Meadors             | 88       |       | 115      |         |
|    | by Mr. Murphy              |          | 110   |          |         |
| 10 | Marie Hodge                |          |       |          |         |
|    | by Mr. Meadors             | 121      |       |          |         |
| 11 | by Mr. Murphy              |          | 132   |          |         |
|    | Kelvin Green               |          |       |          |         |
| 12 | by Mr. Meadors             | 134      |       |          |         |
|    | by Mr. Murphy              |          | 169   |          |         |
| 13 | Kenneth H. Whitler         |          |       |          |         |
|    | by Mr. Meadors             | 179      |       | 187      |         |
| 14 | by Mr. Murphy              |          | 186   |          |         |
|    | Dr. Janice Edwards Ross    |          |       |          |         |
| 15 | by Mr. Meadors             | 188      |       |          |         |
|    | Sergeant Robert Burnish    |          |       |          |         |
| 16 | by Mr. Meadors             | 202      |       |          |         |
|    | by Mr. Murphy              |          | 224   |          |         |
| 17 | Motions by Mr. Murphy      | 228      |       |          |         |
|    | Rights of Mr. Geddie       | 229      |       |          |         |
| 18 | Closing Statements         |          |       |          |         |
|    | by Mr. Meadors             | 237      |       |          |         |
| 19 | by Mr. Murphy              | 261      |       |          |         |
|    | Charge to the Jury         | 272      |       |          |         |
| 20 | Notes from the Jury        | 287, 292 |       |          |         |
|    | Verdict of the Jury        | 293      |       |          |         |
| 21 | Polling of the Jury        | 294      |       |          |         |
|    | Motions by Mr. Murphy      | 298      |       |          |         |
| 22 | Sentence of the Court      | 303      |       |          |         |

23

24

25

|    |            | <u>Exhibits</u>               |            |            |
|----|------------|-------------------------------|------------|------------|
|    | <u>No.</u> | <u>Description</u>            | <u>Id.</u> | <u>Ev.</u> |
| 1  |            |                               |            |            |
| 2  | S-1-S-4    | Photographs                   |            | 58         |
|    | S-5        | Diagram                       |            | 16         |
| 3  | S-6        | Statement                     | 66         |            |
|    | S-7        | Photograph                    |            | 68, 85     |
| 4  | S-8-S-29   | Photographs                   |            | 87         |
|    | S-30-S-38  | Photographs                   |            | 87         |
| 5  | S-39       | Unfired round                 |            | 87         |
|    | S-40       | Cell phone                    |            | 87         |
| 6  | S-41       | Beer bottle                   |            | 87         |
|    | S-42       | Cell phone                    | 109        | 109        |
| 7  | S-43       | Cell phone                    | 109        | 109        |
|    | S-44       | Cell phone                    | 109        | 109        |
| 8  | S-45       | beer bottle                   |            | 117        |
|    | S-46       | Shell casings                 | 118        | 118        |
| 9  | S-47       | Shell casings                 | 118        | 118        |
|    | S-48       | Six person lineup             |            | 165        |
| 10 | S-49       | Six person lineup             |            | 165        |
|    | S-50       | Chart for fingerprints        |            | 128        |
| 11 | S-51       | Miranda                       |            |            |
|    | S-52       | Statement                     |            |            |
| 12 | S-53       | Miranda                       |            |            |
|    | S-54       | Statement                     |            |            |
| 13 | S-55       | bullet                        |            | 172        |
|    | S-56       | bullet                        |            | 172        |
| 14 | S-57       | bullet                        |            | 172        |
|    | S-58       | bullet                        |            | 172        |
| 15 | S-59       | Latent print from beer bottle |            | 224        |
|    | S-60       | Six person photo lineup       |            | 209        |
| 16 | D-1        | Shoe impression               | 114        |            |
|    | C-1        | Note from jury                | 287        |            |
| 17 | C-2        | Note from jury                | 289        |            |
|    | C-3        | Note from jury                | 292        |            |
| 18 |            |                               |            |            |
| 19 |            |                               |            |            |
| 20 |            |                               |            |            |
| 21 |            |                               |            |            |
| 22 |            |                               |            |            |
| 23 |            |                               |            |            |
| 24 |            |                               |            |            |
| 25 |            |                               |            |            |

1 MR. MEADORS: Your Honor, the state would call  
2 the case of the State versus Thomas Lee Geddie under  
3 Indictment No. 2011-GS-43-1155 on the charge of murder.  
4 He is represented by Tim Murphy.

5 THE COURT: Mr. Bradley, please swear the  
6 jury.

7 (Whereupon, the jury pool is sworn.)

8 THE COURT: Ladies and gentlemen, we are  
9 about to start the trial of the State versus  
10 Thomas Lee Geddie under Indictment No.  
11 2011-GS-43-1155. Mr. Geddie is charged with the  
12 crime of murder. The indictment reads that Thomas  
13 Lee Geddie did in Sumter County, on or about  
14 September 19th 2010, wilfully, feloniously and  
15 intentionally kill the victim, Xavier Titus with  
16 malice aforethought, either express or implied by  
17 means of shooting the victim multiple times. And  
18 the victim did die as a proximate result thereof  
19 on or about September 19th 2010, in Sumter County  
20 in violation of Section 16-3-10.

21 Now, Ladies and gentlemen, let me remind  
22 you, the fact that the defendant was charged,  
23 arrested and indicted is in no way indicative  
24 that the defendant is guilty of the charge. The  
25 defendant has pled not guilty to this charge and

1       therefore, the state has burden of proving his  
2       guilt beyond a reasonable doubt.

3               Ladies and gentlemen, before we select a  
4       jury, there are several questions I need to ask  
5       you, and that is why you are back under oath. And  
6       Ladies and gentlemen, one of the reasons that you  
7       are under oath is because this is such a crucial  
8       stage of the trial. Just like a building must  
9       have a firm foundation and be strong and  
10      protective of those who live in it, so must a jury  
11      be sworn as a basis of a fair and impartial trial  
12      for those who participate.

13             The state, the solicitor for the people,  
14      and the defendant who is on trial. And the  
15      answers to these questions are the foundations by  
16      which these attorneys will build a jury. And they  
17      are relying on your truthful answers to help them  
18      strike an unbiased jury who will diligently listen  
19      to the facts and deliver a just verdict. Again,  
20      thank you for your complete answers to the  
21      questions that I am about to ask you.

22             Ladies and gentlemen, is anyone on the  
23      jury panel related by blood or marriage or a have  
24      a close personal relationship with the defendant,  
25      Thomas Lee Geddie, or the alleged victim Xavier

1 Titus? If so, please stand.

2 THE COURT: Yes, sir. Please give me your  
3 name and jury number.

4 THE JUROR: Robert Lee Burgess. No. 13.

5 THE COURT: Okay.

6 THE JUROR: The victim. Currently I am  
7 the victim's cousin.

8 THE COURT: And do you think because you  
9 know him personally, do you think you could be  
10 fair and impartial to the state or the defendant  
11 in this case?

12 THE JUROR: No.

13 THE COURT: Juror 31 any objection to  
14 removing him for cause from this trial?

15 MR. MEADORS: No.

16 THE COURT: Yes, sir, in the back.

17 THE JUROR: Your Honor, I am Juror No. 76.

18 THE COURT: Yes, sir.

19 THE JUROR: Second cousin.

20 THE COURT: Second cousin? Anybody  
21 have -- to who?

22 THE JUROR: The victim.

23 THE COURT: The victim. Does anybody have  
24 any objections to him being removed for cause?

25 MR. MEADORS: No. His number again,

1 Judge?

2 THE CLERK: What was his number again,  
3 judge? We didn't get it?

4 THE COURT: What was your number again?

5 THE JUROR: Seventy-six.

6 THE COURT: Yes, ma'am.

7 THE JUROR: I taught the victim in 9th  
8 grade as a student.

9 THE COURT: How long ago was that?

10 THE JUROR: Seven to eight years.

11 THE COURT: Would the fact that you taught  
12 the victim 7 or 8 years ago, make it so you can't  
13 be fair and impartial to the state or defense in  
14 this case?

15 THE JUROR: No, sir.

16 THE COURT: You can be fair to both?

17 THE JUROR: I can.

18 THE COURT: Thank you, ma'am.

19 THE COURT: Ladies and gentlemen, this is  
20 a list of possible witnesses in this case. It's a  
21 fairly long list. Let me read through it, and  
22 then I am going to ask everybody if you know any  
23 of the witnesses. Carlton Lee Bracey.  
24 Investigator Michael Bean of the Sumter County  
25 Sheriff's Office. Captain Gene Hobbs of the

1 Sumter County Sheriff's Office. Corporal Blake  
2 Weathersbee of the Sumter County Sheriff's Office.  
3 Investigator Robert Burnish with the Sumter County  
4 Sheriff's Office. Investigator Robert Richardson  
5 of the Sumter County Sheriff's Office Captain Joe  
6 Lane of the Sumter Police Department. Cedric  
7 Hilton. Investigator Tripp Mayes with the Sumter  
8 County Sheriff's Office. Sergeant Trevor Brown of  
9 the Sumter County Sheriff's Office. Lieutenant  
10 Donnie Vickers of the Sumter County Sheriff's  
11 Office. Investigator Jim Atkinson of the Sumter  
12 County Sheriff's Office. Investigator Truman  
13 Duggin of the Sumter County Sheriff's Office. Dr.  
14 Janice C. Ross of Newberry Pathology. Teddy G.  
15 Geddie. Special Agent Ila Simmons with the State  
16 Law Enforcement Division. Special Agent Adrian  
17 Riley Hefney of the State Law Enforcement  
18 Division. Investigator Marie A. Hodges with the  
19 Sumter Police Department. Special Agent Kenneth  
20 H. Whitler with State Law Enforcement Division.  
21 And Kelvin Green.

22 Is there any member of the jury panel who  
23 has any relation to or have a close business or  
24 personal relationship with any of these witnesses  
25 who might be called in this case? If so, please

1 stand. Yes, sir, you are already disqualified.

2 You can go. Yes, ma'am. Please state your name  
3 and number.

4 The JUROR: Stephanie Williams. 183. You  
5 said Eddie Hobbs?

6 THE COURT: Eddie Hobbs. Yes, ma'am. Do  
7 you know him?

8 THE JUROR: Yes, sir. I have gone to  
9 church with him for years.

10 THE COURT: Would the fact that he is an  
11 investigator or involved in this case, would it  
12 make it so that you couldn't be fair and impartial  
13 to the state and the defendant?

14 THE JUROR: I can be fair.

15 THE COURT: Thank you. Yes, ma'am, in the  
16 back.

17 THE JUROR: 116. Eddie Hobbs. I worked  
18 with him before he became involved in law  
19 enforcement. And Donnie Vickers is married to my  
20 cousin.

21 THE COURT: How long ago was that?

22 THE JUROR: A while back. I don't, I met  
23 the victim. I talked to him on the phone.

24 THE COURT: Would the fact that you knew  
25 Deputy Hobbs a while back and somehow related to



1 Donnie Vickers make it so that you couldn't be  
2 fair and impartial to the state or the defense?

3 THE JUROR: No, sir.

4 THE COURT: Thank you, ma'am. Yes, ma'am  
5 somebody else?

6 THE JUROR: Rachel Hill 79. I know  
7 Captain Hobbs as well.

8 THE COURT: Okay. Thank you, ma'am. Yes,  
9 sir.

10 THE JUROR: James Newcome. No. 52. I  
11 know Truman Duggin in situations in his duties.

12 THE COURT: Would the fact that you are---

13 THE JUROR: I have no problem.

14 THE COURT: Thank you, sir. Now the  
15 attorneys who will be trying this case are  
16 Mr. John Meadors for the solicitor's office. And,  
17 Mr. Meadors, if you like to introduce yourself.

18 MR. MEADORS: May it Please the Court, my  
19 name is John Meadors. I am an assistant solicitor  
20 with the solicitor's office for the Third Circuit.  
21 Thank you.

22 THE COURT: Mr. Murphy, would you like to  
23 introduce yourself and your law firm?

24 MR. MURPHY: My name is Tim Murphy. And I  
25 work with the public defender's office. And I

1 also practice with Mr. Wade Kolb.

2 THE COURT: Has any member of the jury  
3 panel ever been represented by either attorney who  
4 is involved in this case or the law firm in which  
5 they are associated? If so, please stand.

6 (Whereupon, no response.)

7 THE COURT: Has any member of the jury  
8 panel formed or expressed an opinion about any  
9 issue or matter involved in this case? If so,  
10 please stand.

11 (Whereupon, no response.)

12 THE COURT: Thank you, no one is standing.  
13 Has any member of the jury panel or your family  
14 ever been the victim or accused of committing a  
15 violent crime? If so, please stand.

16 (Whereupon, no response.)

17 THE COURT: Thank you, no one is standing.  
18 IS any member of the jury panel aware of any bias  
19 or prejudice towards either the state or the  
20 defendant in this case? If so, please stand.

21 (Whereupon, no response.)

22 THE COURT: Thank you, no one is standing.  
23 Is any member of the jury panel who is also a  
24 member of the grand jury been indicted in this  
25 case? If so, please stand.

1 (Whereupon, no response.)

2 THE COURT: Thank you. No one is  
3 standing. Is there any member of the jury panel  
4 who is a member of or a contributor to any group  
5 which had a primary concern the promotion of law  
6 enforcement or victim's rights; such as, a group  
7 would include and certainly wouldn't exclusively  
8 be, Mother's Against Drunk Drivers, Students  
9 Against Drunk Drivers or Citizens Against Violent  
10 Crime. If so, please stand.

11 (Whereupon, no response.)

12 THE COURT: Thank you. Does any member of  
13 the jury panel know of any reason whatsoever, why  
14 he or she should not serve as a juror in this case  
15 with particular emphasis being placed on your  
16 ability to be fair and impartial to both the state  
17 and the defendant? If so, please stand.

18 (Whereupon, no response.)

19 THE COURT: Thank you. Does the state  
20 have any additional questions for me to ask?

21 MR. MEADORS: No, sir.

22 THE COURT: Does the defense have any  
23 additional questions?

24 MR. MURPHY: No, Your Honor.

25 THE COURT: Now, Ladies and gentlemen,

1     what is going to happen now, you all went through  
2     this morning with Judge Cothran. Your names will  
3     be drawn from a list. When your name is drawn,  
4     please come forward. Turn around and face General  
5     Sumter. Each side will have an opportunity to  
6     strike you. Please don't take it personally if  
7     you have been stricken. They have it in their  
8     mind what they are looking for on a jury. It  
9     not's personal. They can struck you for any  
10    reason except for race.

11           THE CLERK: 139 Miranda Rivers (f-w)  
12    accepted. 174 Betty Webb (f-b) accepted. 15  
13    Stephen Baxter (f-b) accepted. 177 Patricia Wiley  
14    (f-b) accepted. 135 Brandon Ray (m-w) defense  
15    struck. Juror No. 130 Diedra Pleasant (f-b)  
16    accepted. 79 Rachel Hill (f-w) defense struck.  
17    Juror 59 Crystal Frazier (f-w) accepted. Juror  
18    No. 29 Ellen Burcham (f-w) accepted. Juror 183  
19    Rebecca Wilson (f-w) defense struck. Juror No. 88  
20    Carl Johnson (m-b) defense struck. Juror No. 108  
21    Henry McDaniel (m-b).

22           THE COURT: Yes, sir.

23           THE JUROR: I didn't know.

24           THE COURT: That happens. So you  
25    recognize the victim's mother. You know her.

1 THE JUROR: Yes, sir.

2 THE COURT: Knowing that do you think  
3 still you can be fair and impartial to the state  
4 and the defense?

5 THE JUROR: I can.

6 THE COURT: You can.

7 MR. MURPHY: Court's indulgence. Please  
8 excuse the juror. Juror No. 169 Dawne Walters.  
9 (f-w) accepted. Juror No. 143 Abraham Samuel  
10 (m-b) accepted. Laura Clark (f-w) defense struck.  
11 Amanda Peterson 186 (f-b) state struck. Juror No.  
12 118 Ellen Moore (f-w) accepted. Juror No. 78  
13 Marie Hill (f-b) accepted. Juror no. 52 no Egan  
14 (m-w) defense struck. Juror No. 117 Tiffany  
15 Monroe (f-b) state struck. Juror 65 Jacqueline  
16 Glisson (f-b) state struck. 179 David Williams  
17 (f-w) accepted. Alternate juror No. 75 Shelby  
18 Hardee (f-w) accepted. Juror no. 89 Trisha  
19 Johnson (f-b) accepted.

20 THE CLERK: Ladies and gentlemen, when I  
21 call your name, raise your hand please. Miranda  
22 Rivers, Bennie Webb, Steven Baxter, Tricia Wiley,  
23 Deidra Pleasant, Ellen Burcham, Dawne Walters,  
24 Abraham Samuel, Ellen Moore, Marie Hill, David  
25 Williams, Shelby Hardy, Tricia Johnson. Thank

1       you.

2               THE COURT: Ladies and gentlemen, you all  
3       have been selected as the jurors for this trial.  
4       And at this time I am going to send you back to  
5       into the jury room for just a few minutes while I  
6       take up a few matters. But while you are back  
7       there, I am going to ask you to select your own  
8       foreperson. And then I need to bring you back.  
9       The foreperson will be the spokesman here in  
10      court. And he will be the one who is responsible  
11      for writing the verdict when you reach it.

12              Thank you, Ladies and gentlemen.

13              (Whereupon, the following takes place  
14      outside the presence of the jury.)

15              THE COURT: Is there any objection to the  
16      jury that has selected, from the state? And in  
17      the manner in which it was selected, from the  
18      state?

19              MR. MEADORS: No.

20              THE COURT: From the defense?

21              THE COURT: Any motions or pretrial  
22      motions?

23              MR. MURPHY: Not at this time.

24              THE COURT: We will be here at 9:30  
25      tomorrow morning. So we will be here about a half

1 hour earlier. Let's bring the jury back.

2 (Whereupon, the following takes place  
3 within the presence of the jury.)

4 THE COURT: Ladies and gentlemen, who have  
5 you all decided to be your foreperson? What is  
6 your name, sir?

7 THE JUROR: Stephen Baxter.

8 THE COURT: Mr. Baxter, you will be the  
9 foreperson. And all of the rest of you all can  
10 sit anywhere you want. The alternate will sit  
11 where you at. And, Mr. Baxter, you will sit in  
12 the front right seat. Now, Ladies and gentlemen,  
13 this trial is not going to start until tomorrow  
14 morning. We have some other matters to take up  
15 this afternoon. And so I am going to release you.  
16 And please do not discuss this case with anybody.

17 The best way not to discuss the case with  
18 anybody is just don't tell anyone you are on the  
19 jury. They may ask where you heard about and what  
20 kind of case it is. And so just don't say  
21 anything. Be back here just a little before 10.  
22 At that time you will be sworn and we will start  
23 the trial. Ladies and gentlemen, have a nice  
24 evening and we will see you in the morning.

25 (Whereupon, jury is dismissed.)

1 THE COURT: If there is nothing further,  
2 the court is adjourned until 10 o'clock for  
3 everybody else. And 9:30 for court personnel.

4 (Whereupon, the trial commences on  
5 Tuesday, June 5th 2012 at 10:00 a.m.)  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 THE COURT: You may bring the jury. Good  
2 morning, Ladies and gentlemen, I hope you had a  
3 nice evening. It's a good day to have a jury  
4 trial, because it's nasty weather outside.  
5 Mr. Bradley, would you please swear the jury.

6 (Whereupon, the jury is sworn.)

7 (Photographs and diagram marked State's  
8 Exhibit 1 through 5 into evidence.)

9 THE COURT: Thank you. Ladies and  
10 gentlemen, before we begin this trial, I want to  
11 tell you this trial will probably be different  
12 from what you might expect. You know many people  
13 don't have an opportunity to attend an actual  
14 court session as you are today. And may think  
15 from watching TV, movies or reading books, that  
16 trials are always full of high drama, intense  
17 action and rivetting circumstances.

18 Now while all these things may be true at  
19 times, this trial is not for entertainment. This  
20 is a real trial, which is a fundamental part of  
21 our democracy, in a search of the truth in an  
22 effort to make sure justice is done. In searching  
23 for the truth and ensuring that in justice is done  
24 is often slow, deliberate and repetitive. The  
25 exact opposite of what you may have seen on TV, in

1 movies, or read in books.

2 Now, Ladies and gentlemen, this courtroom  
3 is a place of honor that is dedicated to the  
4 protection and the preservation of our citizen's  
5 rights through what has been called and I truly  
6 believe to be the greatest justice system ever  
7 created. The attorneys who are appearing before  
8 you are advocates for the parties that they  
9 represent. But first and foremost, they are  
10 officers of this court who are sworn to uphold the  
11 integrity and the fairness through our judicial  
12 system. And to help you in the search for the  
13 truth.

14 You should expect them to be professional,  
15 competent and ethical in representation of their  
16 client's interest. And remember, Ladies and  
17 gentlemen, you too just took an oath to listen to  
18 the evidence in this case and reach a fair and  
19 just verdict. And you are expected to be  
20 professional, reasonable and ethical as well. And  
21 let me again thank you, for accepting this  
22 important responsibility of jury duty.

23 Now what I am going to tell you now is  
24 just intended to serve as an introduction to the  
25 trial of this case. These remarks are not a

1 charge on the law in the case. I will charge you  
2 the law as applicable to this case at the end of  
3 all of the evidence. This is merely an  
4 explanation of the procedures that we would follow  
5 so you may better understand what is going on.

6 And let me say it promptly, Ladies and  
7 gentlemen, that you will not be allowed to take  
8 notes. And therefore, it is very important that  
9 you listen closely throughout this trial. Now,  
10 Ladies and gentlemen, the defendant in this case  
11 is charged by an indictment filed in this court  
12 with murder. The elements of which will be  
13 explained to you later. As I said earlier, the  
14 indictment charging the defendant is simply the  
15 document by which the case is brought into court  
16 and in no way or any sense is it evidence of any  
17 of the allegations contained therein.

18 The defendant has pled not guilty to the  
19 charge in the indictment. So the state therefore  
20 has the burden of proving all of the elements of  
21 the charge against the defendant beyond a  
22 reasonable doubt. And it will be your duty,  
23 Ladies and gentlemen, to decide whether the state  
24 has met that burden. Your purpose in this case is  
25 to determine the facts. You are to determine the

1 facts from the testimony that you heard from this  
2 witness stand, and any other evidence that is  
3 introduced in court. It is up to you as jurors to  
4 determine the inferences which you feel may be  
5 properly drawn from the evidence.

6 Now, Ladies and gentlemen, it's especially  
7 important that you perform your duty diligently  
8 and conscientiously, because ordinarily there is  
9 no way to correct an erroneous determination of  
10 facts by a jury. On the other hand but with  
11 equal emphasis, the same law that makes you the  
12 judges of the facts makes me the judge of the law.  
13 The law as given to you by me is the only law that  
14 you may consider. You must accept the law as I  
15 give to it you and follow it even though you may  
16 disagree. Let's make an agreement. I cannot tell  
17 you what the facts are and you cannot disagree  
18 with me about what the law is or what the law  
19 should be. As jurors, your job is to take the law  
20 as I gives it to you and apply it to the facts as  
21 you find them from the testimony of the witnesses  
22 and any other evidence that is presented. After  
23 hearing the evidence, you will deliberate and  
24 render a true and just verdict under the solemn  
25 oath that you just took as jurors.

1           Until I advise you to begin your  
2     deliberations at the conclusion of the case, you  
3     must not discuss the case with anyone else,  
4     including your fellow jurors. You may not use a  
5     computer, cell phone or other electronic device  
6     with communications capabilities while in  
7     attendance at trial or during deliberations. Now  
8     you may use your cell phone and other electronic  
9     devices during lunch breaks or when you go home  
10    for the evening. But you still may not use them  
11    to disclose information about the case when you  
12    are not here in court. Information in the case  
13    includes, but certainly would not be limited to  
14    information about a party, a witness, an attorney  
15    or court officer, any news account about the case,  
16    and any information collected through juror  
17    research on any topic that may be raised or  
18    offered by any witness during this trial.

19           In essence, Ladies and gentlemen, the idea  
20    is that all the information you will need to reach  
21    your verdict, should come from within the four  
22    walls of this courtroom. Now, Ladies and  
23    gentlemen, after the case is submitted to you, you  
24    must discuss it only in the jury room with your  
25    fellow jurors.

( 1           The attorneys and the parties in this case  
2       are advised that they are not to talk to you at  
3       all. So if you see anyone involved in this case  
4       and they don't even say hello, well they are not  
5       being unfriendly during this period, they are just  
6       following my instructions. Now, Ladies and  
7       gentlemen, it is very important that you keep an  
8       open mind and not decide any issue until all of  
9       the evidence has been presented, the attorneys  
10      have made their closing arguments, and I have  
11      instructed you on the law of this case.

( 12           It's your solemn responsibility to  
13      determine the guilt or the innocence of the  
14      defendant. And you have heard it must be based  
15      solely on the evidence as it is presented in this  
16      trial. And on the law as I give it to you during  
17      the trial. Now, Ladies and gentlemen, in just a  
18      moment, the solicitor will make what is called an  
19      opening statement in which he will explain to you  
20      what he believes are the issues in this case. The  
21      defendant's attorney may also make an opening  
22      statement, although he is not required to do so.  
23      What the attorneys tell you during their opening  
24      statement is not evidence. It is only their  
25      contention as to what they believe the issues are,

1 and what they believe the evidence will show.

2 Now, Ladies and gentlemen, from time to time  
3 during this trial, you may hear one of the lawyers  
4 say something like, Your Honor, I believe, we have  
5 a question of law or a matter of law to discuss  
6 with you. Or Your Honor may we approach the  
7 bench. Or somehow I might find it necessary to  
8 excuse you from this courtroom for a short time  
9 while the attorneys and I discuss a matter of law.

10 And the reason for this, as I have said to you,  
11 you are the judges of the facts. And sometimes  
12 when I am discussing matters of law with the  
13 attorneys, it may be necessary for me to make a  
14 comment on facts in connection with making a  
15 ruling as to whether a particular law applies.

16 And as I have said, I am not supposed to  
17 tell you what I think about the facts. So I will  
18 excuse you from the courtroom while these  
19 discussions take place so that you will in no way  
20 be influenced by anything that I might say or do  
21 in connection with the facts. Also during the  
22 trial, you may hear one of the attorneys make an  
23 objection about certain evidence that's about to  
24 be presented. And whether I sustain the objection  
25 or grant the objection and stop the testimony or

1       overrule, which would be to deny and let the  
2       testimony continue, should not be construed that I  
3       favor one side or the other. I do not.

4               Nor should you infer that the objecting  
5       party is trying to hide something from you. In  
6       this court as in all situations in life, there are  
7       specific rules that must be followed, and the  
8       attorneys as officers of this court are merely  
9       trying to follow the rules of evidence of this  
10      court in making their objections. And I am ruling  
11      based on what I believe the law of the State of  
12      South Carolina to be concerning the evidence that  
13      is being presented.

14             In determining what the true facts are,  
15      you must decide whether or not the testimony of a  
16      witness is believable. It will be my  
17      responsibility as the trial judge to rule as a  
18      matter of law as to whether certain testimony is  
19      admissible. But once the testimony is admitted,  
20      whether or not you decide to believe it is solely  
21      for you as jurors to determine.

22             In deciding whether to believe a witness  
23      you have a right to consider the interest of any  
24      witness, the bias of any witness, the prejudice of  
25      any witness, the opportunity for the witness to



1 have actually observed the matter of things about  
2 which the witness may testify. And you may  
3 consider the way the witness acts on the witness  
4 stand.

5 Ladies and gentlemen, you have a right to  
6 consider anything that is in the record that will  
7 help you evaluate the testimony of the witness.  
8 That means as jurors, it is your duty to pay close  
9 attention to the witness, to observe the witness,  
10 to listen to the witness, and to pay close  
11 attention. So at the end of all the testimony  
12 after the argument of counsel and the charge on  
13 the law by me, you will then be in a position to  
14 determine what the true facts are, and to apply  
15 the law to those facts and thus render a true and  
16 just verdict.

17 In addition, Mr. Foreman, it is your  
18 responsibility to preside in the jury room and be  
19 the jury spokesperson here in court. You will  
20 also have the additional duty to write the verdict  
21 on the verdict form. But I will give you further  
22 instructions at the appropriate time. In order to  
23 preserve everyone's rights, I will give the  
24 parties an opportunity to object to anything I  
25 said.

1 Does the state have any objection to  
2 anything I told the jury?

3 MR. MEADORS: No, sir.

4 THE COURT: Does the defense have any  
5 objection?

6 MR. MURPHY: No, Your Honor.

7 THE COURT: Thank you. Ladies and  
8 gentlemen. We will now begin this trial.  
9 Mr. Meadors.

10 MR. MEADORS: May it Please the Court.

11 THE COURT: Yes, sir.

12 MR. MEADORS: Ladies and gentlemen, Xavier  
13 Titus is dead. Shot once, twice, three times,  
14 four times, five times, by Thomas Geddie. Once  
15 and twice and three times. That's what this case  
16 is about, a senseless, brutal slaying; a murder.

17 Mr. Foreman, Ladies and gentlemen, good  
18 morning. My name is John Meadors. I am an  
19 assistant solicitor with the third circuit. And I  
20 am here today representing Solicitor Chip Finney,  
21 the State of South Carolina, Sumter County and the  
22 Titus family sitting behind counsel table. And  
23 the Sheriff's Department, Investigator Burnish and  
24 Investigator Mims. And Thomas Geddie who is  
25 represented by Mr. Tim Murphy.

1           My job and my role is to make sure the  
2 facts are presented to you in a way that follow  
3 the rules; that Mr. Murphy will follow the rules  
4 and I follow the rules. His Honor told you, and  
5 it's just a charging paper. The Sumter County  
6 Grand Jury, you heard the indictment that is  
7 against Mr. Geddie is for murder.

8           The first thing it is my job to explain to  
9 you what murder is. All of you have heard about  
10 murder, and know what it is. Probably could say  
11 it better than I do. But murder is the unlawful,  
12 intentional unlawful killing of another with  
13 malice aforethought. We have got to prove that on  
14 or about September 19th 2010, that Thomas Geddie  
15 did in Sumter County, shoot Xavier Titus. And  
16 that Xavier Titus died as a result of those  
17 gunshot wounds.

18           So what does all that mean? Malice  
19 aforethought. Malice is simply a means of  
20 evilness, wickedness. Aforethought is just a term  
21 of art. I'm not sure I really understand it.  
22 Malice aforethought. It doesn't -- we don't have  
23 premeditation in this state. Plan it out and then  
24 you act on it, you have murder. Malice  
25 aforethought, aforethought is just a term of art.

1 The instant the trigger is pulled, a bullet a  
2 projectile.

3 Now in this case, I think we will be able  
4 to show that there was a planned robbery. A  
5 planned. Somebody lying in wait, Mr. Geddie.  
6 And for some reason the evidence will show, he  
7 decided to shoot. It's a robbery gone bad. And  
8 it ended in the death of Xavier Titus.

9 It's the burden of the state to prove.  
10 And we will bring a pathologist in here later  
11 named Dr. Ross, probably tomorrow, who will  
12 present evidence to show that the gunshot wound  
13 entered the body of Xavier Titus and was the  
14 proximate cause of his death. That's the burden  
15 of proof that is on the state. The same in this  
16 case and in every other case that is being tried  
17 in the country. We have to prove Mr. Geddie  
18 guilty beyond a reasonable doubt. Beyond has to  
19 cause reasonable folks to hesitate to act.

20 Ladies and gentlemen, there are different  
21 types of evidence in every case. In this case I  
22 think you are going to see about everything. You  
23 will see direct evidence and that's evidence that  
24 is taken from this witness stand. Somebody will  
25 come in here and tell you the jury and His Honor

1     that I heard this, I saw this, I felt this, I  
2     smelled this, I touched this. It is evidence that  
3     you collect and gather with one of your senses.  
4     And then you come in and say, hey, this is what I  
5     heard and felt, touched, smelled. That's direct  
6     evidence.

7             There is also circumstantial evidence.  
8     Evidence of a fact and circumstances which  
9     indicate the existence of a fact. Evidence of a  
10    fact and circumstances which indicate the  
11    existence of another fact. The law says neither  
12    one of them is stronger than the other. They are  
13    both the same. The judge will tell you about it  
14    in a minute. To use the example, as it snowed.  
15    You go to bed to one night in the winter and there  
16    is no snow on the ground. You get up the next  
17    morning, and there is snow. You know it snowed.  
18    You didn't see it. But you take facts before you  
19    went to bed. Before you get up in the morning,  
20    you know it snowed.

21            Other evidence you might hear, documentary  
22    evidence and documents, pictures that were taken  
23    by the investigator that you will see. Another  
24    piece of evidence that you will hear or type of  
25    evidence you will hear in this case that you often

1 don't hear in all cases, but you will hear  
2 co-conspirator testimony. You will hear testimony  
3 from Kelvin Green, who was with the defendant,  
4 Thomas Geddie, on the late night hours of  
5 September 19th, and into the early morning hours  
6 of September 20th, 2010.

7 Mr. Green is going to take the stand later  
8 today or tomorrow and tell you what the plan was;  
9 tell you his involvement. The state will tell you  
10 what they are presenting and offering. And listen  
11 to all of that. And they will tell you that there  
12 was supposed to be a robbery of Mr. Titus, and it  
13 just went dead. Co-conspirator testimony. Ladies  
14 and gentlemen, what happened? We believe that  
15 evidence will show, and we are going to take you  
16 there. We are going to take you there through  
17 witnesses. We are going to take you back in time  
18 to September 19th 2010, to the testimony of  
19 witnesses, to the testimony of some fine officers:  
20 Eddie Hobbs, Blake Weathersbee, other officers,  
21 witnesses, back in time to pictures to September  
22 19th to September 20th 2010.

23 There is another person Cedric Hilton,  
24 sitting back there on the front row. Raise your  
25 hand, Cedric. Cedric was with Xavier Titus, the

1 evidence will show, September 19th 2010. They  
2 were just out relaxing, socializing. Decided they  
3 would go to a club later on I believe, is what the  
4 evidence and witnesses tells me the same. At some  
5 point in the evening, and he's the passenger in  
6 Mr. Titus' car. At some point in the evening,  
7 they had said, you may want to buy some weed. Or  
8 Mr. Titus may want us to get some money before he  
9 goes out later.

10 And they started going in the Dixie area,  
11 and then they head out in the Wedgefield area,  
12 because they are getting a phone call from  
13 somebody. Mr. Titus is. I think the evidence  
14 will show he is getting a phone call from Kelvin  
15 Green. Show up. And I believe the testimony  
16 will be Mr. Titus was going to collect some money.  
17 Mr. Green may say he was going to purchase  
18 something, but Mr. Titus -- they were going to get  
19 some money. I am laying it all out there. This  
20 is what the evidence is going to show.

21 And we get to Spann's. And we are going  
22 to have pictures and a diagram of the area. You  
23 all may know where Spann's is better than I do.  
24 Out in the Wedgefield area. It's decided that  
25 that's where Titus, Xavier Titus, Za, is going to

1 meet Kelvin Green. They get there first, Xavier  
2 and Mr. Hilton and Mr. Titus, in that parking lot  
3 at Spann's. I believe the testimony will be there  
4 were phone calls back and forth, where are you.  
5 Where are you. And then Mr. Hilton testified at  
6 that point he sees a Toyota coming back up towards  
7 Spann's. We will show you on the map.

8 And at that point, he sees the person  
9 inside Kelvin Green, motion him down. Follow us.  
10 And then they will follow. The car that Xavier  
11 Titus and Cedric Hilton will follow this Toyota  
12 down the road is Isadore Nathaniel Rd. It's a  
13 dirt road. We will show it to you on the map.  
14 And they will take a left. And they start to go  
15 down this dirt road late at night. They go around  
16 this field. Mud puddles. The first car with  
17 Kelvin Green goes up. The second car driven by  
18 Xavier Titus and Mr. Hilton goes behind them.

19 At that point Mr. Hilton says turn  
20 around. He will tell you, I thought something was  
21 up. Turn around and face back out towards  
22 Wedgefield Road. He turns around. At this point,  
23 there is a conversation between Mr. Green and  
24 Mr. Xavier Titus, turn your lights off. People  
25 around here can see. There are a couple of houses



1 in the area. Cedric Hilton said, no, don't turn  
2 your lights off. Don't turn your lights off.  
3 Back and forth. Finally the lights are turned  
4 off.

5 The lights are turned off, shots are  
6 fired. One, two, three, four, five. Entering the  
7 body of Xavier Titus. Front seat right here,  
8 Mr. Hilton, leans over, presses on the gas. Tries  
9 to steer out where they are. Steers back around  
10 on to Isadore Nathaniel Road. Goes over to some  
11 bushes. Says, come on, let's go. Talking to  
12 Xavier. Come on, let's go Xavier. He will  
13 testify he knew he wasn't going anywhere.

14 Mr. Hilton runs to the woods. Runs to the  
15 bushes; tries to get several people to help him at  
16 some houses, they don't. Gets back to Spann's and  
17 waited for the police officers to arrive. Some of  
18 these officers here in the courtroom today are  
19 going to tell you about what they saw. Law  
20 enforcement arrives. He tells them what happened.  
21 He says my buddy may be shot down there. Captain  
22 Hobbs goes there and finds the lifeless body of  
23 Xavier Titus. The investigation begins. Titus is  
24 dead. Xavier Titus is dead. It leads to Kelvin  
25 Green. It leads to Thomas Geddie.

1           That's the scenario that's going to be  
2 put up. We're going to take you through the  
3 investigation. When Kelvin Green gets to the  
4 stand, we are going to take you through that.  
5 He's going to testify, subject to cross  
6 examination by Mr. Murphy. He's going to tell you  
7 the individual known as Thomas Geddie, he's going  
8 to tell you that Thomas Geddie was back behind the  
9 bushes where the car was turned around. When the  
10 light went out, Thomas Geddie for some reason  
11 started shooting and went beyond the robbery. A  
12 robbery gone bad. The evidence will show that the  
13 robbery had gone as bad as it can go.

14           And he will testify that there wasn't  
15 supposed to be a death. There was supposed to be  
16 a robbery. There is some evidence that was  
17 collected by Investigator Bean and some other  
18 officers with the Sheriff's Department. One of  
19 them was a Budweiser beer bottle. We are going to  
20 bring that beer bottle in with the other evidence.  
21 And there is a fingerprint on there that  
22 Investigator Marie Hodge of the city will show you  
23 that's the fingerprint of Thomas Geddie that was  
24 found in the bushes by the projectile, that we  
25 believe came from the gun. That's what we think

1 that the evidence will show.

2 Ladies and gentlemen, your role here as  
3 Your Honor said so eloquently and much better than  
4 I can, and I don't want to repeat any of it. You  
5 are the judge of the facts. He is the judge of  
6 the law. If you ever see the law, he is the law.  
7 No mistake about it. It's his courtroom. He's  
8 the law. What he says the law is, is the law.  
9 Your role is judges of the facts.

10 Your clerk, your wonderful clerk, Mr.  
11 Campbell, didn't put you all through a school.  
12 You had to be jurors when you came here yesterday.  
13 But you have been going through a school your  
14 whole life. It's a school of common sense.  
15 Evaluate people when they talk. Deciding what the  
16 truth is. Deciding what is believable and  
17 credible. You'll bring those same attributes, you  
18 have your whole life, today, tomorrow as you  
19 evaluate this testimony. And that's all Mr.  
20 Murphy or I can ask you to do. Listen to the  
21 testimony. Decide what's credible -- what's  
22 believable. Apply those facts to the law His  
23 Honor, Judge Young, will give you, and you will  
24 come up with a verdict. It's a beautiful, pure  
25 system. And that's all we can ask of you, to

1 listen and use your common sense.

2 I respectfully submit, Thursday, Friday,  
3 whenever you get this case, and return to your  
4 jury room, you will be asked to come back with a  
5 verdict. The verdict will be to simply speak the  
6 truth. And I submit respectfully that after you  
7 have heard the evidence from all the witnesses,  
8 looked at the documents, your verdict will be and  
9 I ask you come back with a verdict that on the  
10 late night hours of September 19th, 2010, early  
11 morning hours of September 20th 2010, Kelvin Green  
12 and Thomas Geddie went to rob Xavier Titus; take  
13 him of his money. But it went extremely bad. It  
14 went wrong.

15 And Mr. Geddie took it to the ultimate,  
16 and he killed Xavier Titus. I am going to ask you  
17 for a guilty verdict of murder. Thank you.

18 THE COURT: Thank you, Mr. Meadors. Mr.  
19 Murphy for the defendant.

20 MR. MURPHY: Thank you, Your Honor. Good  
21 morning.

22 THE JURY: Good morning.

23 MR. MURPHY: My name is Tim Murphy. And  
24 it's my pleasure this morning to introduce Thomas  
25 Geddie my client over there. Thomas Geddie is an

1     innocent man. This is a horrible crime, and he is  
2     an innocent man. Now I am not going to rely at  
3     this point on the facts to that, because the law  
4     that we all abide under and you have sworn to  
5     uphold right now, it states that Thomas Geddie is  
6     an innocent man. He's entitled to a presumption  
7     of that innocence all the way through this trial.

8             So everything you have heard from Mr.  
9     Meadors, I would submit at this point, is in fact  
10    is what they hope to prove. And just remember  
11    that. At that point and throughout this entire  
12    trial, Mr. Geddie is entitled to be considered  
13    innocent. Not just not guilty. Not just I wonder  
14    what is going to happen. He's innocent. And  
15    that's what he asks for from you.

16            And that's what he's entitled to as an  
17    American citizen from you throughout this trial.  
18    He's entitled to that presumption. Now, Ladies  
19    and gentlemen, I am not going to spend a lot of  
20    time talking about facts. But what I will say is,  
21    hold the state's feet to the fire to demonstrate  
22    exactly what Mr. Meadors said they would do. Hold  
23    their feet to the fire. Hold them to their burden  
24    of proof.

25            And at the end of this, ask yourself are

1     you firmly convinced that they have met that  
2     burden. Because that's what reasonable doubt  
3     means. Now this is an incredibly serious case. A  
4     young man is dead. And my client, an innocent  
5     man, is accused of that death by the state. And  
6     the basis I will submit to you, the basis for that  
7     comes down to one person, Kelvin Green.  
8     Mr. Hilton, the survivor of this horrible crime,  
9     won't be able to say that my client was at the  
10    scene.

11           He won't say that. He can't identify my  
12    client being there. The only person that states  
13    my client was at the scene that night, the only  
14    person that states that my client pulled the  
15    trigger and killed that poor, young man is  
16    Mr. Green. Mr. Green. The individual who, their  
17    own witness will state, enticed these two young  
18    men to that scene. Mr. Green an individual who  
19    gives different statements to different people.  
20    And actually different statements to law  
21    enforcement. Two different statements to law  
22    enforcement saying some different things.  
23    Mr. Green who will tell you he has been offered a  
24    deal by the state; who has a motive to lie; who  
25    has a motive to get out of the murder. Mr. Green,

1 is the only person that points the finger at my  
2 client. That's what the state's case is all  
3 about.

4 Ladies and gentlemen, Mr. Green is a liar.  
5 I think the evidence will show you. My client is  
6 not guilty. He's an innocent man. He is an  
7 innocent man throughout this trial. Give him what  
8 he is entitled to. And at the end of all the  
9 state's case and all this testimony, we are  
10 satisfied and we are convinced. And when you go  
11 back there and you sit down and you look through  
12 the facts and you assess the credibility of their  
13 star witness and all the other evidence, you will  
14 come to the right conclusion. And that conclusion  
15 is that the only just verdict in this case as it  
16 regards Mr. Geddie is that he is not guilty in  
17 this crime. Thank you.

18 THE COURT: Thank you, Mr. Murphy. The  
19 state may call it's first witness.

20 MR. MEADORS: May it Please the Court.  
21 Your Honor, the State of South Carolina would call  
22 Cedric Hilton.

23 THE COURT: Mr. Hilton, come down and be  
24 sworn.

25 Cedric Hilton, after being duly sworn,

1 testified as follows:

2 THE CLERK: Please state your full name  
3 and spell your last name for the record?

4 A Cedric Hilton. H-I-L-T-O-N.

5 DIRECT EXAMINATION by Mr. Meadors:

6 Q Good morning, Mr. Hilton.

7 A Good morning.

8 Q I would just ask one thing, if you would  
9 please speak up and into microphone so these  
10 Ladies and gentlemen and this Court Reporter can  
11 hear you please, sir. Mr. Hilton, please tell  
12 these Ladies and gentlemen a little bit about  
13 yourself. Where are you from?

14 A Sumter, South Carolina.

15 Q Were you born and raised here?

16 A Yes, sir.

17 Q Where did you go to elementary school?

18 A Alice Drive Elementary in South Carolina,  
19 Sumter.

20 Q And where did you go after that?

21 A I went to Powell Academy, Sumter High and  
22 Willow Gray.

23 Q To where?

24 A To Sumter High, Willow Gray and Powell  
25 Academy.



Cedric Hilton-direct by Meadors

1 Q Sumter High and then you went to Willow  
2 Gray.

3 A I went to Willow Gray. From Powell to  
4 Willow Gray to Sumter High.

5 Q And when did you get out of Sumter High?

6 A 2000, 2001, something like that.

7 Q What did you do after that?

8 A Just as far as in streets, hanging around,  
9 working. Landscaping.

10 Q And at some point, did your grandmama die?

11 A Yes, sir.

12 Q When was that?

13 A In 03. 2003.

14 Q And then you said you were hanging around  
15 in the streets. Did you get a possession of crack  
16 conviction, where you got a YOA one to six shock  
17 incarceration?

18 A Yes, sir.

19 Q And was that 2003?

20 A 2003.

21 Q After your grandmama died?

22 A Yes, sir.

23 Q Did you ever work at Red Bone Alley.

24 A Red Bone Alley.

25 Q What did you do there?

Cedric Hilton-direct by Meadors

1 A Dishwasher.

2 Q And this was afterwards? After shock;  
3 right?

4 A Yes, sir.

5 Q Where did you work? Did you ever work at  
6 Gold Kist?

7 A Gold Kist. And landscaping with my uncle.

8 Q What did you do at Gold Kist?

9 A Worked as clean up crew.

10 Q Did you say you worked for your uncle?

11 A Yes, sir.

12 Q What did you do for your uncle?

13 A Landscaping, cut grass.

14 Q The victim in this case, Xavier Titus,  
15 what did you call him?

16 A Xavier.

17 Q Xavier.

18 A Little Xavier; yes, sir.

19 Q Little Xavier?

20 A Yes, sir.

21 Q How long had you known the victim?

22 A For a while since elementary, middle  
23 school.

24 Q That's elementary?

25 A Yes, sir. Middle school, Powell Academy.

Cedric Hilton-direct by Meadors

1 Q Okay. Is it fair to say at some point you  
2 started hanging around on a regular basis?

3 A Yes, sir.

4 Q How regular, daily?

5 A Daily basis.

6 Q Did you know Kelvin Green or Thomas  
7 Geddie?

8 A No, sir.

9 Q I am going to go right to it. Let's go  
10 back to September 19th 2010, where were you  
11 working then?

12 A I was working, doing landscaping for my  
13 uncle.

14 Q Taking business as it comes?

15 A Yes, sir.

16 Q And September 19th 2010, until  
17 September 20th 2011, was that a Saturday, Sunday?  
18 September 20th 2010?

19 A Yes, sir. That was a Saturday going into  
20 Sunday morning.

21 Q Going back to that Saturday, September  
22 19th 2010, did you have an occasion to see Xavier  
23 Titus?

24 A Say it again?

25 Q Did you get with Xavier on the 19th?

Cedric Hilton-direct by Meadors

1 A Yes, sir.

2 Q How did that come about?

3 A Well I was at a little house party,  
4 drinking and playing cards. And Carl Adams said  
5 they wanted to go to the club. And he said I'll  
6 go to the club. And that's how we went together.  
7 We were going to go to a club. So I left the  
8 party to meet with them.

9 Q What party if you know?

10 A I was visiting a house party.

11 Q And what club were you going to?

12 A Prodigy. Jose name, something like that.

13 Q So you leave the party you are at on 15?

14 A Uh-huh. (Affirmative.)

15 Q And what do you do?

16 A Go to my friend's sister's house; Sherman.  
17 Go to his sister's house to meet him. They are  
18 arranging to pick up Sherman's kids. And then  
19 they came back into the house and meet me there.  
20 And then we started planning on going to the club.

21 Q And this is you and who?

22 A Me, Xavier, Sherman and another friend.

23 Q And just before, I don't know if this is  
24 an issue or not. But Sherman is who?

25 A Sir?

Cedric Hilton-direct by Meadors

1 Q Who is Sherman?

2 A He is a friend.

3 Q So you all were talking; you, Sherman,  
4 Zav, maybe somebody else. You are talking about  
5 going go to a club.

6 A Yes, sir.

7 Q What happens next?

8 A Me and Sherman left. Sherman left and  
9 went to get dressed. And Twain he's going to get  
10 dressed. And somebody kept calling Xavier's  
11 phone for him. So I told him to take me somewhere  
12 to get something. So...

13 Q You told Zav to take you somewhere to get  
14 something?

15 A Yes, sir.

16 Q Okay.

17 A Okay. So we were riding around looking  
18 for whatever so.

19 Q And who was riding around there?

20 A Xavier was driving. I was on the  
21 passenger seat.

22 Q Okay, so just the two of you.

23 A And his phone kept ringing, ringing,  
24 ringing. And he kept telling them, I am on the  
25 way. So he's telling me just ride with him, and

Cedric Hilton-direct by Meadors

1 he drop me back off. I was like who, so I ride  
2 with him.

3 Q Did you all go to the Dixie area?

4 A Yes, sir. Right in the Dixie area looking  
5 for marijuana; didn't find any. So he was going  
6 to drop me off. His phone kept ringing, so he  
7 drive. I ride with him.

8 Q So instead of dropping you off, he said he  
9 had to go to do something.

10 A Because his phone kept going up.

11 Q He said you got to go with me.

12 A Yes, sir.

13 Q Okay. What happens next, if anything?

14 A So we are riding. The phone still  
15 ringing. We are just riding, chilling. Going  
16 towards Bishopville. And a car came back through  
17 like pulling up at Spann's. And a truck coming  
18 from down the road. I don't know the name of the  
19 road, but coming from that direction. And told us  
20 to follow him. So we were going to follow him in  
21 the woods.

22 Q Slow down a little bit, please. What type  
23 of truck was it?

24 A Toyota. Older model.

25 Q So you're at Spann's?

Cedric Hilton-direct by Meadors

1 A Yes, sir.

2 Q Had you been to Spann's before?

3 A Yes, sir.

4 Q And you see this truck coming up towards  
5 you.

6 A Yes, sir.

7 Q When the truck approaches you all what  
8 happens?

9 A A dude throw his hand up, and was like  
10 follow me. So we follow him down the road. Made  
11 a left out of Spann's and followed him down the  
12 road and made a left onto the dirt road.

13 Q What time of night was this, Cedric?

14 A It was late. Real late into the night.

15 Q Had you been down this dirt road before?

16 A No, sir.

17 Q Did you know where you were going?

18 A No, sir.

19 Q What happens next?

20 A So we turned down the dirt road and Kelvin  
21 told us to park down there and turn the lights  
22 out. And I told Xavier to turn the car around  
23 because---

24 Q Slow down a little bit please, sir. I am  
25 sorry.

Cedric Hilton-direct by Meadors

1           A     I told Xavier to turn the truck around.

2           Q     Go ahead. You were going down the dirt  
3 road, I apologize.

4           A     Yes, sir. We're going down the dirt road,  
5 and so I told Xavier to turn the truck around and  
6 face the way we came in, in case anything happens  
7 because it was dark back there in the woods.

8           Q     Why did you tell him to turn it around?

9           A     Because it was dark, dark in the woods.  
10 You can't see back there. I just felt like  
11 something was going to happen back there.

12          Q     Didn't feel right to you.

13          A     Didn't feel right.

14          Q     Okay. So does Little Zav turn the truck  
15 around?

16          A     Yes, sir. He turned the truck around.  
17 Kelvin came to the car. And he was saying, turn  
18 the lights out. Turn the lights off. And I was  
19 telling him, don't turn the lights off. Don't  
20 turn the lights off. And Kelvin kept like  
21 bugging, like said for us to turn the lights out.  
22 And Xavier went to turn the lights out. And as  
23 soon as he turned them off, the shooting started.

24          Q     Now you say that Kelvin told you. Did you  
25 know that was Kelvin at the time?



Cedric Hilton-direct by Meadors

1 A No, sir.

2 Q So after -- so he did turn the car around,  
3 Titus.

4 A Yes, sir. He turned the car around.

5 Q And after that someone came to the  
6 driver's side?

7 A Yes, sir.

8 Q And they were asking you to what?

9 A To turn the lights out. They were telling  
10 him to turn the lights out.

11 Q And what were you saying, if anything?

12 A I was telling him, don't turn the lights  
13 out. No, don't turn the lights out.

14 Q And why were telling him that?

15 A Because I felt something was bad. Going  
16 bad. It was dark.

17 Q And what happened after that?

18 A A couple of shots rang off or whatever.

19 So I went to the floorboard, mashed the gas with  
20 my hand; the other hand used the steering wheel to  
21 get us across until to like break into some bushes  
22 or whatever. Jumped out and ran. Knock on a  
23 couple of people's houses. They kick me off their  
24 porch. And I ran to the store. Tried to break in  
25 the store. Called the police. And the police

## Cedric Hilton-direct by Meadors

1 car -- an old couple came riding through the  
2 parking lot from a---

3 Q And they called law enforcement?

4 A Yes, sir.

5 Q So as you were running from the car, you  
6 say you went by several folks' houses?

7 A Yes, sir.

8 Q And nobody would help you?

9 A No, sir.

10 Q Do you run back to Spann's?

11 A Yes, sir.

12 Q And this couple called the police for you?

13 A Yes, sir.

14 Q Did you have your shirt on?

15 A No, sir.

16 Q When did you take your shirt off?

17 A I had white tee shirt on, so they wouldn't  
18 follow me.

19 Q So why did you take your shirt off?

20 A So they wouldn't follow me. I had a white  
21 tee shirt on.

22 Q Make it harder to see?

23 A Yes, sir.

24 Q After the shots ring out, did you did you  
25 see your friend Za?

Cedric Hilton-direct by Meadors

1 A Yes, sir.

2 Q And did you know he was hit?

3 A Yes, sir.

4 Q And when you got out of the car to run,  
5 did you say, come on or anything?

6 A Yes, sir. I told him to come on.

7 Q Did you expect him to come on?

8 A No, sir.

9 Q You knew he was hit bad.

10 A Yes, sir.

11 Q And you didn't get hit?

12 A No, sir.

13 Q You are going to have to, His Honor, will  
14 tell you, you have to too. But I am going to ask  
15 to come down, but you are going to have to speak  
16 up so the Court Reporter and everybody can hear  
17 you with Your Honor's permission.

18 THE COURT: Yes, certainly. Again, please  
19 speak up, and try to get close to that microphone.  
20 You may step down.

21 (Whereupon, the witness steps down from  
22 the witness stand.)

23 MR. MEADORS: Your Honor, I have what I  
24 believe is State's 5 without objection.

25 THE COURT: Is that correct?

Cedric Hilton-direct by Meadors

1 MR. MURPHY: No objection.

2 THE COURT: Thank you.

3 MR. MEADORS: Come around this way, I am  
4 sorry, back that way. You have got to face the  
5 jury, please, sir, I am sorry.

6 A Excuse me.

7 Q This is State's No. 5, Cedric, and I have  
8 showed you this before; correct?

9 A Yes, sir.

10 Q And do you recognize this is an aerial of  
11 the area we are talking about?

12 A Yes, sir.

13 Q And I will just point out to reference.  
14 Is this Spann's here?

15 A Yes, sir.

16 Q And you can hold it down. Would you point  
17 to Spann's on State's 5?

18 A Right here. (Pointing.)

19 Q You were with Xavier Titus late September  
20 19th 2010. Show the Ladies and gentlemen of the  
21 jury where you were waiting on somebody to meet  
22 Titus.

23 A In the parking lot right here.

24 Q And you are going to have to speak up.  
25 That's Spann's?

Cedric Hilton-direct by Meadors

1           A     Spann's in the parking lot. At Spann's  
2     grocery in the parking lot.

3           Q     And did you wait there for awhile?

4           A     Yes, sir. About 3 or 4 minutes at the  
5     most.

6           Q     And I think you said the phone calls were  
7     coming back and forth?

8           A     Yes, sir. The phone calls were coming and  
9     forth coming. And I see a truck coming from this  
10    direction heading towards Spann's.

11          Q     So you saw a truck coming from this  
12    direction coming towards Spann's?

13          A     Yes, sir.

14          Q     No doubt about that.

15          A     No, sir.

16          Q     What color truck was that?

17          A     A brown, a brown truck.

18          Q     Show the Ladies and gentlemen of the jury  
19    where the truck went.

20          A     The truck came from that direction, and  
21    pulled right beside us. Made a U-turn and came  
22    back up, and came down the road. Down the little  
23    dirt road. Turned onto the dirt road.

24          Q     And I think you said the person had  
25    motioned to you to follow. Where did that happen?

Cedric Hilton-direct by Meadors

1           A     At Spann's grocery. When we pulled into  
2     Spann's, we parked right there. They pulled into  
3     Spann's facing us. And he motioned for us, like  
4     follow us.

5           Q     When you say us, was it, how many people  
6     were in there, just one person?

7           A     Yes.

8           Q     Okay.

9           A     So the truck U-turned off the the parking  
10    lot and came back down the road, and made a left  
11    on the dirt road.

12          Q     Made a left onto the dirt road. Had you  
13    ever been on that dirt road before?

14          A     No, sir.

15          Q     Can you show us on State's No. 5 on that  
16    dirt road how far you went? I am not showing all  
17    that way down. Is this the dirt road you went  
18    down?

19          A     Yes, sir. This is the dirt road, and we  
20    came around that curve until about right here.

21          Q     If that's a mud puddle does that help your  
22    reference?

23          A     Yes, sir.

24          Q     All right.

25          A     But we came all around and leading to the

Cedric Hilton-direct by Meadors

1 woods. Right around to the curve, to the mud  
2 puddle right here.

3 Q Was it a big mud puddle?

4 A Yes, sir.

5 Q I mean huge?

6 A Yes, sir. You had to go around the  
7 puddle.

8 Q You had to go around the puddle.

9 A Yes, sir.

10 Q After you went around the puddle, show the  
11 Ladies and gentlemen of the jury what happened.

12 Where you went, excuse me.

13 A We through the mud puddle so we were  
14 facing this way right here. So I told Xavier to  
15 turn the truck around, because I felt something  
16 bad. So Xavier turned the truck around, and was  
17 facing back out toward Wedgefield.

18 Q And where was the truck that you followed  
19 in?

20 A Right in front.

21 Q And were there woods to the left of where  
22 you were? Wooded area?

23 A Yes, sir; woods to the left.

24 Q Show the Ladies and gentlemen of the jury  
25 where you said this person Kelvin started talking

## Cedric Hilton-direct by Meadors

1 to Titus.

2 A Right here on the curve; time we turned  
3 our truck.

4 Q You didn't know Kelvin.

5 A No, sir.

6 Q Tell the Ladies and gentlemen of the jury,  
7 did you see Kelvin with a gun?

8 A No, sir, I didn't see Kelvin with a gun.

9 Q Did you see him holding a gun.

10 A No, sir.

11 Q Did you see him holding an AK-47?

12 A No, sir.

13 Q And what if anything, was he asking you to  
14 do? Asking Titus to do.

15 A Turn the lights off.

16 Q What did you say?

17 A No. I told him no, don't turn the lights  
18 off.

19 Q Hell no, don't turn them off.

20 A Yes, sir.

21 Q Did that conversation go back and forth?

22 A Yes, sir. But we turned the lights off.  
23 And I kept telling him don't turn the lights off,  
24 because we were in the dark.

25 Q You didn't feel -- think it was right.



Cedric Hilton-direct by Meadors

1 A No, I don't think it was.

2 Q You know that; don't you?

3 A Yes, sir.

4 Q Does he finally turn the lights off?

5 A Yes, sir.

6 Q And prior to turning the lights off, did  
7 you see who you know as Kelvin with a gun?

8 A No, sir.

9 Q The lights go off.

10 A The lights go out; shots rang out. And I  
11 jumped on the door frame and used one hand on the  
12 gas pedal and one hand -- the other hand was on  
13 the steering wheel to get us out of the cross  
14 fire.

15 Q And can you show on here how far you were  
16 able to make it?

17 A Not far. We just went to the mud puddle,  
18 I guess. And it was like bumping over something.  
19 But had tracked going into the woods or whatever.  
20 I ran into the woods. I ran through some woods  
21 like, there is some houses. Not many houses right  
22 here. Several of these houses heading back up at  
23 Spann's.

24 Q So nobody came to the door. Nobody would  
25 help you here?

## Cedric Hilton-direct by Meadors

1 A No, sir.

2 Q Where did you take your shirt off, if any?

3 A No, sir.

4 Q Where did you take your shirt off, if  
5 anything?

6 A Through the bushes.

7 Q So you ended up getting back to Spann's?

8 A Yes, sir.

9 Q And that's where you finally see law  
10 enforcement.

11 A Yes, sir; seen them pulling up. So we  
12 just got carjacked. And I received a ride back at  
13 the time.

14 Q When cars were coming, were you hiding up  
15 here before you called the police?

16 A Yes, sir. Cars were coming. So I got  
17 right behind the store, and over into the woods on  
18 this side into the bushes.

19 Q Did you miss a police car going by?

20 A Yes, sir. A police car went by. I tried  
21 to flag him down. He didn't hear me, so he kept  
22 riding.

23 Q Were you hiding? Let me, did you know  
24 what cars were coming before they got there?

25 A No, sir.

Cedric Hilton-direct by Meadors

1 Q So were you kind of waiting to see what  
2 the car was.

3 A Yes, sir.

4 Q Okay. You can have a seat back. Thank  
5 you.

6 (Whereupon, the witness resumes the  
7 witness stand.)

8 MR. MEADORS: Your Honor, for the record,  
9 Mr. Murphy and I have looked at State's 1, 2, 3  
10 and 4. And they are without objection.

11 THE COURT: Is that correct, Mr. Murphy?

12 MR. MURPHY: Yes, Your Honor.

13 THE COURT: State's 1, 2, 3, 4 are  
14 admitted without objection.

15 (Photographs marked State's Exhibit Nos.  
16 1, 2, 3, 4 into evidence.)

17 MR. MEADORS: May I approach, please?

18 THE COURT: Yes.

19 Q I am going to zoom in. You testified  
20 about the mud puddle in State's 2. Is that the  
21 mud puddle?

22 A Yes, sir.

23 Q And that's on Isadore Nathaniel Road?

24 A Yes, sir, it is.

25 Q Now what type of car did Xavier -- well

## Cedric Hilton-direct by Meadors

1 Titus drive?

2 A A Lincoln truck.

3 Q A Lincoln truck?

4 A Yes, sir.

5 Q And now look at State's 3. Is that the  
6 side of his car?

7 A Yes, sir.

8 Q And that's the car you were in with  
9 Mr. Titus that night?

10 A Yes, sir.

11 Q And you have testified earlier that you  
12 literally put your hand on the gas, and was  
13 steering away from there when the shots were  
14 fired?

15 A Yes, sir.

16 Q And I believe you testified that you went  
17 down the road a little bit then you wrecked?

18 A Yes, sir.

19 Q State's 1 and State's 4 shows the car  
20 after you had driven it and ran into the woods?

21 A Yes, sir.

22 Q And next to the left door handle, is there  
23 woods there? To the driver's side.

24 A Yes, sir.

25 Q Where is Titus' body after you get out?

Cedric Hilton-direct by Meadors

1 Shots are fired. You try to get away. You wreck.

2 When you left, where was he?

3 A Still inside the truck.

4 Q Was he leaning over your way or leaning  
5 his way or which?

6 A Leaning toward.

7 Q Leaning towards your side?

8 A Yes, sir.

9 Q And could you physically see that he was  
10 hit and bleeding?

11 A Yes, sir.

12 Q Do you know how many people were outside  
13 that car before the shots were fired?

14 A No, sir.

15 Q You don't know whether there was one or  
16 two?

17 A No, sir.

18 Q You saw one.

19 A I saw one.

20 Q And you never saw one with a gun.

21 A No, sir.

22 Q Now on September 23rd, did you -- well did  
23 you have an occasion to talk with investigator

24 Burnish sitting right here after this incident?

25 A Yes, sir.

Cedric Hilton-direct by Meadors

1 Q And they read you your rights, talked to  
2 you?

3 A Yes, sir.

4 Q And you voluntarily gave them a statement?

5 A Yes, sir.

6 Q And you gave them two statements?

7 A Yes, sir.

8 Q Kind of telling them what happened?

9 A Yes, sir.

10 Q Did you have a gun?

11 A No, sir.

12 Q Did Little Zav, Xavier Titus have a gun?

13 A No, sir.

14 Q So you, Little Zav and Kelvin didn't have  
15 a gun.

16 A Yes, sir.

17 Q You didn't see him with a gun.

18 A No, sir.

19 Q And was he, he being Kelvin, was he right  
20 at the passenger, or where was he in relation?

21 Was he at the driver's side window talking to--

22 A Yes, sir,---

23 Q ---and Little Zav?

24 A ---he was at the driver's side window.

25 Q So you didn't have any trouble seeing him?

Cedric Hilton-direct by Meadors

1 A No, sir.

2 MR. MEADORS: I beg the court's

3 indulgence.

4 THE COURT: Yes, sir.

5 MR. MEADORS: Thank you, sir. That's all

6 I have.

7 THE COURT: Mr. Murphy.

8 MR. MURPHY: Thank you, Your Honor.

9 Cross Examination by Mr. Murphy:

10 Q Mr. Hilton.

11 A Yes, sir.

12 Q Now I think you said this before. The  
13 only person that you saw was Kelvin. The person  
14 you identified as Kelvin.

15 A Yes, sir.

16 Q And he's the one that enticed you to go  
17 down, you and Xavier.

18 A Yes, sir.

19 Q More Xavier than you. Enticed him to go  
20 down this dark road; correct?

21 A Yes.

22 Q And it was after Kelvin told Xavier to  
23 turn out the lights, shots started firing.

24 A Yes, sir.

25 Q Now you said that you didn't see Kelvin

## Cedric Hilton-cross by Murphy

1 with a gun.

2 A No, sir.

3 Q But he could have had one.

4 A He could have had one.

5 Q And in fact in one of your statements to  
6 police, you said that you wrote down, Kelvin  
7 started shooting or it was somebody in the bushes;  
8 right?

9 A Yes, sir.

10 Q Okay. So at that time, you thought Kelvin  
11 was the---

12 A Was the Shooter.

13 Q ---shooter. Right?

14 A Yes, sir.

15 Q But it could have been somebody else.

16 A Yes, sir.

17 Q And you told that to police.

18 A Yes, sir.

19 Q Both times you talked to them; right?

20 A Yes, sir.

21 Q Things just happened real fast; right?

22 A Yes, sir.

23 Q I would imagine. Now looking again, you  
24 saw Kelvin through the driver's side window;  
25 correct?



## Cedric Hilton-cross by Murphy

- 1           A     Yes, sir.
- 2           Q     He was on the driver's side window.
- 3           A     Yes, sir.
- 4           Q     And that's the side where the shots were  
5 coming from.
- 6           A     Yes, sir.
- 7           Q     And you're on the passenger side.
- 8           A     Uh-huh. (Affirmative.)
- 9           Q     And as you're looking, you're looking past  
10 Xavier; right?
- 11          A     Yes, sir.
- 12          Q     To Kelvin; right?
- 13          A     Yes.
- 14          Q     And he's standing in the dark; correct?
- 15          A     Uh-huh. (Affirmative.) Yes, sir.
- 16          Q     So you're not looking at his whole body;  
17 are you?
- 18          A     No, sir.
- 19          Q     Was he like leaning down, or was he just  
20 standing there talking?
- 21          A     Just standing there taking.
- 22          Q     So really you're not sure whether or not  
23 he had a gun or not; right?
- 24          A     No, sir.
- 25          Q     And at least initially you thought he was

## Cedric Hilton-cross by Murphy

1 the shooter.

2 A Yes, sir.

3 Q And that's what---

4 A At the time I did.

5 Q And that's what you told police; right?

6 A Yes, sir.

7 Q And this happened two years ago?

8 A Yes, sir.

9 Q Right about two years ago. And since then  
10 you have learned a lot more about the case; right?

11 A Yes, sir.

12 Q And you've learned that they arrested  
13 somebody. Kelvin and another guy too; right?

14 A Yes, sir.

15 MR. MURPHY: Mr. Hilton, thank you for  
16 your testimony. I have no further questions.

17 MR. MEADORS: Just a couple more  
18 questions.

19 Redirect Examination by Mr. Meadors:

20 Q Mr. Murphy asked you about a prior  
21 statement. I am going directly to what he asked  
22 you okay?

23 (Statement of Hilton marked State's  
24 Exhibit No. 6 for ID only.)

25 MR. MEADORS: Approach him, please?

Cedric Hilton-cross by Murphy

1 THE COURT: Certainly.

2 Q I am going to show you State's 6 for Id.

3 Mr. Hilton, is this your statement?

4 A Yes, sir.

5 Q And that's you up there, and your name  
6 down there, Hilton?

7 A Yes, sir.

8 Q September 23rd.

9 A Yes, sir.

10 Q 2010. And that's Sergeant Burnish;  
11 correct?

12 A Yes, sir.

13 Q When Mr. Murphy was just asking you,  
14 Little Zav hit the light. Kelvin started shooting  
15 or either a person jumped out of the dark and  
16 started shooting.

17 A Yes, sir.

18 Q And that was September 23rd; right?

19 A Yes.

20 Q And you didn't know who had been arrested;  
21 correct?

22 A No, sir.

23 Q And so your initial statement is either he  
24 shot or somebody jumped out of the woods; right?

25 A Yes.

## Cedric Hilton-redirect by Meadors

1 Q And that's what you told them.

2 A Yes, sir.

3 Q And were you all, you and Mr. Titus right  
4 next to some woods?

5 A Right next to the woods; yes, sir.

6 Q I mean were you right next to some bushes?

7 A Yes, sir.

8 Q And could somebody have been back there?

9 A Somebody could have been.

10 Q And if they had been back there, would you  
11 have been able to see?

12 A No, sir.

13 Q And that's why you wanted to get out of  
14 there; wasn't it?

15 A Yes, sir.

16 MR. MEADORS: That's all I have.

17 THE COURT: Mr. Murphy, any recross based  
18 on his redirect?

19 MR. MURPHY: No, sir.

20 THE COURT: Ladies and gentlemen, now is a  
21 good time to take a short break. We will take a  
22 15 minute recess. If you need to smoke, the  
23 bailiff will accompany you outside to do so.  
24 Thank you. Please do not discuss anything about  
25 the case while you are back there.

Cedric Hilton-redirect by Meadors

1 (Whereupon, the Court Breaks.)

2 THE COURT: The Court will be in recess  
3 until 11:25 a.m.

4 (Photograph marked State's Exhibit No. 7  
5 for evidence.)

6 THE COURT: You may bring the jury.

7 (Whereupon, the following takes place  
8 within the presence of the jury.)

9 THE COURT: Mr. Meadors, you may call your  
10 next witness.

11 MR. MEADORS: The state would call  
12 Corporal Weathersbee.

13 CORPORAL WEATHERSBEE, after being duly  
14 sworn, testified as follows:

15 THE CLERK: State your name and sell your  
16 last for the record.

17 A Blake Weathersbee.

18 W-E-A-T-H-E-R-S-B-E-E.

19 Direct Examination by Mr. Meadors:

20 Q Good morning, Corporal.

21 A Good morning.

22 Q Tell the Ladies and gentlemen of the jury  
23 about your background, and how long you have been  
24 in Sumter.

25 A I have been here all my life.

Corporal Weathersbee-direct by Meadors

1 Q And where did you go to school?

2 A I went to Alice Drive Middle School.

3 Later on I went to Clarendon Hall and Sumter.

4 Q What did you do after that?

5 A I was in maintenance at Federal Mogul in

6 Summerton for 5 and a half years.

7 Q What did you do after that?

8 A I went to work for the sheriff's office in

9 2005, I believe. March 2005.

10 Q And did you have training in the Criminal

11 Justice Academy?

12 A I did. I was also a reserve with the

13 sheriff's office prior to being hired full time.

14 Q And do you do periodic updates or

15 training, continuing legal ed. and that sort of

16 thing?

17 A Every year.

18 Q Have you been on the road pretty much

19 since you were at the sheriff's department?

20 A Yes, sir. Up until I think February of

21 this year, when I went to the warrant's division.

22 I was a patrol deputy.

23 Q And for the sheriff as a part of that, do

24 you have a certain region you patrol in Sumter?

25 A I patrolled all areas of the county at one

Corporal Weathersbee-direct by Meadors

1 time or another. Generally the areas I patrol  
2 last part were Wedgefield, Pinewood, 15 south  
3 area.

4 Q And so back when this incident occurred on  
5 September 19th 2010, you were a corporal on the  
6 road?

7 A Yes, sir.

8 Q And did you have an occasion to respond  
9 either to Spann's or something in relation to this  
10 incident?

11 A I did.

12 Q And tell the Ladies and gentlemen what you  
13 did, and where did you go?

14 A I don't recall exactly how the call was  
15 dispatched. But I met the young man at Spann's.  
16 He didn't have a shirt on. He was obviously very  
17 upset. And covered in sweat. And obviously he  
18 had been running for a fairly good distance. And  
19 he was pretty drenched. And he told me, he said,  
20 I think my friend has been shoot. And I'm trying  
21 to decide where the person was. He said I don't  
22 know. It's a dirt road going towards the  
23 Wedgefield area from Spann's. It was fairly late  
24 at night. I don't remember exactly what time it  
25 was. He wasn't able to tell me exactly which road

Corporal Weathersbee-direct by Meadors

1 it was. Once I got another deputy on the scene to  
2 stay with him, I left to go and try to find the  
3 scene of the crime, to see if he got shot, see if  
4 they were injured or still alive, whatever the  
5 case may have been.

6 So I went down Wedgefield Road and I saw  
7 two cars parked on Wedgefield Road at the  
8 intersection of Wedgefield's and Burnt Gin, which  
9 was the first dirt road that came to my mind.  
10 It's one of the more traveled dirt roads in the  
11 area. I went down there and it actually turned  
12 out to be a vehicle wreck. It had nothing to do  
13 with this actual incident.

14 Q So that was beyond Isadore Nathaniel.

15 A Yes. It's probably a half mile past  
16 Isadore Nathaniel. You can see the other road  
17 from Isadore Nathaniel due to the way the fields  
18 are on Wedgefield Road.

19 Q And is it fair to say that Isadore  
20 Nathaniel is a pretty desolate road?

21 A Yes. There's -- there are parts to  
22 Isadore Nathaniel where there are residences, and  
23 there are parts where there are not.

24 Q So and you said it, you don't know exactly  
25 what time, but it's late at night; right?



## Corporal Weathersbee-direct by Meadors

1           A     It was very late at night. I don't know,  
2     remember exactly what time.

3           Q     So when you take off and the young man  
4     Mr. Hilton is back this way, you pass Isadore  
5     Nathaniel, and you actually think it might be  
6     Burnt Gin?

7           A     Correct.

8           Q     Because he didn't know the name of the  
9     road.

10          A     Right, he said a dirt road.

11          Q     Isadore Nathaniel actually does have a  
12     road sign on it; doesn't it?

13          A     I believe it does.

14          Q     After you realized it wasn't Burnt Gin,  
15     did you come back to Isadore Nathaniel? And  
16     before I get there, let me get back to it. You  
17     testified you saw Cedric Hilton the young man back  
18     there, who testified.

19          A     Correct.

20          Q     He didn't have a shirt on?

21          A     No, sir.

22          Q     And so you were you the first officer to  
23     see him?

24          A     Yes, sir.

25          Q     And did you before you left, did you wait

Corporal Weathersbee-direct by Meadors

1 for another officer to come be with him?

2 A Yes, sir.

3 Q Now back to my other question. After  
4 Burnt Gin, where did you go if anywhere?

5 A While I was at Burnt Gin, Captain Hobbs  
6 also had come to the scene, and left and went down  
7 the first dirt road that he came upon, which was  
8 Isadore Nathaniel. And he came upon a vehicle  
9 parked which was somewhat wrecked in the woods,  
10 with someone lying near the vehicle. And he  
11 called that on the radio. And I left the wreck to  
12 proceed to go down there and find more back up.

13 Q Did you Mr. Hilton again?

14 A I don't recall if I actually contacted --  
15 came in contact with him again or not. I  
16 provided, more or less, I was on the scene doing  
17 crime scene logs, and things of that nature.

18 MR. MEADORS: I beg the court's  
19 indulgence.

20 THE COURT: Yes, sir.

21 MR. MEADORS: That's all I have. Thank  
22 you.

23 THE COURT: Mr. Murphy?

24 MR. MURPHY: No questions.

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

Corporal Weathersbee-direct by Meadors

1 MR. MEADORS: Investigator Eddie Hobbs.

2 Your Honor, we would ask the officer to be  
3 excused.

4 THE COURT: Any objection?

5 MR. MEADORS: No, Your Honor.

6 THE COURT: Thank you, Officer.

7 Eddie Hobbs, after being duly sworn,  
8 testified as follows:

9 THE CLERK: Please state your full name  
10 and spell your last name for the record.

11 A Gene Edward Hobbs. I've always been  
12 called Eddie. My last name is H-O-B-B-S.

13 Q Investigator or Captain, can you tell this  
14 jury where you are from, your background, your  
15 education?

16 A Yes, sir. I was born in Sumter County.  
17 My father was a Southern Baptist Preacher. He  
18 preached all over South Carolina and that's where  
19 I spent my childhood. He retired in 1977, and  
20 came back to Sumter. At that time, I went to  
21 Sumter High. Graduated in 1980. I was very  
22 fortunate to be hired by Sheriff Reeves at a very  
23 young age for the Sumter County Sheriff's Office.  
24 That was in 1985. I continued my career. I went  
25 to the academy. I had to do the 40 hours of study

## Investigator Hobbs-direct by Meadors

1 every 2 years to keep my certification up.  
2 Under Sheriff Tommy Mims, I made sergeant and  
3 lieutenant. And ran a shift for over 12 years.  
4 When Sheriff Dennis was elected, he appointed me  
5 to Captain of patrol. And I ran the Sumter County  
6 Sheriff's Office Patrol Division for close to  
7 9 years. I was Captain in 2010, when this event  
8 happened.

9 I have since retired, and Sheriff Dennis  
10 was nice enough to rehire me. And I am now  
11 working as an investigator for Sumter County  
12 Sheriff's Office.

13 Q Now, investigator, back in September 2010,  
14 then you were a Captain of patrol?

15 A Yes, sir, I was.

16 Q And as a part of your duties then, did you  
17 respond to all crime scenes?

18 A No, sir. I do take a turn to be on call.  
19 This particular evening, I was working in other  
20 detail. The detail was finished around 12:30. It  
21 was in Cherryvale. I was actually on my way home  
22 when this call came out. It was checking on a  
23 suspicious person, and shots were fired possibly.  
24 A very random call, with very little information.  
25 The shift sounded like they were very short and

## Investigator Hobbs-direct by Meadors

1 very busy. So I wasn't too far away in  
2 Cherryvale. So I went ahead and said I would  
3 respond to Spann's also.

4 Q And are you familiar with the Spann's in  
5 the Wedgefield area without question.

6 A I have been working for 27 years, so I am  
7 very familiar with Wedgefield.

8 Q Where did you go first?

9 A I went and met, to Spann's. Corporal  
10 Weathersbee was already introducing Mr. Cedric at  
11 this time. I too agreed that Mr. Cedric had had  
12 what we call a critical incident. Something very  
13 bad happened. In his mind has happened. He was  
14 very sweaty. He obviously he exerted himself.  
15 His focus was poor, and he seemed out of breath at  
16 this moment. This is really what I would call a  
17 clear state of shock. Something had happened bad.

18 Q So you gathered some background  
19 information, I guess, and what did you do?

20 A We were still very much in the dark at  
21 this particular moment. He did not know where his  
22 friend was. He was with a friend, and his  
23 friend was driving.

24 He kept -- he kept talking to me. He said  
25 he heard some shots. And I was really concerned

## Investigator Hobbs-direct by Meadors

1       where his friend was at this particular moment.  
2       And I asked him to stop. I never exited the  
3       vehicle at this time. I said where is your friend  
4       now. He said, I don't know. He was with me, and  
5       now he's not. Then I really asked him to focus on  
6       where he was at. And he said it was dirt road  
7       heading towards Wedgefield.

8               What I did get he could remember, was  
9       Isadore Nathaniel name at that particular moment.  
10       I knew where he was talking about. I told  
11       Corporal Weathersbee please to stay at the scene.  
12       When I get relief, I am going to check this first  
13       dirt road on the left, and I did.

14              MR. MEADORS: If it is all right, Your  
15       Honor, I am just going to bring this up here.

16              THE COURT: Certainly.

17       Q       This is State's 5. I don't know if you  
18       need to look at it before.

19       A       I have looked at maps many times.

20       Q       This is Spann's up here?

21       A       May I step down?

22              THE COURT: Certainly. You speak loud  
23       enough?

24       A       I think I do.

25              (Whereupon, the witness steps down from

## Investigator Hobbs-direct by Meadors

1 the witness stand.)

2 Q This is State's 5 for the record.

3 A Yes, sir.

4 Q This is Spann's up here. Where did you go  
5 first?

6 A I actually came from Deschamps Road.  
7 When the call came out, I made them turn up here.  
8 It's off the map. Deschamps Road, and come up to  
9 the Spann's from the Wedgefield Road direction.  
10 And that's where right in this part of the parking  
11 lot where I know.

12 Q It's where he was shocked. I think you  
13 even said, clearly something had happened to him.

14 A Oh, there was no doubt in his mind he had  
15 a critical incident.

16 Q He came to a dirt road, and that's all he  
17 knows.

18 A Towards Wedgefield.

19 Q Towards Wedgefield. So show the jury what  
20 you did.

21 A Well I mean, at this point, I asked  
22 Weathersbee to stand still. We still need another  
23 deputy in a big area to check. But I went ahead  
24 and went up to this Isadore Nathaniel and I just  
25 took my time coming up in there.

## Investigator Hobbs-direct by Meadors

1           Q     And let's go back in time now.  You have  
2     got a good memory here.  It's late at night;  
3     right?

4           A     Oh, it's after 12:30.  I got off at 12:30.  
5     It was before one, 12:30.  Somewhere like that.

6           Q     So it's September 20th.

7           A     It really is.  Early Sunday morning.

8           Q     As you are riding down here, describe that  
9     road.

10          A     It's a very rough road.  It always has  
11     been.  Even when I was a young rookie on the  
12     Sheriff's Office, and there was actually bigger  
13     pot holes and stuff that you want to dodge in your  
14     vehicle.  You can't go what you would call full  
15     speed, which at this point I would call 35 miles  
16     an hour.  You could not do that.  You would mess  
17     up your car.  So because of the situation, I am  
18     already going through leisurely travel, got my  
19     window down watching what is going on.  I am going  
20     very slow at this point.

21          Q     So at this point, I mean you don't really  
22     know what---

23          A     I don't know the situation completely.  I  
24     don't know what is wrong with his friend.  I know  
25     he is missing his friend,  and that he ran out a



## Investigator Hobbs-direct by Meadors

1 pretty good ways. This is a fair distance from  
2 where you are running if you are running on foot.  
3 I mean, we even thought maybe Burnt Gin. That's  
4 even a much harder. So that's why I picked this  
5 dirt road here to check first.

6 Q So it's dark.

7 A Very dark. No street lights. You have a  
8 couple of homes that have lights, but they are  
9 few and far between.

10 Q Trees, woody.

11 A Oh, yes, sir. Even the fields that you  
12 see here are very thick. They are waist high. So  
13 it's not like, this gives you at least the  
14 dynamics of the field. At this time of year  
15 2010, the weeds were very high. It was just a  
16 very rural area.

17 Q You going down Isadore Nathaniel.

18 A Yes, sir.

19 Q And there comes I believe, a mud puddle  
20 over here.

21 A Yes, sir. Oh, it's huge. It's a very  
22 big mud puddle. I don't see at first. At this  
23 time I see the Lincoln SUV vehicle.

24 Q And let's show right here, and we will be  
25 through with this in just a minute.

## Investigator Hobbs-direct by Meadors

1           A     Okay.

2           Q     I'm showing you what's State's No. 4. Did  
3 you see that?

4           A     That is the vehicle. I actually saw it on  
5 the other side.

6           Q     Okay, I understand.

7           A     Yes, sir.

8           Q     You were coming the other way.

9           A     That's correct.

10          Q     You see this in the woods. And that---

11          A     It looked like a vehicle accident.  
12 That's, when you see it, you say this is not  
13 right. It's crooked in the road.

14          Q     And at that point, you don't know what car  
15 was involved or anything.

16          A     I don't know this vehicle. This vehicle  
17 is brand new to me at this point. I don't -- I  
18 didn't know of any vehicle description at this  
19 point.

20          Q     And looking at State's 4, there appears to  
21 be part of the mud puddle. Would that be the same  
22 mud puddle that's here?

23          A     Yes, sir.

24          Q     So I guess your testimony is that this  
25 vehicle was before the mud puddle at this point.

## Investigator Hobbs-direct by Meadors

1 A Yes, sir.

2 Q So State's 5 that would be roughly in  
3 here.

4 A Yes, sir. And then as soon as you drive  
5 up, you can see the mud puddle very clearly. The  
6 car grabs your attention in the dark area in your  
7 headlights. Because of the color of the car and  
8 you say I am really focused on the car and because  
9 of the type column.

10 Q I think that's all we need of State's 5  
11 for. If you will take a seat back, please.

12 (Whereupon, the witness resumes the  
13 witness stand.)

14 Q You are coming -- State's Exhibit No. 4,  
15 you are coming this way.

16 A Yes, that is from Wedgefield Road. The  
17 passenger's side.

18 Q Tell the Ladies and gentlemen of the jury,  
19 what do you observe.

20 A When I am driving down and I see the car,  
21 and I notice the car quite clearly. And the car  
22 is awkward. The road goes one way, and car is  
23 perpendicular in the road. And then the woods, a  
24 portion of the woods. Then at this time I see a  
25 young black male on the passenger side laying

## Investigator Hobbs-direct by Meadors

1 down. His pants are down, his shirt is up. He's  
2 what I would call riddled with injuries.

3 I immediately stopped the vehicle. Exit  
4 my vehicle in what we call the apex of the door.  
5 Where the door and the entry lap, enter there. I  
6 did call out very quickly. He's, everything  
7 appeared lifeless. And like I said, the injuries  
8 were very riddled. It was very noticeable where I  
9 was at. Knowing there was a shot fired, called,  
10 it looked every bit at this moment what I would  
11 call an ambush situation. I was very worried  
12 about my own officer's safety.

13 I immediately called for back up. And I  
14 immediately did like I said, the call out, and  
15 kept up a defensive position at my door. Really I  
16 unholstered my weapon at this particular moment.

17 Q Based on your experience, training and  
18 just observing the young body of Xavier Titus, he  
19 was dead?

20 A Yes, sir. He was very much lifeless.

21 Q Do you stay there to -- you're literally  
22 the first officer on that death scene.

23 A That is correct.

24 Q And I know you grab your, you don't know  
25 what's up. You grab your---

## Investigator Hobbs-direct by Meadors

1           A     I took a defensive position.

2           Q     Do you stay there until other officers  
3 arrive?  Crime scene investigators or other?

4           A     Well I was there; yes, sir, almost for the  
5 beginning of the first two hours of the scene but  
6 did call for back up several times.  As you heard  
7 from Corporal Weathersbee, he went to the wrong  
8 scene.  As matter of fact, I had another  
9 supervisor who tells me that he's with you.  I was  
10 very much alone.  There was no doubt that he was  
11 not with me.  I really wanted him to come at this  
12 particular time.  It was a worrisome situation.  
13 But Weathersbee finally did come to the scene.  
14 And we cleared the other side of the vehicle and  
15 tried to make the area as safe as we could, to  
16 call in the rest of the crime scene supervisors  
17 and investigators.

18          Q     You stayed with Xavier's body until others  
19 got there.

20          A     Absolutely, sir.  I wouldn't go until I  
21 was officially relieved.  And that is the perfect  
22 crime scene situation.  And I think it was  
23 Sergeant Burnish at the time.  It's Lieutenant  
24 Burnish now.  But I do remember briefing him at  
25 the scene.

Investigator Hobbs-direct by Meadors

1 MR. MEADORS: Mr. Murphy, can we approach?

2 (Whereupon, the attorneys approach the  
3 bench and confer with judge.)

4 Q You described the car and the body; that  
5 being Xavier Titus. Look at State's 7, and tell  
6 me is that what you saw when you came upon the car  
7 and the body on September 20th 2010?

8 A Yes, sir.

9 Q On Isadore Nathaniel Road.

10 A This is what I drove up on, and secured  
11 back up on for the scene.

12 MR. MEADORS: Your Honor, State's 7  
13 without objection.

14 THE COURT: Is that correct?

15 MR. MURPHY: Yes, Your Honor.

16 (Photograph marked State's Exhibit No. 7  
17 into evidence.)

18 (Exhibits 14 through 47 marked.)

19 Q Now Senior Investigator Michael Bean, does  
20 he work with you? Or did he work with you then  
21 and now?

22 A We work for the same sheriff's office;  
23 yes, sir.

24 Q And would he be one of the investigating  
25 officers that would have come and gathered

## Investigator Hobbs-direct by Meadors

1 evidence and looked at the scene?

2 A Yes, sir. That is his responsibility with  
3 the sheriff's office.

4 Q Did you, you were the first officer on the  
5 scene. First, you are Captain.

6 A Yes, sir.

7 Q You are going out there. Did you see any  
8 weapon on Titus there?

9 A I saw no weapons. We did -- that's when  
10 the back up officer came, that is what we are  
11 searching for, any other victims, any other  
12 suspects. Weapons are very much a key concern.  
13 Those are the things that we are concentrating on.  
14 We did not see any at this time.

15 Q I mean but physically in his hand or near  
16 his body---

17 A No, sir.

18 Q ---Zavier Titus.

19 A Absolutely not, sir.

20 MR. MEADORS: Thank you, sir.

21 A Yes, sir.

22 THE COURT: Mr. Murphy.

23 MR. MURPHY: No questions.

24 THE COURT: Thank you, sir. Ladies and  
25 gentlemen, now is a good time to break for lunch.

## Investigator Hobbs-direct by Meadors

1 Please do not discuss anything about the case  
2 while you at lunch. You can use your cell phone,  
3 but please do not use that to disclose anything  
4 about the trial. We will resume testimony at  
5 2:00 o'clock. Have a nice lunch.

6 (Whereupon, at 11:54 a.m. jury dismissed  
7 for lunch.)

8 THE COURT: Court will be in recess until  
9 2:00 p.m.

10 (State's Exhibit Nos. 8-41 marked into  
11 evidence.)

12 THE COURT: You may bring the jury.

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

15 THE COURT: Ladies and gentlemen, it's a  
16 little cool in here. And considering it's June  
17 5th, we really can't complain. When it's warm  
18 jurors tend to get a little sleepy. I had a  
19 trial last year when I noticed one of the juror's  
20 heads was kind of wobbling. So I stopped the  
21 testimony and told them to all stand up. And one  
22 of them could not stand up. Sound asleep. So I  
23 will try to give you enough breaks to keep you  
24 alert. Is the state ready to proceed?

25 MR. MEADORS: Yes, sir, thank you.



Investigator Hobbs-direct by Meadors

1 THE COURT: The defense ready to proceed?

2 MR. MURPHY: Yes, sir.

3 THE COURT: You may call your next  
4 witness.

5 MR. MEADORS: Your Honor, the State of  
6 South Carolina calls Sergeant Michael Bean.

7 Michael Douglas Bean, being  
8 first duly sworn, testified as follows:

9 THE CLERK: State your full name and spell  
10 your last for the record.

11 A Michael Douglas Bean. B-E-A-N.

12 DIRECT EXAMINATION By Mr. Meadors:

13 Q Good afternoon, Sergeant. Could you tell  
14 the Ladies and gentlemen of this jury, about  
15 yourself. Where you are from. Where you were  
16 raised. Your education, your training. And in  
17 particular, your training in law enforcement.  
18 Where did you go to school?

19 A All over the world. My dad was military.  
20 We went all over. Three years was the longest  
21 duration. I graduated from Hillcrest High School  
22 in Dalzell. Stayed here. Went to USC, went to  
23 Tec. Wound up getting a degree from St. Leo's.

24 Q In, in what? What was your degree in?

25 A Resource Management with a minor in

## Sergeant Bean-direct by Meadors

1 Information Systems. I spent 30 years working in  
2 the computer field with a manufacturer in heating  
3 for Westinghouse, Cutler Hammer. Retired from  
4 that and joined the sheriff's office as a patrol  
5 officer. And about a year and a half into that,  
6 they decided they needed somebody in the crime  
7 scene with that computer background to do some of  
8 the things we do there now. And I was recruited  
9 into that. And I have been there since I guess,  
10 early 06.

11 Q And your role has been in crime scene  
12 exclusively?

13 A Yes, sir.

14 Q And explain that to the Ladies and  
15 gentlemen of this jury. As a crime scene  
16 investigator, you may say I am crazy, but what do  
17 you do?

18 A A short version when we go to a crime  
19 scene, we get the information from officers on  
20 the scene. We go through and try to collect the  
21 evidence that either validates or disproves the  
22 story we are being told. We collect the  
23 documents, package it, and then have it processed  
24 whether it be with us or sled or somebody else.

25 Q And when you collect evidence you don't

## Sergeant Bean-direct by Meadors

1 really know at that point whether or not it's  
2 relevant or has anything to do with the case  
3 necessarily; do you?

4 A Sometimes, no.

5 Q Now let's go specifically to September  
6 19th. And I have been saying 19th, between  
7 Saturday and Sunday. Look at a calendar of  
8 September 2010. Would the Saturday be actually  
9 the 18th, and the Sunday the 19th?

10 A Yes, sir.

11 Q And so this early morning hours of 12:30  
12 of that Sunday would have actually been the Sunday  
13 of the 19th; correct?

14 A Yes, sir.

15 Q Did you have occasion to respond to  
16 Isadore Nathaniel Road on September 19th?

17 A Yes, sir, I did.

18 Q And were you on call?

19 A We are always on call; yes, sir.

20 Q And specifically where did you go?

21 A To Isadore Nathaniel; a dirt road off of  
22 Wedgefield Road.

23 Q Had you ever been on that road before  
24 prior to this?

25 A No, sir.

## Sergeant Bean-direct by Meadors

1 Q And tell the jury what if anything you  
2 observed when you got there.

3 A There was an SUV in the woods, a body  
4 beside it in the passenger door. Officers of  
5 course were all over the scene, blocking the  
6 scene; securing it.

7 Q State's 7. Is that what you observed?

8 A Yes, sir.

9 Q And who actually took these pictures?

10 A I did.

11 Q What did you do when you got there?

12 A We talked to the officers to find out what  
13 the details the best we could. Then we began  
14 photographing it as it was before anything is ever  
15 disturbed.

16 Q And I am going to show you, may I  
17 approach?

18 THE COURT: You may.

19 Q Some pictures that are already in  
20 evidence. State's 30, can you tell the Ladies  
21 and gentlemen of jury what that is?

22 A That's the driver's door of the SUV.

23 Q And there appears to be holes in here.

24 Based on your experience and training and just  
25 looking at it then, what does that appear to be?

## Sergeant Bean-direct by Meadors

1 A Bullet holes.

2 Q State's 31. You can grab on. Just speak  
3 into the mike whenever you need to.

4 A This is the rear of that same vehicle.

5 Q Thirty-two.

6 A This the passenger side of that vehicle  
7 there, the SUV, in the woods.

8 Q Thirty-three.

9 A This is a look inside the passenger door  
10 of that vehicle.

11 Q Now does it appear to you, well let me ask  
12 you, State's 7, is that the body of who we now  
13 know is Titus? Mr. Titus? Is that outside the  
14 passenger side door?

15 A Yes, sir.

16 Q State's Exhibit No 34.

17 A This is a similar view to the previous  
18 view. It's looking in the passenger's door.

19 Q Take you back to State's Exhibit No. 1.  
20 Does it appear, this is the driver. Does that  
21 show the driver's side door on State's No. 1?

22 A Yes, sir. It is somewhat hidden, but it's  
23 basically there.

24 Q And does that show some type of little  
25 tree next to the driver's side door?

## Sergeant Bean-direct by Meadors

1 A Yes, sir.

2 Q State's Exhibit No. 35.

3 A Keys that were on the dirt road, that were  
4 on Isadore Nathaniel Road up the path.

5 Q Thirty-six.

6 A This is a view of the passenger seat with  
7 a marker by a bullet hole, or a hole in the seat  
8 itself.

9 Q Thirty-seven.

10 A This is this same seat in the previous  
11 view, but on the other side where a bullet came  
12 out.

13 Q So is it fair to say you documented that  
14 this vehicle received several bullet holes that  
15 even went inside; correct?

16 A Yes, sir.

17 Q And that's indicated on the seats inside;  
18 correct?

19 A Yes, sir.

20 Q And there's blood inside.

21 A Yes, sir.

22 Q And the victim's body was found outside  
23 the passenger side; correct?

24 A Correct.

25 Q Now State's 38, what is this, please, sir.

## Sergeant Bean-direct by Meadors

1           A     This is a Toyota that was -- a truck that  
2     was towed to the sheriff's impound yard; which it  
3     belonged to Mr. Green.

4           Q     Mr. Kelvin Green.

5           A     Mr. Kelvin Green.

6           Q     So this morning, not this morning, but  
7     that morning September 19th 2010, in the early  
8     morning hours, you went out to Isadore Nathaniel  
9     Road and took these pictures.

10          A     Yes, sir.

11          Q     Documented the car and the scene there.

12          A     Yes, sir.

13          Q     Did that end your investigation?

14          A     No, sir.

15          Q     Was it dark out there that night?

16          A     Very; yes, sir.

17          Q     Did you have an occasion, and is it your  
18     practice and custom, do you normally go to a crime  
19     scene once?

20          A     No, sir. We make multiple visits.

21          Q     Did you have an occasion to go back out to  
22     the crime scene later that day or another time?

23          A     Yes, sir. When they were going back out  
24     and looking again.

25          Q     Same day.

## Sergeant Bean-direct by Meadors

1 A Same day.

2 Q You go back out. Could you see there?

3 A Oh, yes, sir.

4 Q Now, I don't need you to come down. Here  
5 is State's Exhibit No. 5. Would you just agree  
6 that this is an aerial of the area that we are  
7 talking about?

8 A Yes.

9 Q And you can agree with me if you want to.

10 A Yes, sir.

11 Q And the reason I am asking you that, did  
12 you take pictures of this area, and then kind of  
13 move on in and take closer pictures?

14 A Yes, sir.

15 Q So State's 5 would you agree with me that  
16 that is Spann's?

17 A That is.

18 Q And would you agree with me that this is  
19 Isadore Nathaniel Road?

20 A Yes, sir.

21 Q I am going to show you what is No. 9. And  
22 did you actually produce it?

23 A Yes, sir, that's a sketch I did of the  
24 scene.

25 Q I am going to come back to this when we



Sergeant Bean-direct by Meadors

1 finish. Can he step down---

2 THE COURT: Sure.

3 Q ---for a second right now? This will be  
4 brief right now.

5 (Whereupon, the witness steps down from  
6 the witness stand.)

7 Q I don't think you will have any problem  
8 speaking up, but please speak up. Tell the jury  
9 what State's 9 is.

10 A This is a sketch I did of the scene; the  
11 wooded area. We saw the vehicle in the woods. A  
12 huge mud puddle here. The victim's body. This  
13 direction goes to Isadore Nathaniel. This  
14 direction T's into Farmer's Road. If you go the  
15 other way, you are going down the Wedgefield Road.  
16 These are some areas of interest we photographed,  
17 other photos.

18 Q And I am going to come back to this again,  
19 but you produced this; correct?

20 A Yes, sir.

21 Q And did you find potential evidence in  
22 this area here that's marked?

23 A Yes, sir. In the wood line here, we found  
24 a beer bottle, plastic cigarette mouthpiece and an  
25 unfired bullet round. A little further a few feet

## Sergeant Bean-direct by Meadors

1 over we found fired bullet cartridges. Four fired  
2 bullet cartridges.

3 Q And marked over here it says Kelvin's  
4 cell phone.

5 A Cell phone.

6 Q Here is the mud puddle; correct?

7 A Yes, sir.

8 Q And if you went back this way, this will  
9 take you to where Spann's is up here; correct?

10 A That's Wedgefield Road.

11 Q You can have a seat back.

12 (Witness resumes the witness stand.)

13 Q And let's start off with the mud puddle.

14 No. 10, does that show the mud puddle?

15 A Yes, sir.

16 Q And when you take the pictures, are you  
17 trying to get an idea of the scene so you can come  
18 in like we're doing right now, and show the jury  
19 what you saw?

20 A Correct. We try to give a visual  
21 presentation of the area; what we saw and what  
22 happened.

23 Q State's 9. The mud puddle; correct?

24 A Yes, sir.

25 Q Mud puddle State's 10.

Sergeant Bean-direct by Meadors

1 A Correct.

2 Q Now if we are going to head up this way,  
3 away from the mud puddle, is that what this  
4 picture depicts in State's 8?

5 A Yes, sir.

6 Q In State's No. 11, can you show what that  
7 depicts?

8 A This is the wood line where the items were  
9 found. The sketch at that time. They were in  
10 this area here which is Isadore Nathaniel Road.

11 Q Show us on here.

12 A This is State's Exhibit No. 9.

13 Q Show us on State's 9 where this is on  
14 State's 11.

15 A Okay. That would be turn it around. That  
16 would be looking at this area with the yellow  
17 circles from the item looking into that direction.

18 MR. MEADORS: Judge, it might be easier if  
19 I ask him to come on back down.

20 THE COURT: All right.

21 Q State's Exhibit No. 12.

22 A The same wood line you saw with the yellow  
23 circles in the sketch. Looking at it from a  
24 different angle.

25 Q Show again on State's 9.

## Sergeant Bean-direct by Meadors

1           A     That would be this area. Which would be  
2     this area here.

3           Q     Show me on here. Not only the mud  
4     puddle.

5           A     It's further around behind the officer.

6           Q     Back around here.

7           A     Yes, sir.

8           Q     Are you trying to move in on what you are  
9     looking at?

10          A     Yes, sir. We're kind of starting out and  
11     move into, bring it up a little closer.

12          Q     State's 13, show the ladies and gentlemen  
13     what that is.

14          A     This is a yellow area here where the  
15     fired rounds were located in the edge of the,  
16     south of the tree line.

17          Q     Five, 6; correct? Five, 6, 7, 8.

18          A     Yes, sir. There is a -- it's actually a  
19     beer bottle and the unfired rifle round and a  
20     cigar were in this area right here. And the  
21     items, the four rounds are a little further out.

22          Q     I am going to go ahead and be specific in  
23     a minute. But State's Exhibit 13 shows the three  
24     unfired rounds; correct? The beer bottle, the  
25     plastic cigar and mouthpiece.

## Sergeant Bean-direct by Meadors

1           A     Yes, sir. It doesn't show the unfired --  
2     yes, sir, it does show the unfired rounds. I am  
3     sorry. Yes, sir.

4           Q     And 5, 6, 7, 8, those are cards or  
5     placards.

6           A     Yeah, they are photo markers.

7           Q     And you put those on the scene. And you  
8     come in and tell the jury those are 5, 6 and No.  
9     7.

10          A     Correct.

11          Q     Now looking at State's 14, is that  
12     included in State's 13?

13          A     Yes, sir. These bushes are a little  
14     further out, but they are depicted in the right  
15     side of that photo.

16          Q     That bush; is that a bush?

17          A     Yes, sir.

18          Q     And can you see in here on State's No. 14  
19     one of the placards?

20          A     Yes, sir. It is hard to see because it is  
21     angled away from it. I believe that's marker No.  
22     6.

23          Q     Right there.

24          A     Right there.

25          Q     So again you are coming in; correct?

Sergeant Bean-direct by Meadors

1 A Yes, sir.

2 Q So this is a close up of this.

3 A Yes, sir. Well this is really a close up  
4 of this. This is 6, and you will see 6 right  
5 here.

6 Q For the Ladies and gentlemen of the jury,  
7 that just ties you back directly to this tape.

8 A Yes, sir.

9 Q What is 15?

10 A Some broken branches from that same area,  
11 where some of the branches were broken.

12 Q So you go even further with 15 from 14;  
13 correct?

14 A Yes, sir.

15 Q Closer in. Is that fair to say? And  
16 again referring back to No. 9, the diagrams that  
17 you made and all of these are a picture of what  
18 area?

19 A The crime scene.

20 Q Okay. On No. 9 where are we?

21 A This area here, the yellow markers.

22 Q State's No. 16. All these in evidence.  
23 What's that a picture of?

24 A Marker No. 1 which is a cell phone.

25 Q And State's 7, is that a closer picture of

Sergeant Bean-direct by Meadors

1       that?

2           A     That's a closer picture of Marker No. 1,  
3       the cell phone; yes, sir.

4           Q     Is that what you do, take a closer  
5       picture?

6           A     Yes, sir.

7           Q     And that cell phone, is that the cell  
8       phone?

9           A     Yes, sir.

10          Q     State's 40?

11          A     Yes, sir.

12          Q     Come back to Kelvin Green?

13          A     Yes, sir.

14          Q     State's 18, is that another shot of the  
15       area where you depicted where these items were  
16       found?

17          A     Yes, sir. It's just a little different  
18       angle. It's the same tree line or wood line.

19          Q     So generally where was the evidence that  
20       you collected in State's No. 18?

21          A     It would have been back over here.

22          Q     Would you describe this as wooded?

23          A     It's fairly heavily wooded; yes, sir.

24          Q     Now State's No. 2, do you all sometimes  
25       take pictures of something that just doesn't

## Sergeant Bean-direct by Meadors

1 really have anything to do with anything?

2 A Right. We didn't know whether it played a  
3 part of the case.

4 Q This is placard No. 2. Is that a placard  
5 which really didn't have anything to do with it?

6 A Correct.

7 Q But you took it just to take it?

8 A Yes, we did. We didn't know whether it  
9 pertained to the case or not. When we collected  
10 it, it was just plastic.

11 Q State's 20?

12 A It's the same picture. Same wood line.  
13 Roadway in the back. These are the fired rounds.

14 Q And you have got three. Are there three  
15 things in here depicting that?

16 A Yes, sir. There is three pointers that  
17 show the cartridges, and we used one marker in the  
18 photo, which is 3. And the three fired  
19 cartridges.

20 Q And it's a little closer up on State's  
21 Exhibit No. 21?

22 A Closer view, the same thing, markers and  
23 photo markers.

24 Q And I actually look like I got a couple  
25 more in here. State's 22.



## Sergeant Bean-direct by Meadors

1           A     A different angle, the same items. Out  
2     from the tree line just a little bit.

3           Q     Twenty-three?

4           A     Same items again.

5           Q     You collected these, and actually they all  
6     say what they are collected for.

7           A     Yes, sir.

8           Q     But you got them and turned them into  
9     evidence?

10          A     Yes, sir. We documented them and entered  
11     them into evidence. And transferred them to sled.

12          Q     State's No. 4. Excuse me, Judge, I  
13     apologize. 24. Which was a Placard No. 4.

14          A     This is a fourth single fired round. Just  
15     out from the previous three. Indicated by the red  
16     marker.

17          Q     That was in what type of round?

18          A     Fired round.

19                 MR. MEADORS: Beg the court's indulgence.

20          Q     Looking at State's 39, and tell me what  
21     that is.

22          A     This is an unfired round taken from that  
23     same area.

24          Q     And looking back at your diagram, can you  
25     show us where that was found?

## Sergeant Bean-direct by Meadors

- 1 A Where the beer bottle and the items were.
- 2 Q And would that be depicted in No. 26?
- 3 A That is the item, yes, sir.
- 4 Q No. 26 is a picture of No. 39.
- 5 A Correct.
- 6 Q Then show us on your No. 9 where that is
- 7 depicted.
- 8 A Right here. In that yellow area right by
- 9 the wood line.
- 10 Q And getting back to No. 4, that was a
- 11 fired casing; correct?
- 12 A Correct; yes, sir.
- 13 Q And that was coming back from sled also;
- 14 correct?
- 15 A Yes, sir.
- 16 Q Is that another picture too? No. 5?
- 17 A That is. That is the same time.
- 18 Q I just asked you about No. 5. No. 5 is
- 19 No. 26. Going back to No. 13, what placards do
- 20 you see in here?
- 21 A Five, 6, I believe that's 7 and 8.
- 22 Q So this is a close up of No. 5; correct?
- 23 A Yes, sir.
- 24 Q No. 26 is close up of No. 5.
- 25 A Yes.

Sergeant Bean-direct by Meadors

1 Q On State's 13.

2 A Yes, sir.

3 Q No. 6, State's 27.

4 A Yes, sir. That's a cigarette, cigar butt,  
5 plastic.

6 Q You collected everything and you don't  
7 know whether it is relevant or not?

8 A Correct.

9 Q No. 7?

10 A A beer bottle at the same scene.

11 Q The same scene. And on State's Exhibit  
12 No. 13, where is this on No. 7?

13 A It's in the back.

14 Q Back where my finger is?

15 A Yes, sir.

16 Q And State's Exhibit No. 7, does that  
17 contain 41, State's 41?

18 A Yes, sir, this is the beer bottle. Item  
19 7. Or marker 7, excuse me.

20 Q Marker 7. Is that the beer bottle?

21 A Yes, sir.

22 Q No. 7. On No. 28, this beer bottle in my  
23 hand. State's 41. You collected it.

24 A Yes, sir.

25 Q What did you do with it? As well as this

. Sergeant Bean-direct by Meadors

1 other evidence.

2 A We entered it into evidence with the  
3 latents from the bottle; did a swab off of that.  
4 We submitted those items.

5 Q I'll come back to that in a minute.  
6 Placard No. 29.

7 A I believe that's a cigarette butt. A  
8 cigar butt.

9 Q That's No. 6.

10 A I don't know what it is.

11 Q Referring to 9, can you tell me.

12 A It looks like a cigar butt.

13 Q Okay. Have a seat back. We will figure  
14 it out.

15 (Whereupon, the witness resumes the  
16 witness stand.)

17 Q Let's go back to No. 7, which will be the  
18 beer bottle. State's 42. You said you dusted it  
19 for prints or tried to take latent prints?

20 A Yes, sir.

21 Q And what if anything -- were you able to  
22 do that?

23 A Yes, sir. I lifted the latents and  
24 submitted it to the agent's office for analysis.

25 Q Tell the Ladies and gentlemen of this

## Sergeant Bean-direct by Meadors

1 jury, what that means. I mean, every day  
2 language. You lifted a latent. What's a latent?

3 A I took a -- I lifted a powdered bottle up.  
4 Produced a print. Took the latent lifters, print  
5 lifters. Lifted the print, put it on a back of a  
6 card. Documented everything. Then I submit it to  
7 Marie Hodge at the Sumter PD who runs the Avis  
8 computers. She submits it to try to see if it  
9 will come back with a match.

10 Q So you yourself lifted a latent off this.

11 A Yes, sir.

12 Q And when you left a latent off a bottle,  
13 do you know who it will be if anybody?

14 A No, sir.

15 Q Anyway to look at that with your naked eye  
16 and say well that's so and so or that's so and so?

17 A No, sir.

18 Q Do you just try to find -- see if you can  
19 identify them?

20 A Correct.

21 Q You also swabbed the bottle you said?

22 A Correct the bottle; yes, sir.

23 Q And both of those you put into evidence  
24 for someone to test later?

25 A Correct.

Sergeant Bean-direct by Meadors

1 Q Now referring back to an evidence log,  
2 does this refresh your memory on -- beg the  
3 court's indulgence.

4 THE COURT: Sure.

5 (State's Exhibit Nos. 42, 43, 44 marked  
6 for Id.)

7 Q Were there several cell phones found in  
8 the car on Isadore Nathaniel Road?

9 A Yes, sir.

10 Q And can you look at these and tell if  
11 these are the phones?

12 A Yes, sir. They are the phones.

13 Q By Mr. Meadors) Your Honor, without  
14 objection.

15 THE COURT: Well they are already in.  
16 Which were these?

17 MR. MEADORS: These are not in yet. 42,  
18 43, 44 just marked.

19 THE COURT: 42, 43, 44 admitted without  
20 objection. You may proceed.

21 (Cell phones marked State's 42, 43, 44  
22 into evidence.)

23 Q Do you know Kelvin Green? Did you know  
24 Kelvin Green?

25 A No, sir.

Sergeant Bean-direct by Meadors

1 Q Do you Thomas Geddie?

2 A No, sir.

3 Q Did you know the victim in this case?

4 A No, sir.

5 MR. MEADORS: I think that's all I have at  
6 this time.

7 THE COURT: Any cross examination?

8 MR. MURPHY: Thank you, Your Honor.

9 Cross Examination by Mr. Murphy:

10 Q From the referring to No. 9 here in the  
11 diagram here you helped create.

12 A Yes, sir.

13 Q You tried to be as close to scale as  
14 possible; correct?

15 A It is not to scale.

16 Q But were there any along between the road  
17 and the wood line; okay, were you able to discern  
18 whether or not there were any tire tracks? I mean  
19 I notice there is a red arrow from here to here,  
20 were any tire tracks along this area here?

21 A No, it was---

22 Q Were there any impressions or anything?

23 A ---a lot of grass just growing in the  
24 field. That's what the pictures depict. There  
25 were impressions where the cars had driven, not

## Sergeant Bean-cross by Murphy

1 tracks, impressions.

2 Q Okay. There was clearly an impression  
3 where the vehicle had been there; correct?

4 A Yes, sir.

5 Q All right.

6 A In that area.

7 Q And based on information you developed  
8 over time, that's where you get these red lines  
9 going from here to the cars?

10 A Correct.

11 Q About how many, if you recall, from where  
12 you got the beer bottle and the fired rifle,  
13 cartridges, about how many feet would it be from  
14 the impressions of the vehicle to where you found  
15 those items? Do you recall?

16 A No, sir. I don't know exactly how many  
17 feet. No more than 8, 10 feet maybe.

18 Q Okay. No more than 10.

19 A Probably less.

20 Q Probably less?

21 A Probably.

22 Q And then where you found Mr. Green's  
23 phone, would that be on the same side as the  
24 impressions, the same side or further down?

25 A They were impressions more than one set in



## Sergeant Bean-cross by Murphy

1       that area.

2           Q     Okay.

3           A     So it was near other impressions; yes,  
4       sir.

5           Q     Okay.  So it's further away from the  
6       impressions that---

7           A     Yes, sir.

8           Q     ---you concluded were based on the vehicle  
9       that the victim was driving.

10          A     Correct.

11          Q     Okay.  Did you find any shoe imprints in  
12       that area?

13          A     No, sir.

14          Q     I am going to show State's Exhibit No. 28.  
15       Do you remember, refer your focus to the upper  
16       left hand corner.  Do you know what that is?

17          A     That's a beer bottle.

18          Q     Okay.  Is that a Budweiser beer bottle?

19          A     It was; yes, sir.

20          Q     And this is Kelvin Green's vehicle?

21          A     Correct.

22          Q     And this is a picture you have taken at  
23       where?

24          A     Sheriff's office.

25          Q     Sheriff's office.  So it was up there

## Sergeant Bean-cross by Murphy

1       when you arrived and started taking pictures;  
2       correct?

3           A       Yes.

4           Q       Right.  You took a closer picture than  
5       this actually of the beer bottle.

6           A       I believe I did.

7           Q       Okay.  Did you put that beer bottle into  
8       evidence?

9           A       Yes, sir.

10          Q       Did you lift any prints from that bottle?

11          A       No, sir.

12          Q       And it was sitting on top of Kelvin  
13       Greens's vehicle.

14          A       Yes, sir.

15          Q       I mean when you came about it, that's  
16       where it was?

17          A       Yes.

18          Q       Are you sure that, now I ask this  
19       question.  Were there any shoe impressions at all  
20       that you recall?

21          A       There were not any impressions; no, sir.  
22       It was muddy.  You saw the mud hole.  There were  
23       shoe skids if you will, all in the area out there.  
24       But the officers had been there prior.

25          Q       I am just going to -- if you would mark

## Sergeant Bean-cross by Murphy

1 this please.

2 (Shoe impression report marked Defendant's  
3 No. 1 for id.)

4 Q I just want to show you Defendant's  
5 Exhibit 1, and see if this refreshes your  
6 recollection. Look at the bottom of the page. I  
7 have checked it there.

8 MR. MEADORS: Your Honor, that's without  
9 objection.

10 THE COURT: Defense Exhibit No. 1 is  
11 admitted without objection.

12 A Right.

13 Q By Mr. Murphy) Your Honor, I am offering it  
14 for admission. I am just offering it to refresh his  
15 recollection.

16 MR. MEADORS: I apologize.

17 MR. MURPHY: But thank you.

18 Q So there was a shoe impression there;  
19 correct?

20 A There were several all around. Stuck in  
21 the mud.

22 Q Nothing that you were able---

23 A Nothing that we could try to ID; no.

24 Q You determined that it is a very light  
25 shoe impression.

## Sergeant Bean-cross by Murphy

1 A Yes.

2 Q I mean you collected a bunch of stuff.  
3 Some of the stuff ended up being relevant. You  
4 also collected, you know, unspent shells in the  
5 bed of the truck and things that you would  
6 determine were relevant; correct.

7 A Correct.

8 Q Winchester rifle, cartridges that were in  
9 the bed of the truck?

10 A Yes, sir.

11 Q By Mr. Murphy) If I could have a moment.  
12 Your Honor.

13 THE COURT: Certainly.

14 MR. MURPHY: Thank you very much. I have  
15 nothing further.

16 THE COURT: Any redirect?

17 MR. MEADORS: Just a couple.

18 REDIRECT EXAMINATION by Mr. Meadors:

19 Q Specifically to what he asked you about  
20 the partial shoe impression; correct? You pretty  
21 much take pictures of whatever you think is  
22 potentially relevant or may not be.

23 A Correct.

24 Q And showing you back, it was marked as  
25 Defense 1 for ID. Was that a partial shoe

## Sergeant Bean-redirect by Meadors

1 impression; right?

2 A Right.

3 Q Actually that's that photo Placard No. 8.

4 A No. 3, yes.

5 Q So that's, you couldn't even tell what it  
6 was on the photo, but that's the partial shoe  
7 impression?

8 A Correct.

9 Q But you couldn't tell -- no one is there  
10 to tell?

11 A There was not anything.

12 Q But that's the No. 8 placard on there was  
13 that; correct?

14 A Correct; yes, sir.

15 Q Now when you got to the scene, what's been  
16 testified to was Mr. Green's truck. That wasn't  
17 at the scene when you got there.

18 A No, sir.

19 Q You took this picture where?

20 A The sheriff's impound yard.

21 Q And you took, is this beer bottle in  
22 State's 38, this beer bottle here? That I am  
23 going to mark right now, and I apologize.

24 THE COURT: Any objection?

25 MR. MURPHY: No.

## Sergeant Bean-redirect by Meadors

1 THE COURT: This is State's?

2 THE REPORTER: 45.

3 THE COURT: 45.

4 (Beer bottle marked State's No. 45 into  
5 evidence.)

6 A Yes, sir.

7 Q You collected that?

8 A Yes, sir.

9 Q From the back of this truck.

10 A Correct.

11 Q Did you do anything with it?

12 A No, sir.

13 Q And when was that photo taken?

14 A I don't have a date. I don't have that  
15 date.

16 Q And Mr. Murphy asked you about some shell  
17 casings that you got from the truck. Were they  
18 consistent or inconsistent with the ones you found  
19 on the scene?

20 A They were inconsistent.

21 (Shell casings marked State's Nos. 46 and  
22 47 for id.)

23 Q 46 and 47, were these the ones collected  
24 from the Toyota truck?

25 A Yes, sir.

Sergeant Bean-redirect by Meadors

1 MR. MEADORS: Your Honor, I believe  
2 without objection.

3 MR. MURPHY: Without objection.

4 (Shell casings marked State's Exhibit Nos.  
5 46 and 47 into evidence.)

6 Q Based on your training and experience and  
7 just your eyes, do those appear to be weathered?

8 A Very; yes, sir.

9 Q Were State's 46 and 47 inconsistent with  
10 what you found on the scene?

11 A Yes, sir. They were inconsistent.

12 MR. MEADORS: Thank you. That's all.

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

14 MR. MEADORS: May we approach?

15 (Whereupon, attorneys approach and confer  
16 with judge.)

17 THE COURT: Ladies and gentlemen, I am  
18 going to send you to your jury room for a few  
19 minutes. Please do not discuss anything about the  
20 case. We will be out for about 15 minutes. So  
21 those of you who need to smoke.

22 MR. MEADORS: Your Honor, in my office  
23 Investigator Mims says I think the only prior  
24 record, just if we could settle that now.

25 THE COURT: Okay.

## Sergeant Bean-redirect by Meadors

1 MR. MEADORS: Would be a possession of  
2 cocaine from 2007. That's his only prior record.

3 THE COURT: Okay.

4 MR. MURPHY: Yes, sir.

5 THE COURT: You agree with that?

6 MR. MURPHY: Yes, sir.

7 THE COURT: Very well.

8 (Whereupon, the court takes a recess.)

9 THE COURT: You may bring the jury.

10 (Whereupon, the following takes place  
11 within the presence of the jury.)

12 THE COURT: Ladies and gentlemen, we have  
13 had a scheduling issue come up so that's all the  
14 evidence you are going to hear today. We are  
15 going to adjourn for the rest of the day. I  
16 instruct you to be back here at 10 o'clock  
17 tomorrow morning. And do not discuss the case  
18 with anyone when you go home for afternoon. If  
19 anyone asks you about it, tell them you are not  
20 allowed to talk about anything concerning this  
21 case. Have a nice evening.

22 You may want to bring a jacket or  
23 something because sometimes it gets chilly in  
24 here. Ladies and gentlemen, have a nice evening.  
25 We will see you tomorrow morning at ten clock.



## Sergeant Bean-redirect by Meadors

1 (Whereupon, the trial commences at 10:00

2 a.m. on Wednesday June 6th 2012.)

3 THE COURT: You may bring the jury.

4 (Whereupon, the following takes place within the  
5 presence of the jury.)

6 THE COURT: Is the state ready to proceed?

7 MR. MEADORS: Yes, sir.

8 THE COURT: Is the defense ready to  
9 proceed.

10 MR. MURPHY: Yes, sir.

11 THE COURT: You may proceed with your next  
12 witness.

13 MR. MEADORS: If It pleases, Your Honor.

14 THE COURT: Yes, sir.

15 MR. MEADORS: The State of South Carolina  
16 would now call Marie Hodge.

17 Marie Hodge, after being duly sworn,  
18 testified as follows:

19 THE CLERK: Please state your full name  
20 and spell your last name for the record.

21 A Marie A. Hodge. H-O-D-G-E.

22 Direct Examination by Mr. Meadors:

23 Q Good morning.

24 A Good morning.

25 Q Would you please give this jury, tell them

## Sergeant Bean-redirect by Meadors

1 about you; specifically, where you are from, where  
2 you were raised, your background, your education,  
3 your training; and in particular, your training in  
4 the field of expertise I have asked you to testify  
5 here today about.

6 A Yes. I was born and raised in Sumter. I  
7 have lived here most all of my life except for a  
8 short stint in Washington, D.C., where I worked  
9 with the FBI identification division. That's  
10 where I got my initial training for  
11 identification. I worked up there for several  
12 years. Came back to South Carolina and started  
13 with the Sumter Police Department in 1973. So you  
14 can see I have been there for quite some time.

15 I have received numerous schools; have  
16 worked with fingerprints this entire time off and  
17 on. I have received training through the State  
18 Law Enforcement Division, from the International  
19 Association Identification. And there are  
20 schools I have been to.

21 Q And current how long have you been in law  
22 enforcement?

23 A At Sumter Police Department 38 years.

24 Q And your primary duty is what?

25 A Right now I am the Avis Operator. And

Marie Hodge-direct by Meadors

1     Avis is Automated Fingerprint Identification  
2     System.

3         Q     Tell the folks a little bit about  
4     fingerprints.  What's the difference between a  
5     known and an unknown print?  Or a latent print or  
6     an ink print?

7         A     A latent print is a print that you left  
8     behind with your finger tip that you cannot see.  
9     It takes processing.  You have to dust it like  
10    powder or we have use some sort of processing  
11    solution to be able to see that fingerprint.  A  
12    known print of an ink or rolled print that is  
13    taken from someone.  Like if you are taking the  
14    prints and you know that it's a controlled  
15    environment.

16         Q     And in your job, what do you call that  
17     when you compare a latent print to a known print?

18         A     The comparison is, first you analyze the  
19     latent print in other words, to make sure that is  
20     some sufficient quality to even make the  
21     identification.  Once you've analyzed that for the  
22     quality of the printer to print, then you  
23     hopefully get a computer with one of those known  
24     prints.  And you have to actually compare them  
25     side by side to make sure that they are exactly

Marie Hodge-direct by Meadors

1 the same. Fingerprints are unique; in that, they  
2 are individual. Meaning there are no two alike,  
3 and they never change.

4 Q They never change.

5 A They never change.

6 Q And there are different types of surfaces  
7 that are more receptive to fingerprints than  
8 others?

9 A Well of course to a good latent print.  
10 Of course a smooth shiny surface would be the  
11 surface to get a good latent fingerprint from.  
12 And there are other surfaces. You can get  
13 fingerprints from a feather.

14 Q And your education in specifically  
15 fingerprint identification is what?

16 A Well my education specifically in  
17 fingerprint identification would take me back to  
18 the FBI. When you went to work for FBI,  
19 identification division you have to go to school  
20 for 3 months. That's 8 hours a day, 5 days a  
21 week, to study fingerprint identification before  
22 you can go back to floor and then do searches.  
23 That was the initial education and training.

24 And like I say, once I came to work for  
25 the Sumter Police Department my first duties were

Marie Hodge-direct by Meadors

1 in charge of the fingerprint identification  
2 jackets. In other words, we get fingerprints in  
3 from the jail. And I would have to go and see if  
4 that person had a prior record by comparing those  
5 fingerprints with prints on file. And comparing  
6 that jacket that was, like I say, from 73 until  
7 about maybe 76, when I went to the investigative  
8 services division; where I was the investigative  
9 services secretary and also did identification  
10 work comparing latent prints to known suspects.  
11 We didn't have computers back then. And he would  
12 say you had to have a basic suspect to compare to.  
13 And we worked -- I worked fingerprints the entire  
14 time.

15 Q How many comparisons do you think you have  
16 attempted over your career?

17 A Just since 2005, when we started the Avis  
18 system I'm up to over 2,000 cases. And each case  
19 probably averages at least two to three  
20 fingerprints. So that's going to be in the  
21 thousands there just since 2005.

22 Q Have you ever been offered and accepted in  
23 the courts of record in this state as an expert in  
24 the field of fingerprint identification?

25 A Yes, I have.

Marie Hodge-direct by Meadors

1 Q Numerous times?

2 A Yes.

3 Q By Mr. Meadors) Your Honor, at this time, we  
4 would offer Marie Hodge as an expert in the field of  
5 fingerprint identification?

6 MR. MURPHY: No objection.

7 THE COURT: Okay. Ladies and gentlemen,  
8 normally a person can only testify to what they  
9 have seen, heard, tasted, felt. But there is an  
10 exception to that rule when somebody has education  
11 and experience, then they are considered to be an  
12 expert witness. And when they are considered an  
13 expert witness, they can give an opinion. And  
14 they can tell you how they came up with that  
15 opinion. Whether you as jurors decide to accept  
16 her opinion, it's totally up to you all as the  
17 jurors, because you all are the finders of fact.  
18 And you all can decide whether you want to accept  
19 it or not. And if you don't believe that she has  
20 given a sufficient basis for that, you don't have  
21 to accept her opinion. And you should give it no  
22 greater weight simply because she is an expert.  
23 You should take it along with all the other  
24 evidence that is presented in this trial, and give  
25 it such weight that you believe it should have.

Marie Hodge-direct by Meadors

1 You may proceed.

2 MR. MEADORS: Thank you, Your Honor. May  
3 it please the court.

4 Q There has been testimony from Sergeant  
5 Bean that he lifted a print from a beer bottle at  
6 the scene of this incident. A latent print from  
7 a Budweiser beer bottle. Specifically Item No.  
8 41.

9 A Yes.

10 Q Did you have an occasion to examine that  
11 latent print and attempt to make a comparison?

12 A I had yes, an occasion to examine that  
13 latent print in the AVIS system. If you don't  
14 mind, I'll get my report out. Let me put my  
15 glasses on.

16 Q Yes, ma'am.

17 A Actually it was September 27th of 2010. I  
18 examined this when the AVIS system notified me  
19 that there was a possible match in the system.  
20 When I bought that up on my screen, I identified  
21 that particular latent fingerprint that was in  
22 there with the possible match that the AVIS system  
23 had said that it could be. And determined that it  
24 was in fact an identification. At that time the  
25 AVIS system only tells me a number. It doesn't

Marie Hodge-direct by Meadors

1 give me a name.

2 Q So at that time you had no idea who the  
3 person was?

4 A No, sir. I just had a number. If I can,  
5 this would be a sample of, you know, what would be  
6 the computer generated fingerprint identification  
7 looks like. And, you know, you can see it only  
8 brings me back numbers across the bottom. So I  
9 have to actually put that number up to tell, to  
10 the fingerprint log sheet. It did come back with  
11 identification to finger No. 5, which is the right  
12 little finger. And at this time, all I had was a  
13 number. After I said, once I looked that number  
14 up, the number identified Thomas Lee Geddie as the  
15 subject.

16 Q So what do you do then?

17 A Generate the report. After I looked up  
18 the numbers, generate the report. Any other  
19 finding or authority for the investigative  
20 division is sent to them. But I had  
21 identification, and send the report to them.

22 Q And can you show this jury the process you  
23 went through, and tell them how in your expert  
24 opinion you're saying the lift from the Budweiser  
25 bottle is Mr. Geddie's.



Marie Hodge-direct by Meadors

1 A Yes, if you will, I've prepared a chart.

2 MR. MEADORS: Mark this, please.

3 THE COURT: Admitted without objection.

4 (Chart marked State's Exhibit No. 50 into  
5 evidence.)

6 Q Tell us first, and I may ask you to step  
7 down. Tell us State's No. 50, what is that,  
8 please, ma'am.

9 A This is a chart of the fingerprint  
10 comparison that I did. And what I have done, is  
11 chart the points so that they are clear to  
12 everyone, and may be presented side by side so  
13 that you can see different points of  
14 identification. We talk about points of  
15 identification.

16 Your fingerprints are made up of ridges,  
17 which a ridge is, and every ridge has -- not every  
18 ridge, but most ridges have some identification  
19 points. You might have one ridge that's coming up  
20 and splits and makes two ridges. And at that  
21 little point where it splits, it's called  
22 bifurcation. So that would be a point of  
23 identification.

24 Another type of point would be a ridge  
25 that goes along and it stops abruptly. That would

Marie Hodge-direct by Meadors

( 1 be an ending ridge. And that's another point of  
2 identification. You could have shortages in  
3 between ridges, different things like that. So  
4 the space between the ridges is what we call a  
5 furrow. If you will imagine a farmer plowing a  
6 field, he's got that plow and it's going through.  
7 And it makes a furrow. Plant a seed in. And on  
8 the side of each furrow, there is a ridge. So  
9 that's basically what your fingerprint looks like.  
10 Okay, without the ridges and the furrow in  
11 between.

( 12 So we mark each point of identification.  
13 However we also have to make sure that all of the  
14 ridges that don't have any points are the same.  
15 So you have got a bifurcation here on this ridge,  
16 and you count two ridges that don't have any  
17 identification points. And then you have got an  
18 ending ridge. And those things also have to  
19 match.

20 Q And so you were looking from the latent  
21 print to the known print. And I'm saying, to see  
22 if you can come in here and give an expert opinion  
23 that that latent print is in fact Thomas Geddie's?

( 24 A Correct.

25 MR. MEADORS: And, Your Honor, I'm sorry.

Marie Hodge-direct by Meadors

1 Can I approach the witness?

2 THE COURT: Certainly.

3 Q And just staying there for sound purposes,  
4 Marie, on State's 50, you have got, it looks like  
5 11 boxes with the lines going back.

6 A Correct. I have 11 points that I plotted.  
7 But there are also further identification points  
8 on there that I didn't plot. You know that the  
9 jury sees. If they want to take it back in the  
10 room, there are some differences of some things on  
11 each print that I didn't mark. It's the ones, I  
12 have 11 marked.

13 Q So there are more than that.

14 A Yes.

15 Q And why did you decide just to do 11?

16 A We normally do some that are charted. It  
17 just makes it easier for the folks that are  
18 looking at it to see.

19 Q So the 11 charted from the latent print  
20 are the same as the known print of Thomas Geddie.

21 A Correct.

22 Q And there are more than that.

23 A Yes. And even the intervening ridges, I'm  
24 sorry, even the intervening ridges that don't have  
25 any points are the same.

Marie Hodge-direct by Meadors

1 Q Explain that.

2 A Just as I said a few minutes ago, they  
3 have to be in the same position. In other words,  
4 if you had that one bifurcation, and we had two  
5 ridges on the left hand side that didn't have any  
6 bifurcation, then I've got to avoid bifurcation.  
7 Those two ridges would have to be the same on the  
8 known print.

9 Q And when you're looking at this in your  
10 office, do you get involved in the investigation?  
11 Do you know who the deceased is, the victim, who  
12 the parties are? Any, I mean have you got a dog  
13 in this fight?

14 A No, sir.

15 Q So you're looking at a latent and a known  
16 and trying to see if you can make a comparison or  
17 not; correct?

18 A Correct.

19 Q And how many fingerprints are alike?

20 A There are no two fingerprints alike, even  
21 on your own hand.

22 Q After examining the latent print and  
23 comparing it the known print of Thomas Geddie, do  
24 you have an opinion in the field of fingerprint  
25 identification as an expert, who left the

Marie Hodge-direct by Meadors

1 fingerprint on State's 41, which was a beer  
2 bottle from the field off Isadore Nathaniel Road?

3 A Yes, Thomas Lee Geddie. And this was  
4 specifically finger No. 5. Which is the right  
5 little finger.

6 Q Do you mind touching me, and showing the  
7 jury which finger you are talking about?

8 A On his right hand.

9 Q Yes. The right little finger.

10 A The fingers are normally for purposes of a  
11 fingerprint cards. You start with the right hand.  
12 Numbers, 1, 2, 3, 4, 5. The left hand is number,  
13 6, 7, 8, 9, 10.

14 MR. MEADORS: Thank you, Ms. Hodge.

15 THE COURT: Mr. Murphy.

16 Cross Examination by Mr. Murphy:

17 Q Good morning.

18 A Good morning.

19 Q Now it's true theoretically when you put  
20 a fingerprint or something, they don't degrade  
21 over time.

22 A No, sir. Unless somebody physically  
23 disturbs that fingerprint and then wipes it off,  
24 then it can be there for an indefinite period of  
25 time.

## Marie Hodge-cross by Murphy

1 Q So I guess somewhere there could be a  
2 fingerprint of Julius Cesar.

3 A Could be.

4 Q You don't know. You can't tell by looking  
5 at a fingerprint on a beer bottle on a latent  
6 print or whatever when that individual touched it.

7 A No, we can't date fingerprints. Like I  
8 say, it could have been there for a long period of  
9 time or a short period of time. You can't date  
10 them.

11 MR. MURPHY: I appreciate it. Thank you.

12 THE COURT: Any redirect?

13 MR. MEADORS: No, sir.

14 THE COURT: Any objection to this witness  
15 being excused for the balance of the trial?

16 MR. MURPHY: No, Your Honor.

17 MR. MEADORS: Kelvin Green.

18 KELVIN GREEN, after being duly sworn,  
19 testified as follows:

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

22 A Kelvin Green. G-R-E-E-N.

23 Direct Examination by Mr. Meadors:

24 Q Good morning, Mr. Green.

25 A Good morning.

## Marie Hodge-cross by Murphy

1 Q Mr. Green, I am going to ask you some  
2 background questions about yourself. And then  
3 some questions about this incident. I do every  
4 witness this way, Mr. Green. Where are you from?

5 A Sumter.

6 Q Born and raised here?

7 A Yes, sir.

8 Q Can you tell these folks where you went to  
9 school? Where did you go to elementary school?

10 A I went elementary school, I went to  
11 Willow Drive.

12 Q Willow Drive?

13 A Yes, sir.

14 Q Where did you go to middle school?

15 A I went to Bates and Alice Drive.

16 Q Where did you go to high school?

17 A Sumter high.

18 Q How far did you go in Sumter High,  
19 Mr. Green?

20 A 9th grade.

21 Q After that 9th grade, what did you do?

22 A Went to job corps.

23 Q Job corps?

24 A Yes, sir.

25 Q What were you doing in the job corps?

Kelvin Green-direct by Meadors

- 1 A Building apartment manager.
- 2 Q Do you remember where?
- 3 A Yeah, Bamberg.
- 4 Q Do you like doing that?
- 5 A Yes, sir.
- 6 Q What did you do after that?
- 7 A I went to work for Lowe's.
- 8 Q All right.
- 9 A Then I went to work for after, I went to
- 10 the drug and alcohol center in Columbia.
- 11 Q Rehab. place?
- 12 A Yes, sir.
- 13 Q Is that Morris Village?
- 14 A Yes, sir.
- 15 Q Why did you go there?
- 16 A I had a problem with drugs and alcohol.
- 17 Q You had a little conviction in 2006, of
- 18 possession of cocaine?
- 19 A Yes, sir.
- 20 Q While you were in rehab. or after you were
- 21 in rehab., what did you do work wise, if anything?
- 22 A I worked at Lizard's Thicket.
- 23 Q Lizard's Thicket?
- 24 A Yes, sir.
- 25 Q Which one?



Kelvin Green-direct by Meadors

1 A On Elmwood.

2 Q What were you doing there?

3 A Dishwasher.

4 Q And after that, did you do work paving or  
5 asphaltting?

6 A Yes, sir.

7 Q Where was that?

8 A Campbell's Paving Company.

9 Q Campbell's Paving?

10 A Yes, sir.

11 Q Where is that located?

12 A It used to be on Cromer Drive, but It  
13 moved out. It used to be off of 15.

14 Q And who was the fellow who owned that?

15 A Ron Campbell, but he's deceased.

16 Q Ronald Campbell.

17 A Yes, sir.

18 Q And did you ever work for Lowe's?

19 A Yes, sir.

20 Q Tell them about that.

21 A I used to do standard seam roofing.

22 Q Do what kind of roofing?

23 A Standard seam.

24 Q And where would you be doing that?

25 A In Memphis, Tennessee.

Kelvin Green-direct by Meadors

1 Q And for how long did you do that?

2 A I did that for about five years.

3 Q So you're in Tennessee doing roofing for  
4 Lowe's?

5 A Yes, sir.

6 Q And why did you come back here?

7 A My mamma got sick.

8 Q Do you remember when that was?

9 A The last I recall it was 2005.

10 Q So you came back to be with your mama.

11 A Yes, sir. Which she is deceased.

12 Q And she ended up dying?

13 A Yes, sir.

14 Q You got to be with her before she died.

15 A Yes, sir.

16 Q And when you came back here after working  
17 at Lowe's and your mama died, what happened then?

18 A I started getting into drugs.

19 Q And is that when you had that drug  
20 conviction after your mamma died?

21 A Yes, sir.

22 Q 2006?

23 A Yes, sir.

24 Q Were you also doing any other type of odd  
25 job for work, Mr. Green?

Kelvin Green-direct by Meadors

1 A Yeah, cutting grass.

2 Q Were you working for anybody just in  
3 particular, or any one certain person or?

4 A No, I used to drive for a blind guy.

5 Q You drove for a blind guy.

6 A Named Ernest.

7 Q Do you know his last name?

8 A Pollard.

9 Q I'm sorry, sir.

10 A Pollard. P-O-L-L-A-R-D.

11 Q So you drove for him.

12 A Yes, sir.

13 Q Did yard work.

14 A Yes, sir.

15 Q Other than that, what kind of income were  
16 you getting, Mr. Green?

17 A I used to get a check every month.

18 Q Okay, what was that for?

19 A My disability.

20 Q Okay, what is that?

21 A Schizophrenic.

22 Q So you are getting a check every month.

23 A Yes, sir.

24 Q And back in 2006, 2007, after your mama  
25 died, you were driving Mr. Ernest around and

## Kelvin Green-direct by Meadors

1 doing some yard work.

2 A Yes, sir.

3 Q Now going up close to the time when this  
4 thing happened back in September of 2010, what  
5 were you doing then work wise?

6 A Cutting grass, that's about it.

7 Q Where were you living then?

8 A On Floride Street.

9 Q Do you remember the address?

10 A Yeah, .

11 Q Who were you staying with?

12 A My uncle.

13 Q Sir?

14 A My uncle.

15 Q Your uncle? Is that where your mama was  
16 too before she passed?

17 A Yes, sir.

18 Q So when you came back from Memphis, you  
19 just stayed at Floride.

20 A Yes, sir.

21 Q Now I am going to asking you about  
22 September of 2010. Do you understand?

23 A Yes, sir.

24 Q Now you know the victim in this case;  
25 right? Xavier Titus?

Kelvin Green-direct by Meadors

1 A Yes, sir.

2 Q And do you remember when you first met  
3 him?

4 A Yeah, about two years ago. Not two years  
5 then.

6 Q Two years ago from September 2010. So  
7 September 2008?

8 A Yes, sir, something like that.

9 Q What was your relationship with him?

10 A He was my drug dealer.

11 Q So he provided drugs for you.

12 A Yes, sir.

13 Q You are paying him.

14 A Yes, sir.

15 Q And that was from 2008 until his death?

16 A Yes, sir.

17 Q Have you ever had any difficulties with  
18 him?

19 A No, sir.

20 Q Now when did you meet Thomas Lee Geddie?

21 A About, about right, it was about -- I  
22 didn't know him for about three weeks.

23 Q Where did you meet him?

24 A At a friend of mine's home, a friend of  
25 mine's house.

Kelvin Green-direct by Meadors

- 1 Q Do you remember who that was?
- 2 A Yes, Conrad Dinkins.
- 3 Q Conrad Dinkins, a friend of yours.
- 4 A Yes, sir.
- 5 Q You met Thomas Lee Geddie at his house.
- 6 A Yes, sir.
- 7 Q Where does Mr. Dinkins live?
- 8 A Out there in Wedgefield.
- 9 Q And where does Thomas Lee Geddie live?
- 10 A Out in Wedgefield.
- 11 Q Do you remember what road he lives on?
- 12 A I think Orange Hill.
- 13 Q Orange Hill?
- 14 A Yes, sir.
- 15 Q That's not all that far from where this
- 16 happened; is it?
- 17 A No, sir.
- 18 Q When you meet Mr. Geddie you all started
- 19 hanging out together?
- 20 A Yes, sir.
- 21 Q During that time period prior to this,
- 22 would you see him every day?
- 23 A Yes, sir.
- 24 Q What were you all doing?
- 25 A Getting high.

Kelvin Green-direct by Meadors

1 Q Are you still staying at Floride?

2 A Yes, sir.

3 Q Would you go to Mr. Geddie's house during  
4 this three-week period---

5 A Yes, sir.

6 Q ---before this incident?

7 A Yes, sir.

8 Q Ride around with him?

9 A Yes, sir. He would ride with me.

10 Q He would ride around with you.

11 A Yes, sir.

12 Q What kind of car did you have?

13 A A pickup truck.

14 Q September 19th of 2010, do you remember  
15 that to be a Saturday?

16 A Yes, sir.

17 Q Did you have a chance to see Mr. Geddie  
18 that day?

19 A Yes, sir.

20 Q Can you tell the Ladies and gentlemen of  
21 this jury where you saw Thomas Geddie?

22 A At a function.

23 Q Which function?

24 A At Conrad's sister's house.

25 Q Where was that?

Kelvin Green-direct by Meadors

1           A     Off Emil Road.

2           Q     A function there with Conrad's sister.

3           And that's where you see Mr. Geddie that day?

4           A     Yes, sir.

5           Q     All right.

6           A     We were drinking and getting high.

7           Q     What were you drinking?

8           A     Budweiser.

9           Q     How are you getting high, what else?

10          A     On crack cocaine.

11          Q     Budweiser and crack?

12          A     Yes, sir.

13          Q     And had you driven over there?

14          A     Yes, sir.

15          Q     To this, Conrad Dinkins' sister over on

16          Emil?

17          A     Yes, sir.

18          Q     Did I ask you her name?

19          A     No.

20          Q     Do you remember her name?

21          A     Yes, her name is Low.

22          Q     I'm sorry?

23          A     Low. L-O-W.

24          Q     Low.

25          A     She's got another name. I don't know her



Kelvin Green-direct by Meadors

1 real name.

2 Q You know her as Low.

3 A Yes, sir.

4 Q So you're at this house on Emil Road, and  
5 your testimony is, Budweiser and crack cocaine.

6 A Yes, sir.

7 Q Where is -- what if anything did you and  
8 Mr. Geddie do after that, or decide to do after  
9 Emil Road?

10 A Well it was getting into the nighttime and  
11 then we were wanting more drugs. We had some  
12 money. Then next thing I know, he asked me did I  
13 know anybody I can call. I said yeah, I do.

14 Q Wait a minute. You said he had some money  
15 and asked if anybody I know to call and you said  
16 yeah, I do. The he you were talking about is who?

17 A Thomas Geddie. We all had money together.

18 Q But the he you are talking about is Thomas  
19 Geddie?

20 A Yes, sir.

21 Q And you said yeah, I do know who I can  
22 call.

23 A Yes, sir.

24 Q Go ahead. I didn't mean to interrupt you.

25 A Yeah, you did.

Kelvin Green-direct by Meadors

1 Q Did you call somebody?

2 A Yes.

3 Q Who did you call?

4 A North Main.

5 Q Okay. Now tell the Ladies and gentlemen

6 of the jury who is North Main.

7 A Xavier Titus.

8 Q Xavier Titus?

9 A Yes, sir.

10 Q Is that the person you call him North

11 Main?

12 A Yeah, I called him North Main. I didn't

13 know his real time.

14 Q Okay. You didn't know his real name until

15 after he was dead.

16 A Yes, sir.

17 Q Is that right?

18 A Yes, sir.

19 Q So you knew him as North Main; correct?

20 A Yes, sir.

21 Q And is that the same person you said had

22 been providing you with drugs?

23 A Yes.

24 Q And did you call him?

25 A Yes, sir.

Kelvin Green-direct by Meadors

1 Q You had his phone number?

2 A Yes, sir.

3 Q And did you have the opportunity to speak  
4 with him?

5 A Yes, sir.

6 Q And as a result of that, what if anything  
7 was arranged?

8 A I told him to meet me. I told him I had a  
9 sale for him.

10 Q You had a sale for him?

11 A Yes, sir.

12 Q Meet you where?

13 A At Spann's. I told him I am going to come  
14 all the way from my house, but my driver was  
15 jittery. Jittery. I mean, if we are going to get  
16 high, he didn't want to drive that far.

17 Q I think I followed most of that. You said  
18 you told him, the person you were with didn't want  
19 to go all the way to his house?

20 A All the way to my house.

21 Q Your house. I apologize. On Floride.

22 A Yes, sir.

23 Q And why was that?

24 A Because he was too jittery. Jittery.

25 MR. MEADORS: I beg the Court's

## Kelvin Green-direct by Meadors

1 indulgence. I'm sorry.

2 Q Jittery.

3 A Yes, sir.

4 Q Did he say that's fine or basically he  
5 understood?

6 A Yes, sir.

7 Q Why did you pick out Spann's?

8 A Both of them picked it out.

9 Q You and Mr. Geddie.

10 A Yes, sir.

11 Q Now was the plan to buy drugs from him or  
12 do something else?

13 A The plan was to buy drugs, and then the  
14 next thing you know it came up to something.

15 Q The next thing it came up to something  
16 else. What did it come up to?

17 A We were going to rob him.

18 Q You were going to rob him.

19 A Yes, sir.

20 Q Why?

21 A I guess to get high.

22 Q So what was plan then after you all  
23 decided to go rob him?

24 A Yes, sir.

25 Q Did you want him dead?

Kelvin Green-direct by Meadors

- 1 A No, sir.
- 2 Q Did you want to kill North Main?
- 3 A No.
- 4 Q Was that part of your plan?
- 5 A No, sir.
- 6 Q So what did you do?
- 7 A I waited on him to come.
- 8 Q Waited on who?
- 9 A Titus.
- 10 Q Prior to that, Mr. Green, who was driving?
- 11 A Me.
- 12 Q What car?
- 13 A A truck.
- 14 Q What type of truck?
- 15 A Toyota pickup. King cab.
- 16 Q Your car?
- 17 A Yes, sir.
- 18 Q When you left, did you leave Emil Road to
- 19 go meet North Main?
- 20 A Yes, we both left there.
- 21 Q You and who?
- 22 A Me and Thomas.
- 23 Q Thomas. Is that what you called him,
- 24 Thomas?
- 25 A I know I called him Spank.

Kelvin Green-direct by Meadors

1 Q You called him what?

2 A Spank.

3 Q Spank. Is that his nickname?

4 A Yes, sir.

5 Q So you called him Spank.

6 A Yes, sir.

7 Q So you and Spank, Thomas Lee Geddie, leave  
8 in your truck.

9 A Yes, sir.

10 Q And at some point it turns from a purpose  
11 to a robbery.

12 A Yes, sir.

13 Q Tell these folks how was it going to go  
14 down.

15 A It was going down as a robbery. I didn't  
16 know anything about a shooting.

17 Q I understand that. But specifically you  
18 had arranged to meet at Spann's; correct?

19 A Yes, sir.

20 Q Did Thomas Lee Geddie, a/k/a Spank, go  
21 with you to Spann's?

22 A No, I drop him off at a spot.

23 Q Okay. You dropped him off at a spot. Now  
24 what spot was that?

25 A Well that was a dirt road.

Kelvin Green-direct by Meadors

1 Q What's the name of that dirt road?

2 A I don't know.

3 Q Had you been on that dirt road before?

4 A No. That'd be the first time I did.

5 Q Had he been on that dirt road before?

6 A Huh?

7 Q Had he been on that dirt road before that  
8 you know of?

9 A Yeah, where I dropped him off at.

10 Q Okay. Can you tell this jury where you  
11 dropped him off?

12 A I dropped him off on a dirt road.

13 Q Why did you drop him off on a dirt road?

14 A Because that was where he wanted to be  
15 dropped off at.

16 Q He wanted you to drop him off there.

17 A Yes, sir.

18 Q Why?

19 A I guess to wait until I come back.

20 Q Okay. And were you supposed to, what if  
21 anything were you going to do with North Main or  
22 Titus? Were you going to try to make a purchase  
23 there at Spann's or somewhere else?

24 A On the dirt road. They were supposed to  
25 follow us back to the dirt road.

Kelvin Green-direct by Meadors

1 Q They were supposed to follow you back to  
2 the dirt road.

3 A Yes.

4 Q Where was this supposed to take place on  
5 the dirt road, where you dropped him off? Mr.  
6 Geddie?

7 A Yes, sir.

8 Q And was that the plan?

9 A Yes, sir.

10 Q And the plan was to do what with North  
11 Main?

12 A Was to come and purchase drugs. And the  
13 next thing I know the shooting happened.

14 Q I understand that. Was the plan to kill  
15 him or rob him?

16 A The plan was to rob him.

17 Q You dropped Mr. Geddie off; Spank, on the  
18 dirt road; correct?

19 A Yes, sir.

20 Q What did you to do after that? Where do  
21 you go if anywhere? You dropped him off, where do  
22 you go?

23 A I went back to Spann's store.

24 Q And as you are heading back to Spann's, do  
25 you see anybody in the parking lot?



Kelvin Green-direct by Meadors

1           A     No, not yet. I had waited there for a  
2 minute or two.

3           Q     What happens when you get there?

4           A     What happened when I get there? They  
5 follow us back to the road. Driving back to the  
6 road. And then I got out of my truck, and the  
7 next thing I know, Geddie, was in bushes. And  
8 then, you know, he got out of the bushes and  
9 started firing.

10          Q     And shot what?

11          A     Started shooting.

12          Q     So when you are at Spann's, they follow  
13 you back to the dirt road.

14          A     Yes, sir.

15          Q     How did you tell them to follow you?

16          A     I told them to follow behind me.

17          Q     And they did.

18          A     Yes, sir.

19          Q     And you go down the dirt road.

20          A     Yes, sir.

21          Q     When you go down the dirt road, you come  
22 to a stop.

23          A     Yes, sir. I told him to turn around and  
24 cut the lights off.

25          Q     You told him to turn around and cut the

Kelvin Green-direct by Meadors

1 lights off.

2 A Yes, sir.

3 Q Neither one of them have a gun; did they?

4 A I don't know.

5 Q Did you have a gun?

6 A No, sir.

7 Q You're down on this dirt road and you told  
8 them to turn around?

9 A Yes, sir.

10 Q Where was your truck?

11 A Turned around and pointing out.

12 Q So you are down on this dirt road. Is it  
13 late at night?

14 A Yes, sir.

15 Q After you parked your car, what did you  
16 do?

17 A I got out.

18 Q Okay. And then after that, what did you  
19 do?

20 A Well I got out, and went to their truck.

21 Q And when you go to their truck, what if  
22 anything do you do? Did you talk to them?

23 A Yes, sir. I told them to hold on for a  
24 minute, I was going to get the person. The next  
25 thing I know.

Kelvin Green-direct by Meadors

1 Q Was the light on inside their car?

2 A Yeah, the inside light was on.

3 Q What did you ask them to do about that  
4 light if anything?

5 A I told them to turn it off.

6 Q Why? Why did you want them to turn the  
7 light off?

8 A I guess I didn't want them to see nobody.

9 Q And at that point your plan, and based on  
10 your conspiracy plan, was to do what with  
11 Mr. Xavier Titus?

12 A Supposed to rob him.

13 Q Did the light turn off?

14 A Yes, sir.

15 Q What happened after that?

16 A The shooting started.

17 Q And where was Mr. Geddie? Who did the  
18 shooting?

19 A Mr. Geddie.

20 Q Did you have a gun when you were talking  
21 to North Main, Zavie Titus?

22 A No.

23 Q After the light went out, what did you do?

24 A I jumped and run in my truck. That's when  
25 I lost my phone.

Kelvin Green-direct by Meadors

1 MR. MEADORS: I beg the court's  
2 indulgence.

3 THE COURT: Yes, sir.

4 Q When you dropped Mr. Geddie Spank off at  
5 the dirt road, did he have anything with him? Did  
6 you leave anything with him?

7 A Huh? Say that again.

8 Q Did he have anything with him to drink?

9 A Yes, I left him a beer bottle.

10 Q Of what?

11 A Budweiser.

12 Q What else?

13 A I left a cigar.

14 Q Did you leave a beer bottle and cigar?

15 A Yes, sir.

16 Q Look at me, did you?

17 A Yes, sir.

18 Q And do you recognize this right here?

19 Please, sir, No. 10. And I'm sorry, can I  
20 approach, Judge?

21 THE COURT: You may.

22 A That's a mud hole.

23 Q Do you remember seeing that mud hole on  
24 the dirt road?

25 A Yes, sir.

Kelvin Green-direct by Meadors

1 Q And was that near where you parked?

2 A A little further up.

3 Q A little further up?

4 A Yes, sir.

5 Q A little further up. Is that where you  
6 turned in?

7 A Yes, sir.

8 Q Is that where the folks behind you came  
9 in?

10 A Yes, sir.

11 Q Is that where Mr. Geddie was?

12 A Yes, sir. Near the bushes there.

13 Q No. 18, does that appear to be the bushes  
14 area?

15 A Yes, I think so. It's at nighttime. You  
16 know, it's hard to tell, because it's got a  
17 trailer behind it. Trailer behind it.

18 Q But you say it was beyond the mud puddle  
19 to the right a little bit. Or beyond the mud  
20 puddle.

21 A Correct.

22 Q Is that what you said?

23 A Yes, sir.

24 Q What kind of gun did Mr. Geddie have?

25 A AK-47 assault rifle.

Kelvin Green-direct by Meadors

- 1 Q Say that again.
- 2 A AK-47 assault rifle.
- 3 Q Do you know where the gun came from?
- 4 A I got my idea as to where it came from.
- 5 Q Was it yours?
- 6 A No, sir.
- 7 Q Where did it come from?
- 8 A It came from his friend.
- 9 Q A friend of Mr. Geddie?
- 10 A Yes, sir.
- 11 Q Had you seen it before that day,
- 12 September 19th?
- 13 A Yes, sir.
- 14 Q Where had you seen it?
- 15 A At a function.
- 16 Q At a what?
- 17 A At a function.
- 18 Q Do you remember when that was?
- 19 A About a couple of nights before that.
- 20 Q Were you armed with a, did you have a gun
- 21 on you on September 19th?
- 22 A No, sir.
- 23 Q You didn't?
- 24 A No, sir.
- 25 Q How many times did Mr. Geddie fire this

Kelvin Green-direct by Meadors

1 AK-47?

2 A Five times.

3 Q Do you remember those sounds?

4 A Yes, sir.

5 Q What did you do when you heard them?

6 A It shocked me. My chest started beating  
7 hard.

8 Q What did you do with your body? Where did  
9 you go?

10 A I ran to my tuck.

11 Q Did Mr. Geddie go with you?

12 A Yes, sir.

13 Q What about Titus, North Main? Did you all  
14 go back and check on him?

15 A No, they took off.

16 Q Well after that, did you all ever go back  
17 and try to look at -- for any money or drugs?

18 A No, sir.

19 Q They took off, and then what did you all  
20 do?

21 A We went the other way.

22 Q And that other way takes you where?

23 A Back out to -- back to Emil Road.

24 Q Now you said earlier, had you been on  
25 that? Had you been there before?

## Kelvin Green-direct by Meadors

1           A     That's how I remember how it went back to  
2     Emil Road. No, I never been on that road before;  
3     no.

4           Q     They went one way; right?

5           A     Yes, sir.

6           Q     You all go the opposite way.

7           A     Yes, sir.

8           Q     Where did you go after you left?

9           A     Went to his house.

10          Q     Who is his house?

11          A     Thomas' house. Spank's house.

12          Q     And you said earlier, what road is that?

13          A     Off Emil Road. Off Orange Hill.

14          Q     Orange Hill?

15          A     Yes, sir.

16          Q     You've been to that residence before?

17          A     Yes, sir.

18          Q     Orange Hill is the residence of Thomas Lee  
19     Geddie a/k/a Spank.

20          A     Yes, sir.

21          Q     And that's where you went after this  
22     shooting.

23          A     Yes, sir.

24          Q     What happened to the gun?

25          A     The last time I know, he put it under his



Kelvin Green-direct by Meadors

1 couch.

2 Q Did you see him put it under his couch?

3 A Yes, sir.

4 Q Did you shoot North Main?

5 A No, sir.

6 Q Now you are under oath right here today.

7 Is it your testimony that you were going to rob  
8 him?

9 A Yes, sir.

10 Q And you were going to rob him, Mr. Geddie  
11 had the firearm; right?

12 A Yes, sir.

13 Q So you were going to rob him. That would  
14 be armed robbery; right?

15 A Yes, sir.

16 Q Take from the person or presence of  
17 another by means of force or intimidation, the  
18 goods or money of that person while armed with a  
19 deadly weapon; correct?

20 A Yes, sir.

21 Q And even though you didn't have the arm --  
22 you knew that that was going to happen for armed  
23 robbery; right?

24 A Yes, sir.

25 Q So you are guilty of that; aren't you?

Kelvin Green-direct by Meadors

1 A Yes, sir.

2 Q Even though you didn't have the gun, you  
3 are guilty of armed robbery too; aren't you?

4 A Yes, sir.

5 Q Because that's what you were going to do;  
6 wasn't it?

7 A Yes, sir.

8 Q You were going to rob him.

9 A Yes, sir.

10 Q You are guilty of that?

11 A Yes, sir. I am fully guilty of that. But  
12 calling that man out there, I didn't want that man  
13 to get killed. I swear up and down, I didn't want  
14 the man to get killed. But I hope the family will  
15 forgive me. But I can't bring him back or nothing  
16 like that. I plead in court for that. I'm sorry  
17 for interrupting.

18 Q After you go to Mr. Geddie's house that  
19 night, what do you do the next day?

20 A I left and went home.

21 Q Back to Floride?

22 A Yes, sir.

23 Q And eventually you're developed as a  
24 suspect in this case; right?

25 A Yes, sir.

Kelvin Green-direct by Meadors

1           Q     And law enforcement comes and talks to  
2     you. And Mr. Burnish this fellow right here, do  
3     you remember him?

4           A     Yes, sir. He interviewed me.

5           Q     Sir?

6           A     He interviewed me.

7           Q     He did. Interviewed you and you gave a  
8     couple of statements; correct?

9           A     Yes, sir.

10          Q     One on the 19th, and on the 20th; right?

11          A     Yes, sir.

12          Q     One statement on the 19th, you don't gave  
13     out the name of Spank on the 19th; do you?

14          A     No, sir.

15          Q     On the 20th, you tell them the name of  
16     Spank; don't you?

17          A     Yes, sir.

18          Q     What didn't you tell that name on the  
19     first day of the 19th?

20          A     Well he told if I had say anything, I  
21     would get dealt with the same way he dealt with.

22          Q     Say that one more time.

23          A     I would get the same treatment the other  
24     fellow got.

25          Q     That's why you didn't give him up on the

Kelvin Green-direct by Meadors

1 19th?

2 A Yes, sir.

3 Q And you told them on the 20th was Spank.

4 A Yes, sir.

5 Q Did you tell them what type of gun he had  
6 used?

7 A Yes, sir.

8 Q Do you remember this man, Robert Burnish,  
9 showing you some pictures?

10 A Yes, sir.

11 Q And not to go, do you also remember they  
12 read you your rights; right?

13 A Yes, sir.

14 Q Miranda Rights. And you signed that you  
15 understood them; correct?

16 A Yes, sir.

17 Q And they didn't threaten or coerce you in  
18 any way; did they?

19 A Huh?

20 Q I need to slow down. I apologize. They  
21 didn't threaten you or coerce you in any way to  
22 give a statement; did they?

23 A No, sir.

24 Q And were you under the influence of any  
25 alcohol or drugs or anything when you gave that

Kelvin Green-direct by Meadors

1 statement?

2 A No, sir.

3 Q You understood what you were doing. And  
4 you signed that you did that; right?

5 A Yes, sir.

6 Q Just for ID purposes 53 and 51 just for  
7 identification purposes. Are these the rights  
8 they read you on the 19th?

9 A Yes, sir.

10 Q Is that your signature down there?

11 A Yes, sir.

12 Q And on the 20th?

13 A Yes, sir.

14 Q It says 19th on 51 and 20th on 53.

15 A Yes, sir.

16 Q And you agreed to waive those rights and  
17 talk; right?

18 A Yes, sir.

19 Q And you did; right?

20 A Yes, sir. I said I didn't have nothing to  
21 hide.

22 Q And getting back and on did -- and he was  
23 working too still on the case; wasn't he? Talking  
24 to you.

25 A Yes, sir.

Kelvin Green-direct by Meadors

1 Q Trying to find out what happened.

2 A Yes, sir.

3 Q And showing you what's state's, did he  
4 show you two lineups? And, Your Honor, this is 48  
5 and 49 without objection.

6 (Photo lineups marked State's Exhibit Nos.  
7 48 and 49 without objection.)

8 Q Did he show you two lineups?

9 A Yes.

10 Q And one lineup 49, did he show you just  
11 trying to find who the other person was? Did he  
12 show you 49?

13 A Yes, sir.

14 Q And did you pick out anybody? You didn't  
15 recognize anybody. Now on State's 48, did you  
16 pick out somebody in here?

17 A Yeah, No. 5.

18 Q Okay. And when he showed you this lineup,  
19 Mr. Green, did he try to threaten you or coerce  
20 you or tell you who to pick out?

21 A No, sir.

22 Q You picked out No. 5; correct?

23 A Yes, sir.

24 Q Tell the Ladies and gentlemen of this jury  
25 why you picked out No. 5?

Kelvin Green-direct by Meadors

1 Q Is this young man over here in the grand  
2 jury box, Mr. Charles Brooks, your attorney?

3 A Yes, sir.

4 Q He's been with you before. He's here with  
5 you in court today; right?

6 A Yes, sir.

7 Q And as a result of Mr. Brooks talking to  
8 you and myself and law enforcement, you are  
9 agreeing to plead guilty to armed robbery;  
10 correct?

11 A Yes, sir.

12 Q And you've actually confessed to it here  
13 in open court on the record.

14 A Yes, sir.

15 Q And if you cooperate and tell the truth,  
16 you understand you are going to get a 10-year  
17 sentence; correct?

18 A Yes, sir.

19 Q Now want you to look at the Ladies and  
20 gentlemen of this jury, Mr. Green, look back. And  
21 look at me, please. Did you intend to kill North  
22 Main?

23 A No, sir.

24 Q Did you want him dead?

25 A No, sir.

Kelvin Green-direct by Meadors

1 Q Did you have the gun?

2 A No, sir.

3 Q What was your plan?

4 A To rob him.

5 Q Is the person in the room that you dropped

6 off on that little dirt road---

7 MR. MURPHY: Your Honor, asked and

8 answered.

9 MR. MEADORS: Your Honor, I haven't

10 pointed him out I don't think. That's all I am

11 going to get into.

12 THE COURT: Proceed.

13 Q I don't think I have done that. Is the

14 person in this room that you dropped off on the

15 dirt road, the person that you brought back Titus

16 to and Cedric Hilton, and the person that fired

17 the gun; the person that you gave the beer bottle

18 to, is that person in this courtroom?

19 A Yes, sir.

20 Q Please point him out for the Ladies and

21 gentlemen of this jury.

22 A Right there.

23 Q Mr Thomas Lee Geddie.

24 A Yes, sir.

25 Q A/K/A Spank?



Kelvin Green-direct by Meadors

1 A Yes, sir.

2 MR. MEADORS: Your Honor, we would like  
3 the record to reflect he is pointing out the  
4 defendant sitting next to Mr. Murphy.

5 THE COURT: The record will so reflect.

6 MR. MEADORS: I beg the court's  
7 indulgence. Thank you, sir.

8 THE COURT: Mr. Murphy.

9 MR. MURPHY: Thank you, Your Honor.

10 Cross Examination by Mr. Murphy:

11 Q Mr. Green, you indicated that you knew my  
12 client for about 3 months; is that correct?

13 A No, about three weeks.

14 Q About three weeks?

15 A Yes, sir.

16 Q And but you have been over to his trailer;  
17 right?

18 A Yes, sir.

19 Q And you were drinking beer with him.

20 A Yes.

21 Q Correct? Drinking Budweisers that night;  
22 correct?

23 A Yes, sir.

24 Q Now you were the individual that was  
25 driving; correct?

## Kelvin Green-cross by Murphy

1 A Yes, sir.

2 Q And you went out to Spann's market;  
3 correct?

4 A Yes, sir.

5 Q And at one point you left and came back  
6 because Mr. Xavier wasn't there; correct?

7 A Yes, sir.

8 Q And then you came back. And then you  
9 enticed them down the dirt road; correct?

10 A Say that again.

11 Q You motioned them to come down the dirt  
12 road.

13 A Yes, sir.

14 Q Now when you were interviewed, you  
15 remember being interviewed after you were  
16 arrested; correct?

17 A Yes, sir.

18 Q And you were now told that Mr. Xavier had  
19 died; correct?

20 A Yes, sir.

21 Q And that you were a suspect for murder;  
22 correct?

23 A Yes, sir.

24 Q And that maybe you and someone else might  
25 be involved. They told you that; correct.

## Kelvin Green-cross by Murphy

1 A Yes, sir.

2 Q They wanted to know what you knew;  
3 correct?

4 A Yes, sir.

5 Q And you know murder carries a serious  
6 consequence; right?

7 A Yes, sir.

8 Q I mean, you could spend the rest of your  
9 life in prison; right?

10 A Yes, sir.

11 Q And you had the opportunity to talk with  
12 the officers; correct?

13 A Yes, sir.

14 Q They told you it might be in your interest  
15 to cooperate.

16 A Yes, sir.

17 Q They gave you your rights there; correct?

18 A Yes, sir.

19 Q And you said you had nothing to hide?

20 A Yes, sir.

21 Q But you did not say anything about Spank  
22 being at the scene; did you?

23 A No. No, but when I say something about  
24 it, I was going to get dealt with the same way  
25 they dealt with him.

## Kelvin Green-cross by Murphy

1 Q So the answer to my question is, you did  
2 not say anything about my client being there; did  
3 you?

4 A No, not right off.

5 Q Not until 24 hours later; correct?

6 A Yeah, well I know---

7 Q The next day.

8 A Huh?

9 Q The next day.

10 A Yes, sir.

11 Q You described the fact, you not only, I  
12 mean it wasn't a question of you not remembering  
13 his name. You said I don't know his name. That's  
14 what you told the police officers----

15 A Yes.

16 Q Correct? And this is facing, knowing that  
17 you are suspected of murder.

18 A Yes, sir.

19 Q Now you just got done saying the reason  
20 you didn't say anything is you knew you were going  
21 to be treated the same way; correct?

22 A Yes.

23 Q And if you give up another name, you know  
24 you are not going to be treated the same way;  
25 correct?

## Kelvin Green-cross by Murphy

1 A Yeah, he's the one that did it.

2 Q Right. So you're trying to get off.

3 You're going to give a name up so because you  
4 know---

5 A He's the one that shot that fellow.

6 Q You know that if you blame someone else,  
7 you're off the hook; correct?

8 A No, I don't want to blame somebody. He's  
9 the one that did it.

10 Q You told those gentlemen you would be  
11 right back; correct?

12 A Yes.

13 Q You told them to turn off their lights;  
14 correct?

15 A Yes.

16 Q You said, hold on there a minute; correct?

17 A Yes.

18 Q And then you went and you got a gun and  
19 you shot him; correct?

20 A No, sir.

21 Q And you've been hanging out since this  
22 event over at the Sumter/Lee detention center;  
23 correct?

24 A Yes, sir.

25 Q And you've had some conversations about

## Kelvin Green-cross by Murphy

1 your case with some of the folks over there;  
2 haven't you?

3 A No.

4 Q No. You haven't said anything to anybody?

5 A No, it got out.

6 Q You didn't tell Carlton Bracey---

7 MR. MEADORS: Objection to hearsay, Your  
8 Honor.

9 THE COURT: Sustained.

10 MR. MURPHY: Your Honor, these are his  
11 statements; his consistent statements.

12 A No, I don't know, I ain't---

13 THE COURT: Hold on. Don't say anything.  
14 Let's have a side bar.

15 (Whereupon, the attorneys confer with  
16 judge.)

17 THE COURT: Objection sustained.

18 Q Do you recall making any statements while  
19 you were getting your hair cut over there at  
20 Sumter/Lee?

21 A No.

22 Q You never said anything about this case?

23 A No.

24 Q You're hoping to get 10 years; correct?

25 A Yes, sir.

## Kelvin Green-cross by Murphy

1 Q How old are you?

2 A Forty.

3 Q So when you called in that first day, you  
4 knew you were facing life; right?

5 A Yes, sir.

6 Q And if you point the finger at somebody  
7 else, you are going to get 10 years; correct?

8 A Yes, sir.

9 Q So and that was your plan when you said  
10 some other guy shot those poor two guys in that  
11 car. That was the plan, push the blame to  
12 somebody else; correct?

13 A No, that wasn't my plan.

14 Q Were you high that night?

15 A Yes, sir.

16 Q You don't act the same way when you're  
17 high than you do when you are sober; correct?

18 A I don't know.

19 Q You don't know how you act when you are  
20 high?

21 A Not really.

22 Q Do you get more violent when you are?

23 A No, I am not even no violent person.

24 Q Now today you say you left a beer bottle  
25 and a cigar out there with Mr. Geddie.

## Kelvin Green-cross by Murphy

1 A Yes, sir.

2 Q And you had the opportunity to write two  
3 statements to police officers. And you don't have  
4 anything in your statements about that at all; do  
5 you?

6 A No, sir. They find the beer bottle out  
7 there.

8 Q I'm sorry?

9 A I said they find a beer bottle out there  
10 with a fingerprint on it.

11 Q Okay. But you didn't offer that  
12 information to police officers when---

13 A I didn't know he was going to throw the  
14 bottle away. I didn't know he left the bottle  
15 right there at the scene.

16 Q So your answer to my question is, you  
17 didn't say anything; correct?

18 A No.

19 Q You said it today?

20 A Yeah.

21 Q And they asked you, tell everything that  
22 went on; right?

23 A Yes.

24 Q Now you say you have seen this AK-47 rifle  
25 before; right?



## Kelvin Green-cross by Murphy

1 A Yes.

2 Q At a function.

3 A Yes.

4 Q Lots of people at.

5 A Yes, sir.

6 Q How many people were at this function that  
7 saw this AK-47?

8 A More than a handful.

9 Q More than 10?

10 A Yes.

11 Q Okay. So at least ten people saw  
12 Mr. Geddie with an AK-47 on a prior occasion.

13 A Yes.

14 Q Okay.

15 A He went in his houes and get it. I took  
16 him to his house to get the gun before.

17 Q You went and got the AK 47?

18 A No, I took him at this house to get it.

19 Q Okay. And he's showing over ten people  
20 this AK 47.

21 A Yeah. And he's shooting it.

22 Q Oh, with ten people he's shooting an AK  
23 47?

24 A Yeah.

25 Q Okay. Isn't it true, Mr. Green, that you

## Kelvin Green-cross by Murphy

1 would do just about anything to avoid a life  
2 sentence?

3 A No. I won't send no innocent man to jail  
4 for nothing.

5 Q Oh, you wouldn't?

6 A No.

7 Q You wouldn't push the blame to an innocent  
8 person to get ten years instead of life?

9 A No, I wouldn't do that.

10 THE COURT: Any redirect?

11 MR. MEADORS: No, sir. Thank you.

12 THE COURT: You may step down.

13 MR. MEADORS: Can we take a short break,  
14 Your Honor?

15 THE COURT: Ladies and gentlemen, this is  
16 a perfect time for a short break. If you want a  
17 cup of coffee or you need to smoke. Please do not  
18 discuss anything about the case while you are back  
19 there. Thank you. The court will be in recess  
20 until 25 after.

21 (Whereupon, the court takes a short  
22 recess.)

23 THE COURT: You may bring the jury.

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

Kelvin Green-cross by Murphy

1 THE COURT: The state may call its next  
2 witness.

3 MR. MEADORS: Agent Kenneth Whitler.

4 AGENT KENNETH H. WHITLER, after being duly  
5 sworn, testified as follows:

6 THE CLERK: State your full name and spell  
7 you last name for the record.

8 A My name is Kenneth H. Whitler. The last  
9 name is spelled W-H-I-T-L-E-R.

10 Direct Examination by Mr. Meadors:

11 Q Good afternoon. I called you special  
12 agent. You are actually a forensic scientist at  
13 sled?

14 A Well we have got a variety of names.

15 Q Let me ask you, I do this with every  
16 witness, agent. Would you tell the jury about  
17 Kenneth Whitler? Where you were born, where you  
18 were raised, your background, your education. And  
19 in particular, your education and training in the  
20 field of expertise I've ask you to testify to  
21 today.

22 A Well I'm originally from South Carolina.  
23 I work with the South Carolina Law Enforcement in  
24 the firearms department. Basically I am the  
25 firearm's tool marks examiner. And my main, I

Kenneth Whitler-direct by Meadors

1 have a graduate and undergraduate degrees from  
2 USC. And the South Carolina college degree that  
3 you get in firearm's identification and qualified  
4 examiners. When I was employed in the FBI as  
5 qualified examiners, you read about firearms. You  
6 shoot literally thousands of bullets and cartridge  
7 cases and do comparisons. Nothing you do  
8 yourself, but some of the examiners would give. I  
9 also worked on real cases with the examiners. The  
10 policy in the FBI is when all the examiners, you  
11 worked with every examiner in the department. You  
12 complete the three tests and then you are  
13 certified. After I went through that training  
14 period and passed the test, I was certified in  
15 1991. In 1997, I retired from the FBI and came to  
16 sled. And I do basically the same job with  
17 firearms.

18 Q And thank you for that. Is it fair to say  
19 you attempt to determine whether shell casings or  
20 spent shell casings are similar to each other and  
21 whether or not they could have been fired from the  
22 same firearm or not?

23 A That's correct.

24 Q And would you also deal with projectiles  
25 potentially?

Kenneth Whitler-direct by Meadors

1 A Yes, sir.

2 Q By Mr. Meadors) Your Honor, at this time, we  
3 would offer Special Agent Whitler as an expert in  
4 the field of firearm's identification.

5 THE COURT: Mr. Murphy, you want to voir  
6 dire him?

7 MR. MURPHY: No, Your Honor. No  
8 objection.

9 THE COURT: Okay. Ladies and gentlemen,  
10 just like the previous witness who was an expert,  
11 it is you all who determine what weight you want  
12 to put on his testimony. And you don't have to  
13 give it any more weight simply because he is an  
14 expert. Thank you.

15 Q Agent Whitler, did you receive certain  
16 items of potential evidentiary value from the  
17 Sumter County law enforcement -- from the Sumter  
18 County Sheriff's Office in this case?

19 A Yes, I did.

20 MR. MEADORS: And, Your Honor, I am  
21 handing up to Agent Whitler State's Exhibit Nos.  
22 55, 56, 57 and 58. I believe without objection.

23 THE COURT: Is that correct?

24 MR. MURPHY: Yes, sir.

25 THE COURT: All of these are admitted

Kenneth Whitler-direct by Meadors

1 without objection.

2 (Bullets marked State's Exhibit Nos. 55-58  
3 into evidence.)

4 Q And are these some of the items that you  
5 looked at? And if you want to take your time to  
6 see if you see your initials.

7 A These are all the items I looked at. They  
8 are sealed and they still have my initials on it.

9 Q And you do that so you can come like we  
10 are doing right here right now, and say these are  
11 the items I looked at---

12 A Yes, sir.

13 Q ---in making my examination.

14 A Yes, sir.

15 Q I am going to kind of let you roll. Can  
16 you tell the jury what items you did; what if any  
17 examination you did, and what your conclusions  
18 were?

19 A Well basically there were a number of  
20 items submitted. Most of which were a lot of  
21 bullet fragments. When the bullet hits and breaks  
22 up, there are several components in a bullet. It  
23 has a lead core and a metal jacket on it. It has  
24 riffling characteristics which when a bullet goes  
25 down the barrel, both the bullet is in full

Kenneth Whitler-direct by Meadors

1 contact with the firearm. So most pieces -- if  
2 that bullet breaks up and it's a piece of the  
3 jacket that didn't come in contact with that can  
4 happen. You can have piece of the jacket that has  
5 some riffling characteristics which breaks up and  
6 is just lead fragments.

7 Basically what I received was an  
8 assortment of lead fragments. And when I did the  
9 comparison while some of them had marks on them,  
10 there were not enough marks in sufficient  
11 agreement that I was able to say that the jackets  
12 were fired by the same firearm. As far as the  
13 lead and metal fragments, they didn't bear any  
14 marks so they were unsuitable for any sort of  
15 identification.

16 Also four cartridge cases submitted. 7.62  
17 by 39 caliber. And one of the marks for  
18 comparison purposes we call that an unsuitable.  
19 The other three had enough marks that at least you  
20 could compare them. But again there wasn't enough  
21 in the cartridge cases in the three bullet jackets  
22 of the firearm that produce the same breach face  
23 markings on the same weapon. All the examines  
24 basically while the bullet jackets could have come  
25 from the same gun, they also could have come from

Kenneth Whitler-direct by Meadors

1 several firearms. The fragments could have been  
2 fired by one firearm or there could have been  
3 several. It is not usual with a firearm, unlike  
4 what you see on television, every time you are in  
5 agreement to be able to say those cartridge cases  
6 were fired by the same gun or by several guns.

7 Q And that's really all you can say; isn't  
8 it?

9 A Yes, sir.

10 Q About the fragments; correct?

11 A As far as the comparisons; yes, sir.

12 Q What can you tell us about what type of  
13 weapon, I guess, fired? I guess the question  
14 would be.

15 A The riffling characteristics on the bullet  
16 that remained were consistent with the type of  
17 riffling that is used in cartridge fired bullets  
18 in cartridge cases made by other manufacturers and  
19 also have the same general riffling. But it is  
20 also predominantly used in the AK, SKS---

21 Q Fragments consistent, could be fired by  
22 the same gun, could be different guns.

23 A The bullet jacket fragments, there were I  
24 think four. One just didn't have enough marks.  
25 If everything on the bullet jacket matched you



Kenneth Whitler-direct by Meadors

1 still wouldn't put a name. They weren't agreeing  
2 enough to be able to say that.

3 Q And then the casings are consistent with  
4 what is used in some firearm's chambers with an  
5 AK-47 with a 762 by 39 caliber cartridge. This  
6 coming from an AK-47.

7 A Or any other rifle that uses that chamber.

8 Q But AK-47 would be one that does use that  
9 chamber.

10 A Yes.

11 Q And some of these fragments came from the  
12 body of our victim in this case; is that correct?

13 A I think so.

14 Q And on the back it has the victim's name  
15 on it?

16 A Yes, it has.

17 Q And on the back there it says Xavier  
18 Titus; correct?

19 A Yes.

20 Q The bullet fragments, is that uncommon for  
21 them to split when it hits the bottom? That  
22 doesn't surprise you these fragments were in this  
23 condition.

24 A No, sir.

25 MR. MEADORS: That's all, thank you.

Kenneth Whitler-direct by Meadors

1 THE COURT: Mr. Murphy.

2 Cross Examination by Mr. Murphy:

3 Q You didn't have a weapon to test at all;  
4 did you?

5 A No, sir.

6 Q So all those comparisons are based on  
7 comparing them to each other.

8 A That's correct.

9 Q And again, they could have been fired from  
10 the same gun, maybe not; correct?

11 A Yes. If you have a test firearm you can  
12 go back and all you have are cartridge cases, you  
13 have to deal with what you have to deal with.

14 MR. MURPHY: I appreciate it. Thank you.

15 THE COURT: Any redirect?

16 MR. MEADORS: Just one thing.

17 Redirect Examination by Mr. Meadors:

18 Q And you don't always have a weapon to  
19 compare it to; do you?

20 A No.

21 Q That's the real world.

22 A Yes, sir.

23 MR. MEADORS: Thank you.

24 THE COURT: Any objection to him being  
25 excused?

Kenneth Whitler-cross by Murphy

1 MR. MEADORS: No, sir.

2 MR. MURPHY: No, Your Honor.

3 THE COURT: Ladies and gentlemen, you get  
4 a long lunch break today with the instructions to  
5 be back here at 2 o'clock. And please do not  
6 discuss this case with anyone. Have a nice lunch,  
7 and we will see you ladies and gentlemen just a  
8 little before 2:00 o'clock.

9 (Whereupon, the court breaks for lunch at  
10 12:30 a.m.)

11 THE COURT: Are there any issues we need  
12 to talk about?

13 MR. MEADORS: No, Your Honor.

14

15

16

17

18

19

20

21

22

23

24

25

Kenneth Whitler-cross by Murphy

1 MR. MEADORS: Your Honor, we would call  
2 Dr. Ross.

3 THE COURT: Dr. Ross, come around, please  
4 and be sworn.

5 DR. JANICE ROSS, after being duly sworn,  
6 testified as follows:

7 THE CLERK: Please state your full name  
8 and spell your last name for the record.

9 A Janice Edwards Ross. R-O-S-S.

10 DIRECT EXAMINATION by Mr. Meadors:

11 Q Good afternoon, Dr. Ross.

12 A Good afternoon.

13 Q Dr. Ross, will you tell this jury about  
14 yourself, where you are from, where you were  
15 raised, your background? And in particular, your  
16 training in the field of expertise that we will be  
17 asking you testify about today, please, ma'am.

18 A Yes, sir. I'm a forensic pathologist.  
19 And first of all, I grew up in Columbia, South  
20 Carolina. I got a degree from University of South  
21 Carolina. And I received my MD from upstate  
22 medical center in Syracuse, New York. Where I  
23 also did training in pathology. Pathology is the  
24 study of disease to learn how to identify injuries  
25 and tumors and different disorders of tissue and

Dr. Janice Ross-direct by Meadors

1 blood. We also learn to do an autopsy. And I'm  
2 also a forensic pathologist, which is to use the  
3 medical knowledge that we have for legal matters;  
4 such as, homicides, suicide, rapes, accidents.

5 I am board certified in three areas of  
6 pathology. We work with Newberry Pathology  
7 Associates in Newberry, South Carolina.

8 Q And how long have you been with Newberry  
9 and Pathology and Associates?

10 A 12 years.

11 Q So you actually have an office there in  
12 Newberry.

13 A Yes.

14 Q But where do you perform the autopsies?

15 A At the hospital. Newberry County Memorial  
16 Hospital morgue.

17 Q Have you been offered as an expert in  
18 courts of record -- records, courts of record of  
19 this State, in the field of forensic pathology  
20 before?

21 A Yes.

22 Q How many times, Doctor?

23 A Over 70.

24 MR. MEADORS: Your Honor, at this time we  
25 would -- and how many autopsies have you

Dr. Janice Ross-direct by Meadors

1 performed?

2 A Over 6,000.

3 Q 6,000?

4 MR. MEADORS: Your Honor, at this time, we  
5 would offer Dr. Janice E. Ross as an expert in the  
6 field of forensic pathology.

7 THE COURT: Mr. Murphy, do you want to  
8 voir dire her?

9 MR. MURPHY: No, Your Honor. No  
10 objection.

11 THE COURT: Ladies and gentlemen, as I  
12 said, most witnesses can only testify as to what  
13 they saw or smelled or tasted or heard or felt.  
14 However when you enter a level of education or  
15 expertise then we consider them to be expert  
16 witnesses and they can render an opinion about  
17 that particular matter. She has now been  
18 qualified as a forensic pathologist. And can give  
19 opinions concerning that in this case.

20 Whether or not you want to accept it is up  
21 to you as the fact finders of this case. Thank  
22 you.

23 MR. MEADORS: Thank you, Your Honor. May  
24 it please the court.

25 DIRECT EXAMINATION by Mr. Meadors:

Dr. Janice Ross-direct by Meadors

1 Q May it Please the Court. In an ideal  
2 world would you like to see the body right after  
3 the crime?

4 A Yes, sir.

5 Q If possible?

6 A Yes.

7 Q Since that's not possible or practical, do  
8 you like to see the bodies in close -- as close to  
9 the condition it was when the injuries were  
10 received?

11 A Yes, sir.

12 Q And basically does local law enforcement  
13 transport the body to you?

14 A Yes.

15 Q And in this case did you have an occasion  
16 to view and do an examination of the body of  
17 Xavier Titus?

18 A Yes, sir.

19 Q And where was that performed, that  
20 autopsy?

21 A At Newberry County Memorial Hospital's  
22 morgue.

23 Q And would you tell the Ladies and  
24 gentlemen of the jury what you do, and  
25 specifically, what you did in this case as you

Dr. Janice Ross-direct by Meadors

1 were preparing to look at Mr. Titus' body?

2 A Yes. The body is brought to us. We look  
3 at it, and take photographs of the body clothed.  
4 And do inventories of the clothing. And then take  
5 photographs of the body without the clothes. And  
6 identify the types of injuries.

7 In this case there was multiple wounds  
8 consistent with gunshot wounds. So we did x-rays  
9 to look for bullets and metal fragments.

10 Q And do you -- can you tell us how tall he  
11 was, and how much he weighed and that sort of  
12 thing?

13 A We don't have a scale, so we estimate  
14 about 145 pounds he weighed. And he measured  
15 68 inches, which is 5 feet 8 inches.

16 Q And what items of clothing were on his  
17 body when you received it?

18 A He had on a pair of blue jeans and  
19 underneath it were red athletic type shorts. A  
20 black belt on his pants. And a pair of boxer  
21 style underwear. One shoe was on his right foot.  
22 He had a pair of socks on.

23 Q What do you do next? You weigh the body,  
24 and you visually look at it, and make notes. What  
25 is the next thing you do?



Dr. Janice Ross-direct by Meadors

1           A     Was, we look and saw that there were  
2     multiple gunshot wounds. We did x-rays to look  
3     for the evidence of bullets present in his body.

4           Q     And at this point, can you go through and  
5     describe the wounds you found, the gunshot wounds  
6     on his body?

7           A     Yes. He had -- a lot of his wounds, there  
8     was a lot of shrapnel. It was a lot of irregular  
9     wounds present so. It's consistent with bullets  
10    going through and through. He had target. And in  
11    this instance probably the car door. So there is  
12    a lot of damage to the bullet before it even got  
13    to the body in some cases.

14                But there was one wound that went through  
15    his left arm, and then went out of the left arm  
16    and reentered the chest. There were at least  
17    three other wounds that went into the left side of  
18    the chest, and went from left to right. One went  
19    in the arm, and then back into the chest. Went  
20    through his left lung and caused a lot of  
21    bleeding. Some of the ones in the left chest also  
22    went through the left lung causing a lot of  
23    hemorrhage; the lung, then went through the  
24    spleen. There was a wound that went into the  
25    right lower back and came out the right front,

Dr. Janice Ross-direct by Meadors

1 and right abdomen. And there were two wounds that  
2 went into the upper left thigh from the back.

3 Q And, doctor, I know you can, I don't know  
4 what is the easiest to do, but can you step down  
5 with Your Honor's permission.

6 THE COURT: Speak loudly. There is not a  
7 microphone close to where you are going to be.

8 A Yes, sir.

9 (Whereupon, the witness steps down from  
10 the witness stand.)

11 Q And, Doctor, you said that, would it be  
12 consistent with being fired through an automobile?  
13 The condition of the----

14 A Yes, through some intermediate area being  
15 a target.

16 Q But assume that with your background and  
17 experience and look at this body, assume the  
18 victim was sitting in a car.

19 A Yes.

20 Q Speak up, Doctor.

21 A Yes, sir.

22 Q You described five different gunshot  
23 wounds?

24 A Yes.

25 Q Can you show the jury starting with number

Dr. Janice Ross-direct by Meadors

1 one?

2 A Yes. The arm was probably up like this.  
3 Went into the left arm. Came out the inside of  
4 the arm, and went back into the chest. And came  
5 out around the collar bone area. And that went  
6 through the left lung. There were three other---

7 Q I am going to stop you just a minute.  
8 You've listed that. Is there any way for you to  
9 tell which order these came into Titus' body?

10 A No, sir.

11 Q Can you describe that as you -- you  
12 designated that as No. 1 on your report.

13 A Yes. When we number these wounds, we're  
14 basically going from top to bottom. Just to as an  
15 organization. It's not -- it does not mean that's  
16 the order they were received in.

17 Q And would you describe that, how would you  
18 describe that, as fatal?

19 A Yes.

20 Q Could that bullet alone have killed him?

21 A Yes.

22 Q Now are you able to determine the distance  
23 based on your background and training just how far  
24 a person is or a weapon is from a body in given  
25 situations from the gun to the body?

Dr. Janice Ross-direct by Meadors

1 A Sometimes.

2 Q You marked on your report distance.

3 A Yes.

4 Q And why do you say that?

5 A When a bullet comes out of a gun, there is  
6 also soot and burning powder that comes out. And  
7 but the soot only goes a short distance depending  
8 on the gun and the ammunition.

9 We did not see any soot or tattooing with  
10 the powder on the skin. So the gun had to be far  
11 enough away that that soot and powder did not  
12 reach the skin.

13 Q And how far was the distance? What's the  
14 minimum that you would say describes the distance?

15 A Probably at least 2 feet.

16 Q Two feet. But if it had gone through a  
17 car or something then you wouldn't expect to find  
18 soot anyway.

19 A Correct.

20 Q So back to the effect of what you are  
21 saying right now, how close it was.

22 A Correct.

23 Q So No. 1, you designated could have been  
24 fatal.

25 A Yes.

Dr. Janice Ross-direct by Meadors

1 Q Okay. What about gunshot No. 2 as  
2 designated on your report?

3 A Well let me bunch two and three together.

4 Q Okay.

5 A They are going into the left side; going  
6 left to right. And again, like I say, there is a  
7 lot of shrapnel. Because I think it went through  
8 the metal. Plus the bullets we got out were  
9 fragmented and very distorted. Those wounds, at  
10 least one of them, went through the left lung  
11 also. And one of them went through the spleen and  
12 stomach.

13 Q And No. 2 as you have stated, could that  
14 have been a fatal wound itself?

15 A Yes.

16 Q And what about No. 3?

17 A Yes.

18 Q So both either two or three could have  
19 caused the death of Xavier Titus?

20 A Correct.

21 Q What about No. 4?

22 A Four went through the right back.

23 Q Could show me on there?

24 A Well...

25 Q And again, do you know exactly what

Dr. Janice Ross-direct by Meadors

1 position the body is in when it was hit? If  
2 somebody has already been hit once or twice, can  
3 you sit here and tell them which way the body  
4 turns?

5 A No.

6 Q How it would react?

7 A Well the body, the body would not be  
8 forced a distant a certain way by the bullet  
9 itself unless there was some momentum that was  
10 already moving towards a direction.

11 Q But you don't know exactly what position  
12 his body was in when he received No. 1.

13 A Correct.

14 Q You just know where No. 1 is on his body.

15 A Yes.

16 Q Could you show where No. 4 is on the body  
17 of Xavier Titus?

18 A Well it would be in the right back. Right  
19 lower back.

20 Q Right lower back.

21 A Yes, sir.

22 Q And what did it do?

23 A It went pretty much straight through from  
24 the back to front. Came out the right front.

25 Q What if anything did it do to the body of

Dr. Janice Ross-direct by Meadors

1 Mr. Titus?

2 A It would -- it lacerated some blood  
3 vessels and passed through -- went into the  
4 abdomen.

5 Q Was this bullet fatal?

6 A It could have been potentially.

7 Q And No. 5.

8 A No. 5 was, and I will have to stand up,  
9 sir.

10 Q Uh-huh. (Affirmative.)

11 A In the upper left leg, the thigh. And  
12 they went towards the front, and made a lot of  
13 fragments. And the bullet was found around his  
14 interior thigh. It would have -- that would have  
15 been lacerated a lot of blood vessels in the area.

16 Q And that could have been potentially  
17 fatal.

18 A Yes.

19 Q And you don't know the position of  
20 Mr. Titus' body when you received that?

21 A No, I do not.

22 MR. MEADORS: Thank you.

23 (Whereupon, the witness resumes the  
24 witness stand.)

25 Q As you are conducting the autopsy and

Dr. Janice Ross-direct by Meadors

1 examining the body in this case of Mr. Titus, do  
2 you collect whatever is inside the bullet, bullet  
3 fragments, and did you do so in this case?

4 A Yes, I did.

5 Q And I am going to show you what has been  
6 entered as State's 55. Do you recognize that?

7 A These are bullets and bullet fragments  
8 that we collected. At the time of the autopsy  
9 they were packaged. And my initials.

10 Q And I believe and do you recognize this  
11 fellow; right?

12 A Yes.

13 Q Officer Atkinson?

14 A Yes.

15 Q And did he collect those from you and take  
16 them back to sled or law enforcement?

17 A Yes.

18 Q Gunshot wound No. 1 was fatal?

19 A Yes, sir.

20 Q No. 2 was fatal?

21 A Yes.

22 Q No. 3, potentially fatal?

23 A Yes.

24 Q No. 4 fatal.

25 A Yes, sir.



Dr. Janice Ross-direct by Meadors

1 Q Potentially fatal. And No. 5 potentially  
2 fatal.

3 A Yes, sir.

4 Q Based on your examination of the body of  
5 Xavier Titus at the morgue in Newberry, South  
6 Carolina, do you have an opinion to a reasonable  
7 degree of medical certainty as to the cause of---

8 A Yes.

9 Q ---death of Xavier Titus?

10 A Yes.

11 Q Would you please let the Ladies and  
12 gentlemen of the jury know?

13 A It's exsanguination, which means to bleed  
14 out, due to the laceration of the heart and lung,  
15 due to the gunshot wound to the chest.

16 MR. MEADORS: Thank you. That's all.

17 MR. MURPHY: No questions, Your Honor.

18 THE COURT: Thank you. You may step down.  
19 Any objection to this witness be excused for the  
20 balance of the trial.

21 MR. MURPHY: No, Your Honor.

22 MR. MEADORS: I beg the court's  
23 indulgence. The state would call Robert Burnish.

24 ROBERT BURNISH, after being duly sworn,  
25 testified as follows:

Dr. Janice Ross-direct by Meadors

1 THE CLERK: State your full name and spell  
2 your last name for the record.

3 A Robert Burnish. Last name is spelled  
4 B-U-R-N-I-S-H.

5 DIRECT EXAMINATION by Mr. Meadors

6 Q Good afternoon, Sergeant.

7 A Good afternoon.

8 Q Please tell these Ladies and gentlemen of  
9 this jury about Robert Burnish. Where you are  
10 from, where you were raised, training; in  
11 particular, please your training in law  
12 enforcement and different capacities you have  
13 held.

14 A Well I have been living IN Sumter since  
15 1980. Moved here with my parents at the beginning  
16 of my high school years. Graduated from Sumter  
17 High school in 1984. Did some, a few jobs outside  
18 after finishing high school. I began working at  
19 the sheriff's department in 1992. Started in the  
20 patrol division; worked my way up to rank as  
21 Sergeant in the patrol division.

22 In 2000, I decided I wanted a little  
23 change in law enforcement so I transferred to the  
24 investigation's division, where I am still at now.  
25 And worked my way up to ranks, and just a few

## Sergeant Burnish-direct by Meadors

1 weeks ago was promoted to lieutenant. The -- my  
2 main cases have been financial crimes and violent  
3 crimes.

4 Q So how many total have you been -- how  
5 long have you been in law enforcement?

6 A About 20 years.

7 Q Going back to September of 2010, your  
8 role with the sheriff was what then?

9 A I was a sergeant in the investigation's  
10 unit.

11 Q And were you on call for the weekend of  
12 September 19th 2010?

13 A Yes, I was.

14 Q And did you become the chief investigating  
15 officer of this case?

16 A Yes, I was.

17 Q Do you know what time, can you actually  
18 remember this incident right now?

19 A Yes, sir.

20 Q And what -- at what time on September 19th  
21 or 18th or 19th, did you learn -- I guess the  
22 19th, I apologize, did you learn about this?

23 A It was after midnight, but I don't think  
24 it was quite one o'clock yet. And I was actually  
25 on my way home from working another scene when I

## Sergeant Burnish-direct by Meadors

1 was called to this respond to this scene.

2 Q And where did you go?

3 A To Isadore Nathaniel.

4 Q And what did you observe if anything  
5 there?

6 A When I arrived, I was led by Captain Hobbs  
7 who was the captain of the patrol division at that  
8 time. And he briefed me on the situation of what  
9 he discovered when he arrived at Isadore Nathaniel  
10 Lane. I had to park some distance away from the  
11 scene because of my car, the car that I drive  
12 sits close the ground and it's a rough road. So  
13 not to get stuck in the road, I parked on the side  
14 road, and began to walk, and he briefed me on the  
15 situation.

16 Q At that time of night, I mean, was it dark  
17 out there?

18 A Yes, sir.

19 Q Did you see Xavier's body or Mr. Zav's  
20 body, Mr. Titus' body?

21 A Yes, I did.

22 Q And I'll show you pictures in a minute.  
23 But you saw the truck in the -- near the mud  
24 puddle in the woods?

25 A Yes, sir.

## Sergeant Burnish-direct by Meadors

1 Q And that night let's state -- well that  
2 morning, I'm sorry, that morning of the 19th,  
3 after you were briefed by Sergeant Hobbs, did  
4 Investigator Bean arrive?

5 A Yes, sir.

6 Q And this is the early morning hours of  
7 September 19th 2010.

8 A That's right.

9 Q And is this Sumter County?

10 A Yes, it is.

11 Q And did Investigator Bean take pictures,  
12 kind of process that scene?

13 A Yes, he did.

14 Q And was part of that the cell phones that  
15 came out of Mr. Titus' car?

16 A Yes, it was.

17 Q And basically were you able to verify that  
18 one or more of these cell phones did belong to the  
19 victim?

20 A Yes, sir.

21 Q After -- what did you do after you made  
22 your observations and were briefed at Isadore  
23 Nathaniel Road? What did you do next?

24 A After observations and I was briefing or  
25 briefing, I was the one who had the crime scene

## Sergeant Burnish-direct by Meadors

1 unit respond. I placed in that request and had  
2 them respond to the scene. Process it. While  
3 several other investigators I believe, knocked on  
4 the door to see if there were any witnesses or  
5 anybody that was nearby.

6 We -- there were some -- there were a few  
7 homes in the area but there was nobody home. As a  
8 matter of fact, there was actually one couple had  
9 come home while we were there. And they had been  
10 out that night. Assist at the crime scene. And  
11 once I was comfortable that they were okay with  
12 what they were doing, I responded to the law  
13 enforcement center to talk with Mr. Hilton.

14 Q And that would be Cedric Hilton.

15 A Yes, sir.

16 Q And had you known him before?

17 A No.

18 Q So did you have an occasion to talk with  
19 Mr. Hilton and take a statement from him?

20 A Yes, sir.

21 Q And did he give you a name based on I  
22 guess, hearing conversations from the victim and  
23 someone else prior to the supposed meeting?

24 A Yes, sir. A first name.

25 Q Okay. And what was that?

## Sergeant Burnish-direct by Meadors

1           A     Kelvin.

2           Q     So at this time are we still, what time  
3     are we on the -- what time of day are we on the  
4     19th of September?

5           A     It's probably like two in the morning.  
6     Somewhere around that time.

7           Q     Now you meet with him at the law  
8     enforcement center; correct?

9           A     That's correct.

10          Q     Did you get a statement?

11          A     Yes.

12          Q     Did you get a description of any type of  
13     vehicle?

14          A     Yes, sir.

15          Q     The person that they met at the scene?

16          A     Yes, sir.

17          Q     Okay, what was that?

18          A     He described it as a brown, rust colored  
19     Toyota pickup truck. Older model. A small pickup  
20     truck.

21          Q     And did he give you a des -- as a result  
22     of having that truck and the name Kelvin, what did  
23     you the law enforcement officer in this case, do?  
24     Because you are trying to find out what happened;  
25     right?

## Sergeant Burnish-direct by Meadors

1 A Right.

2 Q That's what you all do.

3 A Right.

4 Q So you have now got a statement from  
5 somebody that's in a car where somebody was  
6 killed; correct?

7 A That's correct.

8 Q And they give you this name Kelvin in a  
9 brown or in a rust colored truck; right? I mean,  
10 that's what you have at this point?

11 A Right.

12 Q So you want to find out who Kelvin is.

13 A That's right.

14 Q And did you talk to the officers and  
15 investigate that Kelvin might have a truck like  
16 this?

17 A Yes. I talked to a couple of other  
18 investigators. I showed my prior investigator.  
19 And they advised me that that sounded like a  
20 description of somebody that they were familiar  
21 with by the name of Kelvin. And got his  
22 information from them and sent a request to sled  
23 for a photo -- a six person photo lineup of  
24 Mr. Green.

25 Q So you get the lineup made from sled. And



Sergeant Burnish-direct by Meadors

1       you are going to show that to Mr. Hilton?

2           A     Right.

3           THE COURT:   Without objection?

4           MR. MURPHY:   Without objection.

5           MR. MEADORS:   Your Honor, it's State's 60.

6           THE COURT:   Without objection.

7           (Six person Photo lineup marked State's 60  
8       into evidence.)

9           Q     So did you show a lineup to Mr. Hilton to  
10       see if you recognized somebody you thought was  
11       Kelvin?

12          A     Yes, sir.

13          Q     And who did he pick out?

14          A     He picked out photo No. 5.

15          Q     And that's who?

16          A     That's Kelvin Green.

17          Q     And did he mark on here CH?

18          A     Yes, he did.

19          Q     And he's got up here in this picture;  
20       correct?

21          A     That's correct.

22          Q     So you now have this one suspect  
23       identified; correct?

24          A     That's right.

25          Q     What do you do as law enforcement?

## Sergeant Burnish-direct by Meadors

1           A     After the identification of the suspect,  
2     myself and a Lieutenant Mayes went down with the  
3     on call magistrate that day, Judge Griffin, to  
4     obtain an arrest warrant.

5                 In the process of obtaining the arrest  
6     warrant, we got information his truck was seen at  
7     his residence on Floride Street.

8           Q     Mr. Green's.

9           A     Right.

10          Q     And that's 7:32 in the morning when he is  
11     picked out by---

12          A     Right.

13          Q     Mr. Hilton.

14          A     That's right. At that point, once we  
15     received the information that his truck was seen  
16     at his residence, we get a description on the  
17     residence while we were there, and I obtained a  
18     search warrant.

19          Q     And let me ask you about his residence, it  
20     was     Floride?

21          A     That's correct.

22          Q     Where is that?

23          A     That's off of, Floride Street is off of  
24     Pike Road up near Black River Electric on Pike  
25     Road just before it gets to 521.

## Sergeant Burnish-direct by Meadors

1 Q So it's not the same community as the  
2 Wedgefield and Isadore Nathaniel.

3 A No, sir.

4 Q I mean it's not at all; is it?

5 A No, sir. That was in the opposite side of  
6 the county.

7 Q So Mr. Green's residence is on the  
8 opposite side of the county.

9 A That is correct.

10 Q From where this incident happened.

11 A Right.

12 Q Night becomes daybreak; correct?

13 A Yes, sir.

14 Q We are still on the 19th.

15 A Yes, sir.

16 Q Does Investigator Bean or any of his --  
17 your folks, his folks, the sheriff's folks, go  
18 back to Isadore Nathaniel Road?

19 A Yes.

20 Q And I think Investigator Bean has  
21 testified to that.

22 A That's right.

23 Q They then broaden their search, I guess  
24 you would say.

25 A Yes, sir.

## Sergeant Burnish-direct by Meadors

1 Q And as a result of that, is that where the  
2 beer can and the other items, cartridges casings,  
3 cigar butt, bottle and fired casings were found?

4 A Right.

5 Q Five, six, seven, eight, I think are in  
6 these photos that he showed?

7 A Yes, sir.

8 Q And did you go back out there too?

9 A I did.

10 Q And would you describe for the jury were  
11 these five, six, seven and eight, were they kind  
12 of near a brush area?

13 A Yes, they were.

14 Q I mean based on your training and  
15 experience in just being there that day with your  
16 eyes, it is a place where somebody could have  
17 stayed out of view if they wanted to?

18 A Yes, very much.

19 Q Now was there also a cell phone found  
20 there?

21 A There was.

22 Q Okay. And was it -- can you tell me where  
23 that was found? I beg the court's indulgence. Do  
24 you remember the mud puddle?

25 A Yes.

## Sergeant Burnish-direct by Meadors

1 Q And if this is State's 10, is that the mud  
2 puddle?

3 A Yes, it is.

4 Q And so the incident we're -- the place  
5 we're talking about where these items were found,  
6 was it beyond the mud puddle?

7 A Yes, It was.

8 Q And can you show on here where it was?

9 A It would be past this area right here.

10 Q Around here as you are turning in?

11 A Right.

12 Q And are you familiar with this diagram?

13 A Yes, I am.

14 Q No. 9, items in here, beer bottle, et  
15 cetera, point the place out.

16 A The beer bottle like I said, were found in  
17 this area, which is right along the brush line of  
18 this wooded area. The fired rifle cartridges are  
19 right not far, a short walking distance to that.  
20 And Mr. Green's cell phone right over here.

21 Q And were you able to see with your own  
22 eyes that cars had been down in there? You had to  
23 lead the----

24 A Yes, sir.

25 Q Just like the grass is down.

## Sergeant Burnish-direct by Meadors

1 A That's right.

2 Q Were you able to verify the Toyota pickup  
3 truck belonged to Kelvin Green?

4 A Yes, sir.

5 Q Was in his name?

6 A Yes, sir.

7 Q So he's arrested at Floride.

8 A Yes, sir.

9 Q And are you still on the 19th?

10 A That's right.

11 Q Do you go back down to the law enforcement  
12 center?

13 A Yes, sir.

14 Q And for what purpose?

15 A To interview Mr. Green.

16 Q And did you take a statement from him on  
17 the 19th?

18 A Yes, we did.

19 Q And at that point, did he identify that  
20 there had been somebody else there with him?

21 A He said there was somebody else there with  
22 him.

23 Q Did he tell you who that was?

24 A No.

25 Q Did you interview him again on the 20th?

## Sergeant Burnish-direct by Meadors

1 A Yes, we did.

2 Q And did you read him his rights?

3 A Yes, sir.

4 Q Did he appear to you both on the 19th and  
5 the 20th, to understand his rights?

6 A Yes, sir.

7 Q And did he indicate to you that he  
8 understood them?

9 A Yes, sir.

10 Q On the 20th, the next day, tell the jury  
11 what happened.

12 A On the 20th, Mr. Green was at the  
13 detention center. And I went back to talk to him  
14 one more time. And I let him know this is the  
15 last time I am going to come out and talk to him.  
16 And I felt like he was not being truthful; that he  
17 knew who the other person was that was with him.  
18 And I said, I told him, this is the last time, if  
19 you want to get everything right, now is the time  
20 to do that. And he stated to me that he would  
21 like to go ahead and do that at that time.

22 Q Had he talked to any family in the  
23 meantime that you know of?

24 A He said he had talked to a family member  
25 before, prior to my arrival.

## Sergeant Burnish-direct by Meadors

1 Q And did you again read him his rights?

2 A Yes.

3 Q On the 20th.

4 A Yes.

5 Q And did he appear to understand them on  
6 the 20th?

7 A Yes, sir.

8 Q And he agreed to talk to you?

9 A Yes, sir.

10 Q And did he sign on both the 19th and 20th,  
11 said hey, sign on here this is my statement?

12 A Yes, sir.

13 Q And on the 20th, did he name the other  
14 person either by proper name or nickname?

15 A He did name him by a nickname.

16 Q Out all the people in the world, all the  
17 people in Sumter County, who did he say?

18 A Spank.

19 Q Spank. And he said he didn't know him by  
20 his real name.

21 A That's right.

22 Q And did he indicate that, whatever it is,  
23 did he indicate what Spank's role in this was?

24 A That he was the one that did the shooting.

25 Q Now did he tell you where Spank lived?



## Sergeant Burnish-direct by Meadors

1 Without saying it, did he tell you?

2 A Yes, sir.

3 Q Where did he tell you he lived?

4 A In Wedgefield.

5 Q Okay. Did he tell you what road?

6 A Yes, sir.

7 Q What road?

8 A Orange Hill Church Road.

9 Q Did he tell you actually Orange Hill or a  
10 dirt road off of Emil?

11 A I think he said a dirt road off of Emil.

12 So we identify it as Orange Hill.

13 Q And the only thing I ask that, can you  
14 tell the Ladies and gentlemen of this jury, they  
15 may know, I don't know. Where is Orange Hill  
16 Church Road in relation to this incident location,  
17 Isadore Nathaniel?

18 A It is a very short driving distance from  
19 the incident location to Orange Hill Church Road.  
20 It's not far.

21 Q It's the same area. It's the same  
22 community.

23 A Very same. It's all within the immediate  
24 area; yes, sir.

25 Q Did he tell you where he and Spank went

## Sergeant Burnish-direct by Meadors

1 after the shooting?

2 A Yes, sir.

3 Q Did you know who Spank was?

4 A No, I did not; no.

5 Q So we are on the 20th now?

6 A Yes, sir.

7 Q The 19th has become the 20th.

8 A Yes, sir.

9 Q You have gone from Kelvin to a truck, to  
10 another person with me who is Spank; correct?

11 A Right.

12 Q And an AK-47?

13 A Right.

14 Q And then what do you do to determine who  
15 Spank is?

16 A Lieutenant Lands and I went back out to  
17 the Wedgefield Community and started talking to  
18 some people. We went to several stores and  
19 knocked on some doors and talked to people.

20 Q And that's what you have to do.

21 A Right. That's right. What we call  
22 beating the bushes again.

23 Q And were you able to come up with a couple  
24 of lineups of potential folks?

25 A Yes, sir.

## Sergeant Burnish-direct by Meadors

1 Q Because you didn't know; did you?

2 A No, we didn't know.

3 Q And did you show Mr. Kelvin Green State's  
4 49?

5 A Yes. Yes, I did.

6 Q And was he able to pick out anybody in  
7 that lineup that was with him September 19th 2010?

8 A No, he could not.

9 Q And did you also develop a State's 48 as a  
10 lineup?

11 A Yes, sir.

12 Q And as a result of you beating the bushes  
13 and doing all that, was an individual who may be  
14 known as Spank in this lineup?

15 A Yes, sir.

16 Q Where did you or when did you show this  
17 lineup to Mr. Green?

18 A I believe it was on the 20th or 21st. I  
19 don't remember the exact date.

20 Q Okay. And when you showed him this  
21 lineup, did you try to, may I approach again?

22 THE COURT: You may.

23 Q Did you try to indicate or you may not  
24 have even known. Did you try to indicate who or  
25 tell Mr. Green who to pick out?

## Sergeant Burnish-direct by Meadors

1 A No.

2 Q Had you told him in the second statement  
3 on the September 19th or 20th to say Spank?

4 A No.

5 Q Did you say, say Spank did it?

6 A No.

7 Q And when you showed him this lineup, did  
8 you try to in any way influence him in who to pick  
9 out?

10 A No.

11 Q And did he pick out anybody that was with  
12 him on the 19th?

13 A Yes, he did.

14 Q Who did he pick out?

15 A Photo No. 5, which was known as Thomas  
16 Geddie.

17 Q And did he circle that?

18 A Yes, he circled it and placed his initials  
19 beside it.

20 Q KG?

21 A Yes, sir.

22 Q And he picked him out of State's No. 48 as  
23 what?

24 A As the person who shot Mr. Titus.

25 Q Shot Xavier Titus.

## Sergeant Burnish-direct by Meadors

1 A Yes, sir.

2 Q And with him, with Kelvin Green on the  
3 morning hours of September 20th?

4 A Yes, sir.

5 Q After you had identified Spank now, what  
6 did you do?

7 A After the identification of Spank, I went  
8 and obtained an arrest warrant for him, Mr.  
9 Geddie. And we got a description of his residence  
10 and also obtained an arrest warrant for his  
11 residence.

12 Q And was that Orange Hill Road?

13 A Yes, sir.

14 Q And did you go attempt to look for  
15 Mr. Geddie, I said -- Orange Hill Road?

16 A Yes, I did.

17 Q Did you find that?

18 A No, we did not.

19 Q And as a part of the search warrant were  
20 you also looking for an AK-47?

21 A Yes, we were.

22 Q Did you find that?

23 A No, we did not.

24 Q Have you been able to locate that at all  
25 yet?

## Sergeant Burnish-direct by Meadors

1           A     No, we have not.

2           Q     And did you end up picking up Mr. Geddie  
3     or was he at Conner's Store?

4           A     Yes, he was. After we did a search for a  
5     couple of hours later, I received a call that  
6     Mr. Geddie was at Conner's Store requesting law  
7     enforcement. And he wanted to know why law  
8     enforcement was looking for him.

9           Q     Now when you, when anybody -- I am sorry.  
10    When you went to do the search warrant, were any  
11    of his family members there during the search  
12    warrant?

13          A     Yes, his mother was there.

14          Q     Did they know you all were looking for  
15    him?

16          A     Yes, sir.

17          Q     I mean, so the word was out.

18          A     Yes, sir.

19          Q     And then you picked him up at Conner's  
20    Store.

21          A     Yes, sir.

22          Q     Now at some point in your investigation,  
23    did you hear from Marie Hodge?

24          A     Yes, I did.

25          Q     And when was that?

## Sergeant Burnish-direct by Meadors

1           A     I would say it was like a day or two  
2     later. After about in the next day or maybe two  
3     days after the arrest of Mr. Geddie.

4           Q     And she hadn't been involved in any of  
5     this other investigation; correct?

6           A     No, she had not.

7           Q     And is that when you learned about the  
8     fingerprint on the Budweiser from the field, I  
9     believe State's 41?

10          A     Yes, sir.

11          Q     Had come back to Thomas Geddie?

12          A     That's right. That's what I learned of  
13     it.

14          Q     How many crime scenes have you been to?

15          A     Hundreds.

16          Q     Based on your experience and training in  
17     this case, if you can say and looking at the crime  
18     scene where five, six, seven, and eight were  
19     carried out, based on your training in that crime  
20     scene, did it appear to you that more than one  
21     person was involved in this?

22          A     Yes.

23          Q     And considering the statements the  
24     witnesses gave and all.

25          A     Yes.

Sergeant Burnish-direct by Meadors

1 MR. MEADORS: Your Honor, this is State's  
2 59, which has been previously testified. And I  
3 believe there is no objection. It's what we were  
4 just talking about the latent. The actual latent  
5 print.

6 THE COURT: Is that without objection, Mr.  
7 Murphy?

8 MR. MURPHY: No objection.

9 THE COURT: 59 is admitted without  
10 objection.

11 (Latent print marked State's Exhibit No.  
12 59 into evidence.)

13 MR. MEADORS: I beg the court's  
14 indulgence. Thank you, judge. That's all we have  
15 at this time.

16 THE COURT: Mr. Murphy.

17 MR. MURPHY: Thank you, Your Honor.

18 Cross Examination by Mr. Murphy:

19 Q Investigator Burnish, you say you searched  
20 where you understood the AK-47 might be in my  
21 client's home.

22 A That's correct; yes, sir.

23 Q And there was no AK-47 found in the home.

24 A That's correct.

25 Q Did you search the area surrounding that?



## Sergeant Burnish-cross by Murphy

1 A Yes, I did.

2 Q Okay, you couldn't find that either.

3 A No.

4 Q Did you beat the bushes asking around and  
5 seeing if----

6 A Yes, we did.

7 Q In fact, isn't it true that at one point  
8 you all had an AK-47 from some unrelated crime  
9 tested just to make -- just on the off chance that  
10 it might be involved in this case; correct?

11 A We did; yes, sir.

12 Q And so you never heard anything about my  
13 client shooting an AK-47 in front of 10 people at  
14 a camp out before today; did you?

15 A No.

16 Q Was there any testing done on the truck to  
17 determine whether or not, you know, there was  
18 gunpowder on the truck or anything like that?

19 A Finger wear, I am not aware of any.

20 Q Okay. I mean it wouldn't necessarily be  
21 obvious that there would have been either; would  
22 there?

23 A No.

24 Q So you never developed any information  
25 aside from Mr. Green that my client had an AK-47

## Sergeant Burnish-cross by Murphy

1 at some point and time.

2 A No.

3 Q Again, your conclusion is that there might  
4 have been two people at the scene based on the  
5 entirety of the evidence; including, the  
6 statements of Mr. Green; correct?

7 A The statements and the fingerprint; yes,  
8 sir.

9 Q Now you advised Mr. Green in the initial  
10 interview basically the same thing, I guess, you  
11 advised most people; that now is your time to say  
12 what happened after reading them their rights.

13 A Yes.

14 Q And they may be interested to come clean;  
15 correct?

16 A That's correct. I do that with everybody.

17 Q I believe you said that my client was  
18 actually waiting; had contacted the police and was  
19 waiting to be picked up; is that correct?

20 A That's correct.

21 Q So he voluntarily came in. You didn't  
22 have to go searching for him too long.

23 A No, sir. We did do a search for him. But  
24 later that evening they called, and we -- I went  
25 and picked him up.

Sergeant Burnish-cross by Murphy

1 MR. MURPHY: Thank you. I appreciate  
2 that. Thank you.

3 THE COURT: Any redirect?

4 MR. MEADORS: No, sir. Thank you.

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

6 MR. MEADORS: Your Honor, we would ask for  
7 a short recess.

8 THE COURT: Ladies and gentlemen, it's a  
9 perfect time to take a short recess. If they  
10 would like a coca cola or something like that, if  
11 you will provide that. Do not discuss anything  
12 about the case while you back that. And those of  
13 you who need to smoke, you may go.

14 The court will be in recess for  
15 approximately 15 minutes. Let me see the  
16 attorneys up here for just a second.

17 (Whereupon, the court takes a short  
18 recess.)

19 THE COURT: You may bring the jury.

20 (Whereupon, the following takes place  
21 within the presence of the jury.)

22 THE COURT: Mr. Meadors.

23 MR. MEADORS: If it pleases, Your Honor,  
24 the State of South Carolina rests.

25 THE COURT: Ladies and gentlemen, the

1 state has rested their case. That will be all you  
2 will hear for today, so I am going to release you  
3 for the balance of the day with the instruction  
4 that you be back here at 10 o'clock tomorrow  
5 morning. And that you not discuss this case.  
6 Please don't read any articles that may appear.  
7 And again, do not do any research on your  
8 computers. Y'all have a nice afternoon, and we  
9 will see you at 10 o'clock tomorrow morning.  
10 Again, thank you for your promptness each time you  
11 are required to be here.

12 (Whereupon, jury is dismissed at  
13 3:12 p.m.)

14 THE COURT: Does the defense have any  
15 motions at this time?

16 MR. MURPHY: Yes, Your Honor. At this  
17 point we would make a motion for a directed  
18 verdict. Specifically, we would submit to the  
19 Court that the state has failed to meet the burden  
20 generally, and also in specific regard to on the  
21 element of malice and also in regard to the  
22 factual basis of demonstrating that the defendant  
23 actually used the murder weapon. On those  
24 bases, we would ask for a directed verdict.

25 THE COURT: Mr. Meadors.

1           MR. MEADORS: If it Please the Court, Your  
2 Honor, I believe that any evidence in a light most  
3 favorable to the state at this juncture, is the  
4 standard. Judge, there is eye witness testimony  
5 that Mr. Geddie shot the AK-47 numerous times.  
6 Testimony that those bullets caused his death.  
7 Evidence that it was a plan and set up. I do  
8 think in this case malice can be shown from the  
9 inference of the use of a deadly weapon since it  
10 is not a self defense or any other excuse used or  
11 presented as evidence. So I do think the jury can  
12 infer malice from that. I don't have anything  
13 else.

14           THE COURT: Mr. Murphy, I am going to  
15 respectfully deny your motion. I think there is  
16 enough evidence to get to the jury. Whether they  
17 will convict or not, I don't know. But there is  
18 certainly evidence present, and I am going to deny  
19 your motion. Thank you. You want to put the  
20 defendant under oath? I am going to need to ask  
21 him some questions.

22           (Whereupon, the defendant is sworn.)

23           THE COURT: Mr. Geddie, I am going to ask  
24 you some questions. And this is not your  
25 testimony and this has nothing to do with your

1 testimony. This concerns whether or not you want  
2 to testify. But I need to explain to you certain  
3 of your rights. If you do not understand anything  
4 that I say, please let me know. If you want me to  
5 explain anything in greater detail, I will be  
6 happy to do that. You understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now again, we have reached the  
9 stage of the trial where you may present your  
10 defense. Now you have the right to claim the  
11 protections under the Constitution of the United  
12 States. Under the 5th Amendment which states in  
13 part, that no person shall be compelled in any  
14 criminal case to be a witness against himself.  
15 Now what this means is that you cannot be required  
16 to testify, but you do have a right to testify on  
17 your own behalf. Here, no one can make you  
18 testify. This is a personal right, and no one can  
19 waive it with the exception of yourself.

20 Now if you decide to testify, you will be  
21 subject to the same rules that govern other  
22 witnesses. And you may be examined and cross  
23 examined on any relevant issue in this case. In  
24 addition, if you have any convictions involving  
25 dishonesty or false statements or for crimes

1 punishable by more than one year's imprisonment  
2 and I determine that the probative value outweighs  
3 the prejudicial effect on you, the solicitor will  
4 be able to introduce your record to attack your  
5 credibility. What charges would the state be able  
6 to bring up if he does testify?

7 MR. MEADORS: Your Honor, I think the  
8 shoplifting and a petty larceny just for the  
9 dishonesty. There is disposing of property under  
10 lien. I mean, I wouldn't try to do that. That's  
11 all.

12 THE COURT: Okay. That's the only charges  
13 they could bring against you.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If you decide to testify, the  
16 decision must be on your part must be freely and  
17 voluntarily, intelligently made with the knowledge  
18 of the protections given to you under the United  
19 States Constitution. Now if you decide not to  
20 testify, I will instruct the jurors that they  
21 cannot give the fact that you did not testify any  
22 weight or consideration whatsoever. And there is  
23 to be absolutely no prejudice to you because you  
24 did not testify. It is left entirely up to you  
25 whether you want to testify. You may talk to

1 your attorney. You may talk to your family or  
2 friends or anyone else. But the final decision  
3 will be left entirely to you.

4 Do you understand what I have explained to  
5 you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And do you have any questions  
8 about what I have explained to you?

9 THE DEFENDANT: No, sir.

10 THE COURT: I am not going to make you  
11 answer that ultimate question at this point and  
12 time. Tomorrow morning I will ask you before we  
13 get started as to whether you want to testify.  
14 So you will have overnight to make that decision.  
15 Do you understand that?

16 THE DEFENDANT: Thank you, sir.

17 MR. MURPHY: Thank Your Honor.

18 THE COURT: Court is adjourned until 10  
19 o'clock tomorrow morning.

20 THE COURT: Thank you, Your Honor.

21 (Whereupon at 3:17 p.m. jury is  
22 dismissed.)

23 (Whereupon, the trial commences on Thursday, June  
24 7th at 9:30 a.m.)

25 (Whereupon, the following takes place



1 outside the presence of the jury.)

2 THE COURT: Good morning. At the end of  
3 yesterday's sessions, court session, I was asking  
4 the defendant if he wanted to testify. Will the  
5 defendant, please stand.

6 Mr. Geddie, have you now had an  
7 opportunity to speak with your attorney concerning  
8 the questions that I asked you yesterday about  
9 your decision to testify or not?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: What is your decision?

12 THE DEFENDANT: I will not testify.

13 THE COURT: Very well.

14 THE COURT: We had an issue concerning the  
15 charge, and we have provided you an electronic  
16 copy of the charge. Mr. Murphy has requested a  
17 mere presence charge. Is that correct, Mr.  
18 Murphy.

19 MR. MURPHY: Yes, Your Honor.

20 THE COURT: Mr. Meadors.

21 MR. MEADORS: Briefly just a minute ago,  
22 and would just pose this; that the only evidence  
23 in the record, the testimony is that he was  
24 present and participating. I guess is the...

25 THE COURT: Well there if you took the

1 beer bottle on it's own, you are right, the  
2 testimony is that he was there. And that leads to  
3 the possibility that there was a co-conspirator  
4 rather than just the sole one. If he was only one  
5 there, I would tend to go along with that.

6 But, Mr. Murphy, you understand that under  
7 that theory if I charge mere presence, then I  
8 also because there is testimony that they  
9 conspired to commit an armed robbery that the hand  
10 of one, hand of all, now gets attached to the mere  
11 presence charge.

12 MR. MURPHY: Yes, Your Honor, I understand  
13 that. I think it is a more accurate reflection of  
14 allowing the jury the opportunity, the more full  
15 opportunity to discern whether or not to believe  
16 Mr. Green's testimony. The evidence of the hand  
17 of one hand of all, the evidence that my client  
18 was the shooter, all come from Mr. Green.

19 THE COURT: Yeah, you understand if they  
20 believe Mr. Green---

21 MR. MURPHY: Right.

22 THE COURT: ---that your guy---

23 MR. MURPHY: There is two theories.

24 THE COURT: ---is the shooter. If they  
25 don't believe Mr. Green, but they find your guy is

1 part of the armed robbery, he still gets  
2 convicted.

3 MR. MURPHY: I understand. But there is  
4 also the point -- I think the point is important  
5 is, there is independent evidence that my client  
6 was at the scene.

7 THE COURT: No question about that based  
8 upon that one fingerprint.

9 MR. MURPHY: And the jury could absolutely  
10 reject everything Mr. Green said, but be convinced  
11 beyond a reasonable doubt that my client was  
12 there. And I think it is important for them to  
13 know that his presence alone is an insufficient  
14 basis for conviction.

15 THE COURT: Right, but again, you get  
16 hooked a second time with a possibility of the  
17 hand of one.

18 MR. MURPHY: I appreciate that, Your  
19 Honor.

20 MR. MEADORS: Your Honor, I almost  
21 respectfully suggest that we be entitled to hand  
22 of one, hand of all anyway.

23 THE COURT: Well you probably would  
24 anyway. Certainly if he is mere presence, which I  
25 think there is no question on. I am going to

1 charge, mere presence and hand of one, hand of  
2 all.

3 MR. MEADORS: Can you read your mere  
4 presence please?

5 THE COURT: I opened to hand of one, hand  
6 of all. This is what the bench book says, and  
7 this is what I will intend to read. Mere presence  
8 at the scene is not sufficient to prove someone  
9 guilty of a crime. If a defendant is present  
10 where a crime is being committed or mere  
11 association with a person who commits a crime does  
12 not make a defendant an accomplice or an aider or  
13 abettor of a person committing a crime. The  
14 burden is on the state to prove every element of  
15 the crime charged. If you find after reviewing  
16 all the evidence that the state has only proved  
17 that the defendant was only present at the scene  
18 of the crime and they have not proved beyond a  
19 reasonable doubt any participation of the crime,  
20 then you must find the defendant not guilty. The  
21 law is that the proof at the scene is not  
22 sufficient to find someone guilty. And then I am  
23 going to charge the hand of one is the hand of  
24 all.

25 MR. MURPHY: That's agreeable.

1 THE COURT: I really think based on the  
2 testimony of Mr. Green and the law, that that is  
3 what we are sitting here looking at.

4 MR. MURPHY: Yes, sir.

5 THE COURT: Let's bring our jury in.

6 (Whereupon, the following takes place  
7 within the presence of the jury.)

8 THE COURT: Good morning, Ladies and  
9 gentlemen. We will continue with our case.  
10 Mr. Murphy, the state has rested.

11 MR. MURPHY: Your Honor, the defense  
12 rests.

13 THE COURT: Ladies and gentlemen, the  
14 defense has rested. And therefore, that means  
15 that all the evidence in this case has been  
16 presented to you. Now is the time when the  
17 attorneys will make their closing arguments. And  
18 then I will charge you the law, and then it will  
19 be up to you all to deliberate and render a true  
20 and just verdict. Is the state ready to proceed.

21 MR. MEADORS: We are, Your Honor.

22 THE COURT: Is the defense ready?

23 MR. MURPHY: Yes, sir.

24 THE COURT: Mr. Meadors.

25 MR. MEADORS: May it Please the Court,

1 Mr. Murphy. Mr. Foreman, Ladies and Gentlemen,  
2 good morning. On behalf of Solicitor Finney,  
3 Sumter County Sheriff's Department, Xavier Titus'  
4 mom and daddy, brother, sister, other family  
5 members, I want thank all of you for  
6 participating in this trial. I don't mean that  
7 lightly. Thank you for paying attention.

8 This is a beautiful system largely and  
9 primarily because of jurors, because that's what  
10 makes the system work, week end and week out. We  
11 are here day in and day out trying cases. But  
12 it's jurors who come in from the community with  
13 their common sense, with their life experiences  
14 and decide what evidence from this stand that's  
15 admitted in to evidence by His Honor is credible.  
16 Because that's all you can decide this case on is  
17 what came in the witness stand as evidence and  
18 exhibits. That's it.

19 And so your experiences you have and you  
20 brought this with you, and you will bring it back  
21 in the jury room. That's what you will decide  
22 this case on. And that's a beautiful system.  
23 Thank you for being here. I want to talk very  
24 briefly about burden. I said it in my opening,  
25 it's beyond a reasonable doubt. Beyond a doubt

1 that would cause a reasonable person to hesitate  
2 to act. It's not beyond all doubt. There's no  
3 way in the world you can prove anything beyond all  
4 doubt. And the law doesn't require that. You  
5 would close the courthouse down. Quit building  
6 the building if that was the burden. It's beyond  
7 a reasonable doubt. Beyond a doubt that makes  
8 folks hesitate to act. In some cases, Mr. Murphy  
9 is a real good lawyer and a fine man. A nice man.  
10 Some lawyers will try to make a case that's not a  
11 reasonable doubt case a reasonable doubt case.  
12 When you have direct evidence, circumstantial  
13 evidence, strong we will submit, to try to say  
14 well there could be a doubt here. There could be  
15 a doubt here.

16 All I ask you is that when you are  
17 discussing this case, take all the facts in  
18 context together. And when you have looked at  
19 them all together you will be convinced we submit.  
20 Don't take one fact in isolation here and there.  
21 Sometimes it took me a long time to realize this,  
22 sometimes questions are just questions. You can  
23 answer everything. Convinced beyond a reasonable  
24 doubt. We submit it's here. I'll talk about it a  
25 little bit more.

1           Some of the things he may mention, he may  
2   not mention. I don't know, but I will briefly  
3   talk about them. I don't think he will, but the  
4   Budweiser bottle has his fingerprint on it. I  
5   don't know what he is going to say about that,  
6   whether it was before or not. Your Honor is going  
7   to charge you with mere presence. But we have to  
8   prove beyond that somebody was merely present.  
9   Well that beer bottle puts him there. That's his  
10   fingerprint. And Kelvin Green puts him there  
11   shooting. And it's found after the shooting the  
12   next morning. That's good, direct and  
13   circumstantial evidence.

14           Ladies and gentlemen, what are some other  
15   things that he may or may not say about what may  
16   be a reasonable doubt and what may not be a  
17   reasonable doubt. But I tell you right off the  
18   bat, he didn't mention Mr. Geddie in that first  
19   statement. He said somebody else was in there.  
20   He didn't mention him. He said somebody else. He  
21   had just seen him shoot somebody 5 times with an  
22   AK-47. And he was told if you talk, something is  
23   going to happen to you.

24           It's unusual he didn't mention -- or he  
25   did mention it the same day and I will get to



1 that. A lot of those see through that and use  
2 your common sense. Folks, the elements, and I am  
3 going to talk a little bit more than I usually do  
4 about this. But murder, you all can tell me now  
5 what it is probably just as easy as I can tell you  
6 all. What is murder? Unlawful and intentional  
7 killing of another individual, young Xavier Titus.

8 Malice is a meanness, an evilness, a  
9 wickedness, a spitefulness, one person shows to  
10 the other. It can be express, I am going to kill  
11 you. Or it can be deferred. And I am asking you  
12 and the judge will charge you, you can infer  
13 malice with the use of deadly a weapon, an AK-47,  
14 assault rifle. You can infer malice from that.  
15 It reeks with malice. You see it looks at  
16 malice. Firing at an unarmed person. That's the  
17 malice.

18 Malice aforethought. Again, don't get  
19 hung up on aforethought. You don't have to have  
20 premeditation or planning in this stage. You just  
21 don't. You don't have to set out plans; we are  
22 going to go kill this person on this day.  
23 Aforethought can exist in the instant the trigger  
24 is pulled. Just like that. It's like you pull  
25 the trigger and it has got a bullet in it, and you

1 think it is going to kill somebody, malice  
2 aforethought.

3 Now I tell you, the evidence in this case  
4 I think he did plan to kill him. He's lying in  
5 wait. Kelvin Green, it was armed robbery. I'll  
6 get to that in a minute. He was ready to kill  
7 him. Don't have to prove premeditation. He sure  
8 was there waiting. He was there waiting, beer  
9 bottle. Waiting to rob him. Waiting to kill him.  
10 That's what he did, malice aforethought.

11 The judge is also going to charge you on  
12 something called the hand of one is the hand of  
13 all. The hand of one, hand of all, says if two  
14 folks put into action a scheme or something to  
15 commit a crime, one person is just as guilty as  
16 the other. The hand of one is the hand of all.  
17 If I go to rob a store, and I stay outside and the  
18 other person goes in and shoots, I am just as  
19 guilty. The law says. Now I don't have to reach  
20 that in this case. But if for some reason you  
21 thought he was there, and not sure who shot, they  
22 are both guilty. We submit there is overwhelming  
23 evidence that Geddie is the shooter.  
24 Overwhelming. And I'll get to that. But that's  
25 the law, the hand of one, hand of all. Either one

1 of them allows you to find that Thomas Geddie was  
2 the murderer.

3 Fingerprint is there. Are you present?  
4 If you are and he is shot and you think you are  
5 just present? What are the odds that you are just  
6 there when this man gets gunned down, and you're  
7 sitting in the woods drinking a beer waiting for  
8 him to come back? And you just happen to be mere  
9 presence? Well if you believe that, let him go.

10 The Solicitor and I have been discussing  
11 cases recently, and this hit me last night. And I  
12 said I wasn't going to do it again. But there are  
13 certain things in life, you can't make them up.  
14 You can't make them up. And it hit me last night,  
15 you can't make this case up. You can't make it  
16 up. Kelvin Green sure can't make it up. The  
17 facts and circumstances that happened for this  
18 tragedy to happen, you can't make them up. And  
19 that's why it's credible. Why his testimony is  
20 credible and believable. Because that's really  
21 what you decide the case on.

22 The facts and evidence, Kelvin Green. I  
23 am going to get to that. I am going to get into  
24 detail about it. But you saw his demeanor. He  
25 can't make this up. That's the general. He's the

1 follower. He sends him to get folks. Bring him  
2 back while I am waiting, and I will take care of  
3 him. That's consistent with his demeanor and his  
4 actions. Consistent with the beer bottle being  
5 there.

6 On the evening of September 18th 2010, in  
7 the early morning hours of September 19th 2010,  
8 four men's lives collided. Two of them were going  
9 out to party. Wanted to get a little extra money.  
10 Either collecting or selling something. It really  
11 doesn't matter. Cedric Hilton, Xavier Titus. And  
12 they were going to get some money. Two men,  
13 Thomas Geddie and Kelvin Green, according to  
14 Mr. Green, were drinking Budweiser and smoking  
15 crack, and they wanted to kept getting high. To  
16 buy it, to steal it. Set up a buy according to  
17 Mr. Green, but then take it to rob him. And their  
18 worlds collided.

19 So what happens? The phone calls. And I  
20 want to tell you something, this young man right  
21 here, Cedric Hilton, it's amazing he's alive. He  
22 shouldn't be here. He should be dead. I am glad  
23 he is alive. He should be dead. Shot from an  
24 assault rifle into a car. Maybe he's alive to  
25 help solve this. Maybe that's what it was and why

1 he is alive. Staying alive; to help to put law  
2 enforcement on the right track. Maybe you all can  
3 be a peacher one day. Thank the lord for people  
4 like that. So there are phone calls back and  
5 forth. There is a meeting set up at Spann's.  
6 That's where they are. Cedric wanted to go back.  
7 Titus said well we don't have time. We will go  
8 over here and try to collect some money. They are  
9 at Spann's. Calls back and forth. Can't you see  
10 him. Can't you see him. Where are you. The way  
11 he is, where are you. Where are you. They are  
12 laced together. There has been at least one  
13 difference that came out.

14 And I submit it makes the case more  
15 credible. Cedric says they see the truck coming  
16 up from the road, up at Spann's. They waited and  
17 they go back. Kelvin said well they were waiting  
18 when I got there. I waited and they came back.  
19 It doesn't matter. Is there any dispute that they  
20 went down the road. It's stuff like that, that's  
21 not a reasonable doubt. If everything is exactly  
22 the same that's what you should question. The  
23 bottom line is, there was an arrangement at  
24 Spann's. Kelvin Green told him to come on back  
25 down and they would follow. That's what I'm

1 talking about when you are searching for the  
2 truth. Don't get caught in a little side, but  
3 what happened. Well we already know what  
4 happened. He went down Isadore Nathaniel Road.

5 I submit to you, Thomas Geddie. Kelvin  
6 Green said he had already dropped Mr. Geddie.  
7 Kelvin Green doesn't know where Isadore Nathaniel  
8 Road is any more than I did before I went out  
9 there. He's not from that area. Who's from that  
10 area? Thomas Geddie. He's the one that said  
11 bring them back down here. I submit to you as  
12 that Toyota truck is leading down, it's like a  
13 funeral procession. It's like a funeral  
14 procession. And Thomas Geddie has already put  
15 Xavier Titus' tombstone the date of September 19th  
16 2010. He's already decided.

17 They go down this long road. And common  
18 sense breaks in here when you are back there;  
19 doesn't it? Common sense comes in. If this was  
20 just a deal, if he was going to do something by  
21 himself, wouldn't he have just stayed there? It's  
22 Kelvin Green. First of all, you have got to  
23 decide when there is two folks. Is there any  
24 question about it? Is Kelvin Green going to take  
25 these two individuals back by himself to rob him

1 basically? It doesn't make sense. He brings him  
2 back down to where the prearranged place.

3 Prearranged. Thank goodness for this mud puddle.

4 Everybody agrees there is a mud puddle.

5 Right after we pass the mud puddle, we go off to

6 the right. What does he say? Cedric says --

7 Kelvin says he pulled up first. Cedric and they

8 pulled in behind. Cedric knows something. He

9 feels, he's back to a place he's never been. It's

10 dark. He says, turn the car around. Xavier does.

11 Zav does. He turns the car back around facing

12 like this. Right next to where the evidence was

13 found, the shell casings.

14 And picture this next scene. I think you

15 can, through the evidence. Picture it. He's

16 sitting there and Kelvin Green said, turn the

17 light off. Turn the light off. I turned the

18 light off. Can't you see him tell them, turn the

19 light off? In his mind, we are fixing to rob you.

20 If it wasn't a tragedy, it's a comedy. Cedric is

21 saying hell no don't turn that light off. The

22 lights off, and shots are fired. Shots are fired.

23 He says from day one it's either him or another

24 person from the woods. Right off the bat. Two

25 people out there. Kelvin's cell phone is found

1 off to the side a little bit. I think it's  
2 another indication he wasn't there at the woods  
3 area and kind of went off. What happens after the  
4 shots, one, two, three, four, five. And that's an  
5 example of circumstantial evidence again.

6 Those shots, you saw those diagrams in  
7 here yesterday of Dr. Ross. She said well you  
8 know it was like there are picks of metal all  
9 over. They went through something, whether the  
10 gun. Went through the car. They went through the  
11 body of Xavier Titus. Any doubt that the gun  
12 killed him; that the bullets went through the  
13 door? No. You didn't see it, but you know it  
14 happened. And she came and put that together.  
15 He is shot five times.

16 What does Cedric do? He says he leans  
17 down and hits the gas. I don't know which hand he  
18 did it. And he's steering the other, and he  
19 steers out. Goes around the mud puddle and goes  
20 back in the other side and wrecks the car. Tells  
21 his buddy to come on. Come on. But he knows he  
22 can't come on. I submit to you he's dead. He's  
23 already dead. He starts running through the  
24 woods. Running back up towards Spann's in the  
25 middle of the night. Middle of the night. He



1 takes his shirt off. He doesn't want to be a  
2 target. He goes back to Spann's. Cars goes by.

3 Next what did Kelvin Green tell you? We  
4 get back in the truck, and we head back to Mill  
5 Road. Back towards Geddie's house. Thomas  
6 Geddie's house. That's what happened. That's not  
7 in dispute; as far as him getting shot. I submit  
8 to you the evidence and there is no dispute, they  
9 were both there. So what happens now, folks?  
10 What happened? The call, and this was it, Captain  
11 Hobbs, Eddie Hobbs, comes up and he goes in and he  
12 sees the body. And here's something I want to go  
13 over. I started not to. I mean, it's the picture  
14 of the body.

15 Captain Hobbs comes up and he says, I see  
16 the body of a young black male outside. Get back  
17 there and look at it. He's coming outside the  
18 car. He's on the ground. We don't know how he  
19 got in that position. Nobody was there to see it.  
20 Was it that last burst of energy that saved --  
21 trying to save yourself and come and don't? But  
22 he's out on the ground, down. You can't answer  
23 that except for your common sense. He's down on  
24 the ground laying there. Maybe he tried to find  
25 his last place to go. I don't know. Some things

1     you can't answer.     It don't change the fact that  
2     he was shot 5 times.   It doesn't change the fact  
3     that Thomas Geddie was there.   It doesn't change  
4     the fact that Thomas Geddie was drinking a beer  
5     down there waiting for them to come down.

6             Law enforcement is called.   Pretty good  
7     response time five or six minutes, I believe, was  
8     the testimony.   And what happened?   The  
9     investigation begins.   The investigation begins.  
10    So we have got Ced.   Thank goodness Ced is here to  
11    put law enforcement on the right track.   What do  
12    you know Ced.   And these guys are out there  
13    fighting every night.   Literally every night.  
14    Well I know he was talking to somebody.   I think  
15    it was Kelvin.   I think it was Kelvin that drove  
16    the truck.

17            They get together.   They start losing law  
18    enforcement.   They start beating the bushes.   Has  
19    Kelvin got a truck.   Well they figure out Kelvin  
20    Green has got this kind of truck.   Pretty good law  
21    enforcement.   They go and put a lineup together.  
22    You will have it back there.   They put a lineup  
23    together of Kelvin Green and they show it.   And  
24    he says yeah, that's the guy we met at Spann's and  
25    motions us back to the graveyard is what they do;

1 to the ambush spot, is what it turned out for  
2 Xavier. That's him. That's at 7:32 in the  
3 morning. He picks out Kelvin as being the driver  
4 of the vehicle that took them back to Isadore  
5 Nathaniel Road.

6 What happens next? Kelvin. Well he's  
7 picked out of a lineup. What do they do? They go  
8 see Kelvin. What does Kelvin say? The first  
9 statement on 9/19, the first statement on 9/19, he  
10 tells them what happened. And he said this other  
11 person was with me. I don't know. Don't get hung  
12 up on that, Ladies and gentlemen. He's just shot  
13 five times. Said he would kill him if he told  
14 anybody. Common sense is going to tell you don't  
15 tell right off the bat. That's the real world.

16 And then a month later, two months later,  
17 six months later, yesterday? No, ma'am; no, sir.  
18 The next day. The next day. September 20th 2010,  
19 they go back to see him. They say now is the  
20 time. You need to tell the truth. What has  
21 transpired between there. What has transpired.  
22 He's talked to his family. I can talk to you,  
23 tell you the truth. The next day. Not a month  
24 later, not a year later. 20 months before I even  
25 met him. Not offered a thing. Nothing. This is

1 important. The day after the killing, not offered  
2 a thing.

3 How many people in the world, how many  
4 people in Sumter County. Who does he say he is  
5 with? Spank. This investigation is going. Who  
6 is Spank? They don't know who Spank is. So they  
7 started beating the bushes. And then do a couple  
8 of lineups. And guess what, there are two  
9 lineups. Somebody named Spank is in both of them.  
10 They show one lineup to Kelvin. Kelvin, do you  
11 recognize anybody here. Don't recognize anybody  
12 in here; no, sir. Are they trying to frame  
13 somebody? They are looking for this other person.

14 State's 48. Do you recognize anybody in  
15 here. Yes, sir, I sure do. That's No. 5.  
16 That's No. 5, Mr. Geddie. That's the man that was  
17 there. That's the man that shot. Well don't get  
18 hung up. I think Mr. Murphy asked him well did  
19 you mention your Budweiser bottle in one of your  
20 statements. Are you kidding me. They're trying  
21 to find out what happened, who shot. If he had  
22 mentioned it, that's for you all to know. They  
23 are looking for somebody that was shot with an  
24 AK-47. An AK-47 you all. When Kelvin Green was  
25 up at the car, what did Cedric tell you. I didn't

1 see a gun. I didn't see an assault rifle. It's  
2 sitting there. I didn't see it. Thomas Geddie,  
3 that's who was with him. That's who shot.

4 What happens next. You get a warrant for  
5 Thomas Geddie. You go do a search warrant,  
6 looking for the house, looking for him. The word  
7 is out. The next thing they know, I think his  
8 mama was there. There is a call for him or  
9 somebody to Conner's store. They go and pick him  
10 up. Is that it? No, sir; no, ma'am. Evidence if  
11 being processed. You can't make this up. Kelvin  
12 Green can't make it. You can't make it up.  
13 Evidence is being processed. They worked that  
14 night at the scene. What did they get? They got  
15 cartridge cases which Whitler, Agent Whitler, said  
16 that's consistent with an AK-47. AK-47, and some  
17 other guns. That's consistent with it. It could  
18 have been fired from it. I wish we had the gun.

19 You shoot somebody with an AK-47, do you  
20 think you are going to get rid of it? Is that  
21 common sense? Are you going to hang it in your  
22 living room like a trophy? Hey, I shot the young  
23 man. You are going to get rid of it. You can't  
24 get awarded for criminals just because you get rid  
25 of weapons you murder somebody with. That's not a

1 reasonable doubt. But we find the shell casings  
2 which are consistent with an AK-47, which is what  
3 Kelvin said he used. That's pretty good; isn't  
4 it.

5 Is that all they collected the next  
6 morning just A few hours at daybreak? What else  
7 did they collect? They collected a Budweiser beer  
8 bottle. This is the famous Budweiser beer. We  
9 know of no other brand introduced by any other  
10 brewer which causes so much delight. Exclusive  
11 Beechwood Agency presentation. It tastes  
12 smoothness and drinkability. You will find no  
13 other beer brand at any price. That's the  
14 Budweiser logo.

15 And I will tell you something right now, I  
16 love this Budweiser bottle. You can't make this  
17 up; near the shell casings. Near. In all of  
18 Sumter County, right near where the car was  
19 parked. The shell casing, right where he said  
20 shots were fired. Where the cars were parked.  
21 You can still see the grass. Where Kelvin said  
22 they were. Where Kelvin said the other man,  
23 Thomas Geddie, is with this beer bottle; that he  
24 was drinking while he was waiting for Titus to  
25 come back so he could put him in his grave. He's

1 drinking from this beer bottle. God bless you  
2 Budweiser beer bottle. On here is the fingerprint  
3 of who? Thomas Geddie. Marie Hodge; Thomas  
4 Geddie had this beer bottle. Thomas Geddie was  
5 there. Mere presence; no, sir; no, ma'am. What  
6 are the odds why that was Kelvin Green after the  
7 young man was shot there? Shell casings from an  
8 AK-47 and a beer bottle with his fingerprint on  
9 it. That's good evidence. That puts him there.  
10 Kelvin puts him there. Where did he get his  
11 courage to rob and murder.

12 Mr. Murphy is a fine attorney and a good  
13 man. It's not what you asked about. It is what  
14 it is. You can't make it up. Or is he trying to  
15 make maybe Kelvin Green planted this. He's smart  
16 enough to set him up, and he's not smart to tell  
17 him right off the bat hey, you might have a beer  
18 bottle. You know this is credible. Kelvin Green  
19 couldn't set this up. And of all the people in  
20 the world your name is Thomas Geddie, and not  
21 right off the bat because he is scared and he  
22 freaks him out. And low and behold they find a  
23 beer bottle over there.

24 Firmly convinced. Did they test the other  
25 beer bottle for prints? No, I mean, that's not a

1 reasonable doubt it wasn't at the crime scene. We  
2 tested and checked what was at the crime scene.  
3 And what happens? Where does Thomas Geddie live?  
4 Orange Hill Church Road off of Mill Road near this  
5 crime scene, not where Kelvin Green lives. That's  
6 his neighborhood. He's the one that set it up.  
7 Kelvin Green wouldn't know where to take him.

8 Ladies and gentlemen, credibility and  
9 believability is what you have in this case; in  
10 all cases. You watched Kelvin Green. Yes, he was  
11 there. Yes, he wanted to rob him. I submit to  
12 you the evidence there is no reasonable doubt that  
13 Thomas Geddie wasn't with him. But you watched  
14 his demeanor. And all those experiences you have  
15 in life, you listened to him, you watched him.  
16 You heard him answer. I submit to you he is still  
17 credible. You can be part of a crime and still be  
18 credible.

19 His Honor is going to charge you, you can  
20 believe all of what somebody says. Part of what  
21 somebody says. I submit to you he was credible  
22 when he came in here. That's the hero. Cedric  
23 right there is the hero that helped solve this.  
24 Not called him to be a great hero. He shouldn't  
25 have been there trying to rob him. And I think



1 that's all he wanted to do. But he did come in  
2 and tell the truth and tell what happened so we  
3 can get justice. And credibility and  
4 believability. Credibility and believability.  
5 He's got one more possession of the cocaine I  
6 think, in his past.

7 But he got up here and said, I didn't kill  
8 that boy. You hear me ask him. I didn't kill  
9 that boy. I didn't want him dead. Yeah, I was  
10 going to rob him. I didn't kill that boy. I  
11 didn't shoot him. You'd say anything wouldn't  
12 you. No, sir, I wouldn't say something that  
13 wasn't true to convict somebody. And I submit to  
14 you Kelvin Green wouldn't. But, Ladies and  
15 gentlemen, you evaluate that. Is that all you  
16 have got? No, you have got the facts that he was  
17 shot 5 times. You have got the fact of Thomas  
18 Geddie's fingerprint out there to corroborate it.  
19 I submit you could go along with Kelvin, but you  
20 don't just have it. You also have the  
21 fingerprint. You have the other evidence of the  
22 shooting. You have the facts that they were  
23 together.

24 Credibility and believability is all we  
25 have got in any case. Ladies and gentlemen, it is

1 time for justice. It's time for justice. And  
2 it's not the time for justice that Thomas Geddie  
3 gave to Xavier Titus when in his execution. It's  
4 not time for that. It's time for a trial. It's  
5 time to call witnesses. It's time to cross  
6 examine. It's time for people to testify. And  
7 let me tell you something, Kelvin Green gave his  
8 name on September 20th. Didn't have to do it.  
9 Didn't have anything to offer other than the name  
10 of Spank who came back to Thomas Geddie. That's  
11 who he said was there. That's who he said did it.  
12 And law enforcement, you can't make it up.

13 It's time for justice, Ladies and  
14 gentlemen. And I don't mean that any other way  
15 then to say it's time for justice. I was thinking  
16 about this on the way over here. And all due  
17 respect to his family. I don't know if he was  
18 claiming money was owed. I don't know if he was  
19 selling to make something when they go out, I  
20 don't know. Xavier Titus should still be here.  
21 He should still be here to touch his daddy and his  
22 mama. And hug his brothers and sisters and  
23 family. He should still be here. He should not  
24 be dead. Rob him if you have to. Go ahead and  
25 rob him. Take his money or whatever, but you

1       ain't got to kill him. You do not have to kill  
2       him. He did not have to be dead. He should still  
3       be here today.

4               And thanks to Cedric and Kelvin the  
5       evidence speaks for itself. Mr. Murphy says  
6       something in his opening. He said the only thing  
7       that points to his client's guilt is Kelvin Green.  
8       No, sir; No ma'am. He points the finger at  
9       himself. And you can't make that up. And when  
10      you take that credible testimony of Kelvin, the  
11      testimony corroborates an AK-47. Another  
12      reasonable thing. When you are back there  
13      discussing, take all the facts into account --  
14      into account when you are discussing the evidence.  
15      Take it all into account.

16             When I was young, my father gave me a book  
17      that says, Your Greatest Power. Simply your  
18      greatest power is the power to choose. He taught  
19      me early on, your power to choose. I made some  
20      bad choices in my life. I paid the consequences.  
21      But your greatest power is your power to choose.  
22      Zavier chose to go out there that night. Thomas  
23      Geddie, Kelvin Green, chose to go get money to  
24      rob. They made their choses. Thomas Geddie,  
25      Kelvin chose to bring him there that night to rob

1 him. He's going to jail.

2 Thomas Geddie chose to come out and rob.

3 No, he chose to come out with an assault rifle and  
4 fire one to five times and hit Titus unarmed.

5 Shot him and killed him. He didn't even know  
6 him. He's there. They are smoking. According to  
7 the testimony, cracking up. Wanting to get high.  
8 That's all they were thinking about. Living in  
9 the moment, wanting to get the next high. And he  
10 is going to kill somebody to do. It doesn't  
11 matter. He made that choice. Now it is your  
12 choice.

13 This isn't another night in Sumter County  
14 where a young man dies. Xavier Titus is dead. On  
15 behalf of Solicitor Finney and the Sumter County  
16 Sheriff's Office, I respectfully, respectfully ask  
17 that after you have heard the law from the judge,  
18 that you go back in the jury room and apply these  
19 facts to it, and return a verdict that we  
20 respectfully say is the only verdict that speaks  
21 the truth. It is a verdict that on the September  
22 19th of 2010, Thomas Geddie gunned down Xavier  
23 Titus. Kelvin told us he did it. He told us he  
24 did it by his fingerprint. He lived in the area.  
25 He left there. He told him what to do; to Kelvin

1 Green. He told him to arrange it. He gunned him  
2 down. He is going to be found guilty of murder.  
3 Thank you.

4 THE COURT: Thank you, Mr. Meadors.  
5 Mr. Murphy for the defendant.

6 MR. MURPHY: Thank you, Your Honor. Good  
7 morning. On behalf of my client, first I want to  
8 thank you for your attention the last couple of  
9 days. Obviously this is very, very important  
10 case. A young man is dead. My client is accused  
11 of murdering him. The burden of making a decision  
12 falls upon you. And that is a heavy burden. And  
13 Mr. Geddie thanks you for taking on this  
14 responsibility.

15 And what I would like to do in my closing  
16 is first of all, what I believe the principles, I  
17 guess, Mr. Meadors can predict me a little bit. I  
18 want to talk a little bit about the burden of  
19 proof and the concept of reasonable doubt. And  
20 then I want to talk about some facts as were  
21 developed here and apply them to the principles.  
22 Apply them and hopefully we will use these as a  
23 prism in which to evaluate the evidence in this  
24 case as you deliberate and arrive at a decision.

25 Now as I stated in my opening statement

1       that my client is innocent. And not just not  
2       guilty, not something that's up for debate at this  
3       point; but that he is innocent. And even now  
4       after you have heard all the testimony, after you  
5       have heard Mr. Meadors' eloquent closing argument,  
6       you know my client, we're in the campaign season.  
7       But the presumption of innocence isn't some  
8       slogan. It's a fundamental right that we as  
9       Americans have. They're entitled to; that my  
10      client is entitled to. Everyone is entitled to.  
11      It is an important right. And until you become  
12      convinced in that room back there, he's entitled  
13      to that presumption.

14               We ask you to consider that. Remember that.  
15      You apply that now. And I asked for that in my opening  
16      statement. That's all he asked for was his day in  
17      court. Look at the facts and apply the law. Granted,  
18      sober, reasonable. And I can appreciate a lot of cases  
19      where there is a lot of emotion and there is tragedy.  
20      Sometimes that's hard to do. But you've got to, and I  
21      know you will. What does that mean in practice? Well  
22      what it means to have a presumption of innocence; is  
23      that, we could have sat over there and twiddled our  
24      thumbs throughout this whole case; ask no questions,  
25      presented nothing. Made no arguments. And he is still

1 entitled to that presumption. And if you are not  
2 convinced beyond a reasonable doubt, if you have a  
3 reasonable doubt after the state has presented all its  
4 stuff here and all its maps and all its charts, if you  
5 are not convinced, it is enough to acquit my client.  
6 That's how important that presumption is.

7 Now, reasonable doubt is the highest burden  
8 known to law. Again, the burden is on the state. We  
9 have no burden at all. It's what makes our system  
10 different. It's what separates us from some of these  
11 other countries, with, you know, imposed justice by  
12 dictators. That's what makes us American, our system of  
13 justice. Mr. Meadors is correct, it's the best system  
14 in the world. It's the highest burden known in the law.

15 Now your common sense, show you how high it is.  
16 Your common sense and your common experience after  
17 evaluating all this, you know what, you might think  
18 back, and you might sit back there and you might think,  
19 you know what, I think Mr. Geddie may have done this. I  
20 really do. I think he may have done this. And that's  
21 enough to me, proof beyond a reasonable doubt. And you  
22 may go back there and after reviewing everything and  
23 thinking and pondering and deliberating, you might come  
24 to a conclusion based upon your common experience and  
25 your common sense, you know what, he probably did it.

1 You know, there's that fingerprint, and he probably did  
2 it. But it's not enough. Maybe's and probably's and  
3 could have's and might have done it, isn't enough.

4 You might go back there and say, you know  
5 what, I am convinced he was there. Presence, his  
6 presence at the scene was enough. You have to be  
7 firmly convinced, firmly convinced, beyond a  
8 reasonable doubt that he is guilty of murder; that  
9 he committed every element of the crime of murder  
10 that the judge is going to provide to you. You  
11 must give him, must give him, the benefit of every  
12 doubt.

13 I am not going to repeat the definition of  
14 murder. Taking a human life with malice. That is  
15 what you must be firmly convinced that my client  
16 did. That's what from the evidence. Okay. let's  
17 look at some of the things that are unrelated to  
18 Mr. Green. There is a fact, and the fact is, we  
19 don't have a murder weapon. There is no murder  
20 weapon. The ballistic's expert said obviously  
21 there was a weapon used. And obviously Mr. Titus  
22 was killed with a weapon. Law enforcement was  
23 looking for the weapon based on what Mr. Green  
24 said. They were beating the bushes. And not only  
25 beating the bushes, I mean they were testing other



1 AK-47's that were unrelated to this case.

2 There is no evidence and no testimony tying my  
3 client to an AK-47 other than Mr. Green. That's the  
4 reality. Mr. Green got up there and said my client has  
5 an AK-47. Not only that, he's out apparently shooting  
6 AK-47's a couple of weeks before, in front of other  
7 people. There is no big secret that my client had an  
8 AK-47, except but you know what it was, I guess.  
9 Because the same police officers who are trying to work  
10 him hard, trying to find out who is responsible for this  
11 crime, track him down. AK 47's had nothing to do with  
12 this. They didn't hear about this episode. They  
13 interviewed people. They tracked down my client. They  
14 tracked down Mr. Green, based on a long first name.  
15 There's no evidence from any of these other folks that  
16 my client ever had an AK-47. The only person that says  
17 he had an AK-47 was Mr. Green. Now that's the evidence.  
18 That's the evidence.

19 We know that Mr. Green from himself alone, knew  
20 the decedent. He was a supplier for the last ten years.  
21 In a long relationship. We know from Mr. Hilton that  
22 the only person he saw that night was Mr. Green. The  
23 only person. Now that's the testimony. That's the  
24 testimony. Mr. Hilton never saw my client. Mr. Hilton  
25 doesn't know my client. There is no testimony my client

1 knows Mr. Hilton. There is a relationship between  
2 Mr. Green and Mr. Titus. And unfortunately, Mr. Hilton  
3 happened to be there. Okay, a longstanding relationship  
4 with the decedent. Those are the facts.

5 We know that Mr. Green met the victims.  
6 We know that Mr. Green enticed them down this  
7 road. I mean those are the facts. Mr. Green was  
8 there we also know, based on the testimony of the  
9 Mr. Hilton, that Mr. Green is asking, he was  
10 directing them. He was telling them, turn your  
11 lights off. Who is standing by the driver's side  
12 door? We know Mr. Hilton is standing by the --  
13 who is sitting in the passenger seat. Freaking  
14 out and justifiably so.

15 And Mr. Hilton said under oath, he doesn't  
16 know whether Mr. Green had a gun. He doesn't  
17 know. He could have had a gun. Mr. Green could  
18 have been the shooter. In fact, in his first  
19 statement he said Kelvin you know, or somebody  
20 else. And the reason he said somebody else is  
21 because he just didn't see him with a gun. And  
22 you wouldn't necessarily see him with a gun.

23 I mean he's out in the dark. He's on the  
24 other side. He's focused on trying to get his  
25 buddy out of there. Mr. Green says he comes to

1 the door, talks to them, says I'll be right back.  
2 And then shortly after that, the firing starts. I  
3 submit to you that Mr. Green is the shooter.

4 I submit to you that Mr. Hilton's first  
5 reaction, the first thought at the time is what  
6 he said. He goes at the time I thought he was the  
7 shooter. That's what he said under oath. That's  
8 the correct action. That's the correct  
9 conclusion. I mean it certainly is reasonable as  
10 Mr. Green's story.

11 Now let's talk about Mr. Green in a little  
12 more detail. What do we know about Mr. Green?  
13 Well that night Mr. Green is a cracked up  
14 schizophrenic driving around looking for some  
15 crack cocaine by his own admission. By his own  
16 admission. We know that based on Mr. Green's  
17 testimony that my client approached him, according  
18 to Mr. Green, my client approached him about  
19 buying some more crack. We know that.

20 We know that Mr. Green enticed this poor  
21 man down the road. Now we know that Mr. Green  
22 says there is some conspiracy to commit a robbery.  
23 But he didn't really provide many details about  
24 this conversation that supposedly created this  
25 conspiracy. You know he starts out and he says

1 earlier that day they are at some party; him and  
2 my client, they are at a party. And my client  
3 says hey have you got some money. That ain't the  
4 question was do you have money. Let's go get some  
5 more crack. Based on his 10-year relationship  
6 with Mr. Titus, Mr. Green arranges it.

7 Now look obviously Mr. Hilton was  
8 unsettled by the thought of driving down a dark  
9 road to do a drug deal. And Mr. Hilton had that  
10 10-year's experience, okay. Obviously it was the  
11 wrong choice to make. But I'll submit to you that  
12 at least the decedent thought it was a drug deal.  
13 If the decedent thought it was anything unusual,  
14 he knew Mr. Green. Mr. Green enticed him down  
15 this road.

16 I don't know where this -- the only person  
17 saying that there going to be a robbery was  
18 Mr. Green himself. And maybe in Mr. Green's mind  
19 that's exactly what he was going to do. Who  
20 knows. Who knows. Who knows what he was  
21 thinking. Who knows what a cracked up  
22 schizophrenic was thinking at that moment. So  
23 what do you do. Well we know that Mr. Green has a  
24 motive to lie. He does. He has a motive to point  
25 the finger. He does. He has found out, he's the

1       guy that the survivor sees, that Mr. Hilton sees.  
2       The police know who he is. And this idea that he  
3       doesn't know the neighborhood where did that come  
4       from? They get the wrong name from Mr. Hilton.  
5       The detectives say hey, do you know some guy named  
6       Kelvin who drives a truck.

7               And the police in that area say well we  
8       don't know a Kevin, but we sure know a Kelvin.  
9       And they not only know who he is, they know the  
10      truck he drives. And they know where he lives.  
11      He's familiar with that area. We're in this idea  
12      that he doesn't know where these roads are. He  
13      doesn't live in that area. Where did that come  
14      from. He lives there. The police knew him.

15             MR. MEADORS: Your Honor, I am going to  
16      object. That's improper. That is not the  
17      evidence that he lived in that area at all.

18             THE COURT: Let me see the attorneys a  
19      minute.

20             (Whereupon, the attorneys approach the  
21      bench and confer with judge.)

22             THE COURT: Ladies and gentlemen of the  
23      jury, the jury will disregard the last statement  
24      of counsel. And counsel will proceed as  
25      instructed. Mr. Murphy.

1           MR. MURPHY: They knew who he was. Now  
2 the impetus for this whole exchange according to  
3 Mr. Green is that, my client wanted to get some  
4 drugs. So what do you do when you are in trouble.  
5 What do you do when you are caught. What do you  
6 do. Well look, I am not going to say anything  
7 about Mr. Green being some mastermind, framed, a  
8 guy that was a frame under people. That obviously  
9 is not the case. But it doesn't take a lot of  
10 intelligence, and it doesn't take a lot of thought  
11 to point the finger at somebody else.

12           You know, if you have children more than  
13 one, that happens all the time. Kids will do  
14 that. It wasn't me, it was him. It wasn't me, It  
15 was this guy I was with. It wasn't me. The most  
16 basic reaction that anybody ever has. And at  
17 first, it's not me, it's this guy that I was with.  
18 And I know what Mr. Meadors said about what his  
19 motive was. Maybe that's what he said. You know,  
20 that's not my recollection of what Mr. Green's  
21 statement was. I don't know what he said when he  
22 asked him twice why would you not tell the police  
23 who this guy is. But his reaction I would submit  
24 to you, is the natural reaction of somebody who is  
25 in trouble. Point the finger at somebody else. I

1 got caught.

2           So I wasn't there to shoot him. I don't  
3 what I was doing, but I -- this other guy did it.  
4 This other guy. Shifts the blame to the guy that  
5 you have known for three weeks. Shifts the blame  
6 to the guy you've spent drinking beer with. Shift  
7 the blame to the guy who asked you to set up a  
8 drug transaction. Shift the blame to a guy who,  
9 if he was there, that's what he was there for.  
10 Shifts the blame.

11           You know, why wouldn't Mr. Green in his  
12 initial statement identify my client as the  
13 shooter. Why would he say it was this other guy I  
14 was with. Why wouldn't he name the name. I mean,  
15 they were friends. He didn't know them that well.  
16 I mean they got together and did drugs allegedly  
17 according to Mr. Green. Why not just name his  
18 name. He didn't know him. I mean did he honestly  
19 think that my client is going to track him down  
20 with an AK-47 when he is sitting there talking to  
21 officers. Did he honestly think that. Why  
22 wouldn't you name the guy right away.

23           I would submit to you you wouldn't do it,  
24 because deep down you don't want to give the name  
25 of an innocent man. That's why he didn't give him

1 a name right away. But you know what, he's facing  
2 life in prison. He's facing a murder charge. And  
3 24 hours goes by, and he talks to his family. And  
4 he thinks about it some more. And he is not  
5 facing a murder charge anymore. He is not facing  
6 life in prison anymore. He has got ten years.  
7 Ten years for what he did.

8 You know, I could say that the state's  
9 made a deal with the devil. You know Mr. Green  
10 really isn't demonic. He's just kind of pathetic.  
11 Pointing the finger of blame at someone else.  
12 Does that give you pause? Does that cause you to  
13 hesitate? To think? To wonder? If it does, and  
14 I submit to you it should, that is reasonable  
15 doubt. That is reasonable doubt. My client is an  
16 innocent man. My client is an innocent man.  
17 Mr. Green's testimony is riddled with  
18 inconsistencies. Self preservation of a motive  
19 isn't enough to convict my client for murder; my  
20 client for being responsible for the death of that  
21 poor, young man.

22 Mr. Geddie only asks of you what he is  
23 entitled to have as a citizen. And that is, that  
24 you go back there and look at the evidence in a  
25 cold, dispassionate way, apply it to the law that



1 the judge is about to give you. And when you do  
2 that, when you do your duty as American citizens,  
3 we are confident that the verdict that you will  
4 render, the just verdict is a verdict of not  
5 guilty. Thank you.

6 THE COURT: Ladies and gentlemen of the  
7 jury, all of the testimony and other evidence has  
8 been presented in this case. The attorney's have  
9 given you their closing arguments. Now is the  
10 time in the trial where I will charge you the law  
11 that is applied to this case. I remind you,  
12 Ladies and Gentlemen, during this trial you and I  
13 have certain duties to perform.

14 As the trial judge, it is my  
15 responsibility to preside over the trial of this  
16 case. And I also have the duty to rule on the  
17 admissibility of the evidence offered during this  
18 trial. You are to consider only the competent  
19 evidence before you. If there was any testimony  
20 ordered stricken from the record in this case  
21 during this trial, you must disregard that  
22 testimony. You are to consider only the testimony  
23 which has been presented from this witness stand  
24 and any exhibits which have been made a part of  
25 record. And any stipulations of counsel.

1           I have the additional duty to charge you  
2     the law that is applicable to this case. As the  
3     presiding judge, I am the sole judge of the law in  
4     this case, and it is your duty as jurors to accept  
5     and apply the law as I state it to you. If you  
6     already have some idea of what the law is or what  
7     the law ought to be and it does not agree with  
8     what I tell you the law is, you must abandon that  
9     idea because, Ladies and gentlemen, you are sworn  
10    to accept the law and apply the law exactly as I  
11    state it to you.

12           In every case tried before a jury, the  
13    jury becomes the sole and exclusive judge of the  
14    facts. As the trial judge, I cannot state,  
15    comment or make any other reference to any of the  
16    facts in this case. Since you are the jury, you  
17    are the sole judge of the facts in this case and  
18    you are not to infer from what I have said during  
19    the progress of the trial or in ruling on the  
20    admissibility of evidence or otherwise or  
21    anything that I say now during the course of these  
22    instructions, that I have any opinion about the  
23    facts of the case. The law does not allow me to  
24    have an opinion about the facts in this case. And  
25    this is a matter solely for you the jury to

1 determine. As jurors it is your duty to determine  
2 the effect, the value, the weight and the truth of  
3 the evidence that has been presented during this  
4 trial.

5 Ladies and gentlemen, the indictment in  
6 this case 2011-GS-43-1155 charges the defendant,  
7 Thomas Lee Geddie, with the crime of murder. I  
8 remind you the fact that the defendant was  
9 arrested, charged and indicted in this case is not  
10 evidence in this case. And not -- and cannot be  
11 considered as evidence of guilt in this case. Nor  
12 does it create any presumption or inference of  
13 guilt. The indictment is simply the formal  
14 written instrument that contains the charge made  
15 against the defendant and is the formal document  
16 by which this case is brought in to court.

17 Ladies and gentlemen, the defendant has  
18 pled not guilty to the charge contained in the  
19 indictment. And that plea puts the burden on the  
20 state to prove the defendant guilty. A person  
21 charged with committing a criminal offense in  
22 South Carolina is never required to prove himself  
23 innocent. I charge you that this is an important  
24 rule of law that the defendant in a criminal trial  
25 no matter what the seriousness of the charge may

1 be will always be presumed to be innocent of the  
2 crime for which the indictment was issued unless  
3 guilt has been proven by evidence satisfying you  
4 of that guilt beyond a reasonable doubt.

5 The presumption of innocence does not end  
6 when you begin your deliberations, but It  
7 accompanies the defendant throughout the trial  
8 until you reach a verdict of guilt based on  
9 evidence satisfying you of that guilt beyond a  
10 reasonable doubt. The presumption of innocence is  
11 like a robe of righteousness which is placed about  
12 the shoulders of the defendant which will remain  
13 with the defendant until it has striped from the  
14 defendant by evidence satisfying you of the  
15 defendant's guilt beyond a reasonable doubt.

16 The presumption of innocence is not a mere  
17 legal theory. It is not just a legal phrase that  
18 we use. But it is a substantial right to which  
19 every defendant is entitled unless you the jury  
20 are satisfied from the evidence of the defendant's  
21 guilt beyond a reasonable doubt. And that begs to  
22 question as to what is reasonable doubt. And as  
23 I've said, the state has the burden of proving  
24 the defendant guilty beyond a reasonable doubt.  
25 Some of you may have served as jurors in civil

1 cases where you were told it was only necessary to  
2 prove a fact more likely true than not true; such  
3 as, by the greater weight or the preponderance of  
4 the evidence.

5 In criminal cases however the state's  
6 proof must be more powerful than that. It must be  
7 beyond a reasonable doubt. Prove beyond a  
8 reasonable doubt is proof that leaves you firmly  
9 convinced of the defendant's guilt. There are  
10 very few things in this world that we know with  
11 absolute certainty. And in criminal cases the  
12 law does not require proof that overcomes every  
13 possible doubt. If based upon your consideration  
14 of the evidence you are firmly convinced that the  
15 defendant is guilty of the crime charged, you must  
16 find the defendant guilty.

17 If on the other hand, you think there is a  
18 real possibility that the defendant is not guilty,  
19 you must give the defendant the benefit of the  
20 doubt and find him not guilty. Ladies and  
21 gentlemen, during the trial there are generally  
22 two types of evidence which are presented. There  
23 is direct evidence and circumstantial evidence.  
24 Direct evidence is the testimony of a person who  
25 claims to have actual knowledge of a fact; such

1 as, an eye witness. It is evidence which  
2 immediately establishes the main fact to be  
3 proved.

4 Circumstantial evidence is proof of a  
5 chain of facts and circumstances indicating the  
6 existence of a fact and it is evidence which  
7 immediately establishes collateral facts from  
8 which the main fact may be inferred.

9 Circumstantial evidence is based on inference and  
10 not on personal knowledge or observation. The law  
11 makes absolutely no distinction between the weight  
12 or value to be given to either direct or  
13 circumstantial evidence. Nor is a greater degree  
14 of certainty required of circumstantial evidence  
15 than of direct evidence. Ladies and gentlemen,  
16 you should weigh all the evidence in this case.  
17 And after weighing all the evidence if you are not  
18 convinced of the guilt of the defendant beyond a  
19 reasonable doubt, you must find the defendant not  
20 guilty.

21 Now, Ladies and gentlemen, I instruct you  
22 and I emphasize the fact that a defendant did not  
23 testify is not a factor to be considered by you in  
24 any way in your deliberation and in your  
25 consideration on the question of the guilt or

1 innocence of the defendant. It must not be  
2 considered by you in any manner whatsoever. A  
3 defendant has the constitutional right to remain  
4 silent. And the assertion of this right must not  
5 be considered by you in your deliberations. I  
6 repeat, under your oath you are to draw no  
7 conclusion whatsoever from the fact that the  
8 defendant in this case did not testify. The fact  
9 that the defendant did not testimony should not  
10 even be discussed in the jury room.

11 The burden of proof as I stated to you, is  
12 on the state. The defendant is not required to  
13 prove his innocence. And the burden of proof  
14 remains on the state to prove guilt beyond a  
15 reasonable doubt. Necessarily, Ladies and  
16 gentlemen, you must determine the credibility of  
17 witnesses who have testified in this case.  
18 Credibility simply means believability. It  
19 becomes your duty as jurors to analyze and to  
20 evaluate the evidence and determine which evidence  
21 convinces you of its truth.

22 In determining the believability of  
23 witnesses who have testified in this case, you may  
24 believe one witness over several witnesses or  
25 several witnesses over one witness. You may

1 believe a part of the testimony of the witness and  
2 reject parts of the testimony of that same  
3 witness. You may believe the testimony of a  
4 witness in its integrity or reject testimony of a  
5 witness in its entirety. You may consider whether  
6 the witness has exhibited to you any interest,  
7 bias, prejudice or other motive in this case. You  
8 may also consider the appearance and the manner of  
9 the witness while on this witness stand.

10 Ladies and gentlemen rules of evidence  
11 ordinarily do not permit witnesses to testify to  
12 opinions or conclusions. An exception to this  
13 rule exists for witnesses we call expert  
14 witnesses. A witness who by education and  
15 experience has become expert in some art, science  
16 or profession of calling may state an opinion as  
17 to relevant and material matter in which the  
18 witness claims to be an expert. And may also  
19 state the reasons for the opinion. You should  
20 consider any expert opinion received as evidence  
21 in this case like any other evidence, and give it  
22 the weight you think it deserves. If you decide  
23 that the opinion of an expert witness is not based  
24 upon sufficient education or experience or if you  
25 conclude that the reasons given in support of the



1 opinion; that the reasons are not sound or that  
2 the opinion is outweighed by other evidence, you  
3 may disregard the opinion entirely. An expert  
4 witness' testimony is not to be given any greater  
5 weight than that of other witnesses simply because  
6 the witness is an expert. Further, you are not  
7 required to accept the expert's opinion even  
8 though it is not contradicted.

9 Ladies and gentlemen, the defendant in  
10 this case is charged with murder. The state must  
11 prove beyond reasonable doubt that the defendant  
12 killed another person with malice aforethought.  
13 Malice is hatred, ill will or hostility towards  
14 another person. It is the intentional doing of a  
15 wrongful act without just cause or excuse and  
16 with an intent to inflict an injury or under  
17 circumstances that the law will infer an evil  
18 intent. Malice aforethought does not require that  
19 the malice exist for any particular time before  
20 the act is committed. But malice must exist in  
21 the mind of the defendant just before and at the  
22 time the act is committed.

23 Therefore, there must be a combination of  
24 the previous evil intent and the act. Malice  
25 aforethought may be express or inferred. These

1 terms express and infer do not mean different  
2 kinds of malice, but merely the manner in which  
3 malice may be shown to exist. That is either by  
4 direct evidence or by inference from the facts and  
5 circumstances which are proved. Express malice is  
6 shown when a person speaks words that express  
7 hatred, ill will for another or when the person  
8 prepared beforehand to do the act which was later  
9 accomplished; for example, lying in wait for a  
10 person. Or any other act or preparation going to  
11 show that the deed was within the defendant's mind  
12 would be express malice.

13 Malice may be inferred from conduct  
14 showing a total disregard for human life.  
15 Inferred malice may also arise when the deed is  
16 done with a deadly weapon. A deadly weapon is any  
17 article, instrument or substance which is likely  
18 to cause death or great bodily injury. Whether an  
19 instrument has been used as a deadly weapon  
20 depends on the facts and circumstances of each  
21 case. An assault rifle is an example of an  
22 instrument which may be deadly weapon. And a gun  
23 may be a deadly weapon even if it is not  
24 operating.

25 Mere presence at a scene is not sufficient

1 to prove someone guilty. A defendant's presence  
2 where a crime is being committed or mere  
3 association with a person who commits a crime does  
4 not make a defendant an accomplice or an aider and  
5 abettor of the person committing the crime. The  
6 burden is upon the state to prove every element of  
7 the crime charged. If you find after reviewing  
8 all the evidence that the state has proven that  
9 the defendant was only present at the scene of the  
10 crime and that they have not proved beyond a  
11 reasonable doubt any other participation in the  
12 crime, then you must find the defendant not  
13 guilty. The law is that proof of being at the  
14 scene of the crime is not sufficient to find  
15 somebody guilty.

16 If a crime is committed by two or more  
17 persons who are acting together in committing a  
18 crime, the act of one is the act of all. A  
19 person who joins with another to commit an  
20 unlawful act is criminally responsible for  
21 everything done by the other person which happens  
22 as a probable and natural consequence of the acts  
23 done in carrying out the common plan and purpose.  
24 For example, two people can be guilty of killing  
25 another person where only one of the two have a

1 gun and there was only one bullet and only one of  
2 the two fired the shot that caused the death.

3 When two or more people are together,  
4 acting together, assisting each other in  
5 committing the offense, the act of one is the act  
6 of all. Or as is sometimes stated, the hand of  
7 one is the hand of all. Prior knowledge that a  
8 crime is going to be committed without more is not  
9 sufficient to make a person guilty of that crime.  
10 And mere knowledge that another person was going  
11 to commit a crime even if the defendant is  
12 present when the crime is committed is not  
13 sufficient to convict the defendant as a  
14 principal. Guilt as a principle is shown by  
15 actual or constructive presence at the scene as a  
16 result of a prior arrangement. Therefore a  
17 finding of the prior arranged plan or common  
18 scheme is necessary for a finding of guilt as a  
19 principle. And the state must prove beyond a  
20 reasonable doubt by the competent evidence the  
21 theory of the hand of one is the hand of all.

22 And a principal in a crime is one who  
23 either actually commits the crime or who is  
24 present aiding, abetting or assisting in  
25 committing the crime. And when a person does an

1 act in the presence of and with the assistance of  
2 another, the act is done by both. Where both --  
3 where two or more acting with a common plan or  
4 intent are present at the commission of the crime,  
5 it does not matter who actually commits the crime.  
6 All are guilty. The hand of one is the hand of  
7 all. And presence at the commission of a crime  
8 means to be sufficiently near and aid and abet and  
9 assist in the commission of crime. However, mere  
10 presence at the scene of the crime is not  
11 sufficient to convict one as a principal on the  
12 theory of aiding and abetting. An intent is also  
13 a necessary element. But there must have been  
14 common design or intent to commit the crime and  
15 the crime must have been committed pursuant  
16 thereto, with the person aiding and abetting by  
17 some overt act.

18 Intent means intending the result which  
19 actually occurs not accidentally or involuntary.  
20 An intent may be shown by acts and conduct of the  
21 defendant and other circumstances from which you  
22 may naturally and reasonably infer intent. And  
23 the state must prove these elements beyond a  
24 reasonable doubt.

25 Ladies and gentlemen, there are two

1 possible verdicts which you may find in this case  
2 on the charge of murder. Indictment  
3 2011-GS-43-1155 murder, not guilty or guilty.  
4 Ladies and gentlemen, there is no significance  
5 whatsoever in the order in which I state the  
6 possible verdict, it's simply that one must be  
7 presented and stated first. Ladies and gentlemen,  
8 your verdict must be a unanimous one. All 12 of  
9 you must agree on your verdict. And your decision  
10 must not be based on sympathy, passion, prejudice,  
11 emotion or any other consideration not in evidence  
12 in this case.

13 Mr. Foreman, when the jury reaches a  
14 verdict you will check not guilty or guilty. You  
15 will then sign your name and then you knock on the  
16 jury room door and inform the bailiff that you  
17 have reached a verdict. At that time you will  
18 then be brought into the courtroom for the  
19 publication of your verdict. Now, Ladies and  
20 Gentlemen, I am going to send you back there. Do  
21 not begin your deliberations until I instruct you  
22 to do so. There are still a few matters that we  
23 need to take up in court before you begin your  
24 deliberations. Thank you.

25 (Whereupon, the following takes place

( 1 outside the presence of the jury.)

2 THE COURT: Are there any objections to  
3 the charge that has been made to the jury by the  
4 state?

5 MR. MEADORS: No, sir.

6 MR. MURPHY: No, Your Honor.

7 THE COURT: Thank you. Here is the  
8 verdict form. Please inform the jury they may  
9 begin their deliberations. If you will bring the  
10 two alternates back out.

11 (Whereupon, At 11:35 a.m. jury commences  
12 deliberations.)

( 13 (Whereupon, alternates are excused.)

14 (Whereupon at 12:06 p.m. jury has a note.)

15 THE COURT: We have a note from the jury  
16 which states, if Geddie gets off does Kelvin Green  
17 get charged. And the answer to that is, that is  
18 not for your consideration.

19 MR. MURPHY: Yes, sir.

20 THE COURT: And then, can you just convict  
21 someone for just being present, or do you have to  
22 show intent that they were planning a crime. Now  
23 is when I am going to give them a copy of the  
24 charge.

25 MR. MURPHY: Yes, sir, I will agree.

1 THE COURT: Because I think that's the  
2 bottom line. Any objections to that?

3 MR. MEADORS: I -- Judge, I just think  
4 that sending them the law back there is going to  
5 give somebody if they want a reasonable doubt in  
6 there just to have it. But whatever Your Honor  
7 thinks.

8 (Whereupon note is marked Court's Exhibit  
9 No. 1 for Id.)

10 MR. MEADORS: The second one was can he  
11 merely be present or does he have to have intent.

12 THE COURT: Can you convict someone for  
13 just being present, or do you have to show intent  
14 that they were planning a crime. And what I have  
15 got attached is a copy of the charge that was  
16 given to you. And I am going to give them the  
17 whole charge. Any objections to that?

18 MR. MURPHY: I have no objection to that.

19 THE COURT: Or do you want me to bring  
20 them out and recharge them?

21 MR. MEADORS: Whatever you think.

22 THE COURT: I think I am just going to  
23 send it back. Or do you want me to charge them on  
24 mere presence and the hand of one?

25 MR. MEADORS: Whatever you want to do.



1 THE COURT: I am going to send the charge  
2 back. They can read it.

3 MR. MURPHY: I have no objection to that.

4 MR. MURPHY: Did you respond about Kelvin  
5 Green?

6 THE COURT: Kelvin Green getting charged,  
7 that is not for your consideration. He's already  
8 admitted to the armed robbery.

9 MR. MEADORS: Well he's already been  
10 charged.

11 MR. MURPHY: Well I agree.

12 THE COURT: He's still charged with  
13 murder.

14 MR. MURPHY: Right. And also that is not  
15 for their consideration.

16 THE COURT: That's not for their  
17 consideration. Kelvin Green is not on trial at  
18 this point and time for murder.

19 MR. MURPHY: Right.

20 MR. MEADORS: Thank you.

21 (Whereupon, the jury has a note at  
22 1:39 p.m.)

23 (Note marked Court's Exhibit No. 2 for  
24 Id.)

25 THE COURT: The jury has a note that says

1       they are unable to agree. I will bring them in  
2       and give them the Allen charge. Bring the jury  
3       in.

4               (Whereupon, the following takes place  
5       within the presence of the jury.)

6               THE COURT: Mr. Foreman, and Ladies and  
7       gentlemen, I have received a note where it says  
8       that you have been unable to agree on verdict in  
9       this case. And you know as I instructed you  
10      earlier, a verdict of the jury must be unanimous.  
11      You know when a matter is in dispute, it isn't  
12      always easy for even two people to agree. So when  
13      12 people must agree it becomes even more  
14      difficult. And in most cases absolute certainty  
15      cannot be reached or is expected; however, you  
16      have a duty to make every reasonable effort to  
17      reach a unanimous verdict.

18              In doing this, you should consult with one  
19      another, express your own views and listen to the  
20      opinions of your fellow jurors. Tell each other  
21      how you feel and why you feel that way. Discuss  
22      the differences with open minds. And although the  
23      verdict of the jury must be unanimous, every one  
24      of you has a right to your own opinions. The  
25      verdict you agree upon must be your verdict as a

1 result of your own convictions.

2 And you should not give up a firmly held  
3 belief merely to be in the agreement with your  
4 fellow jurors. However, the majority should  
5 consider the minority's position and the minority  
6 should consider the majority's position. You  
7 should carefully consider and respect the opinions  
8 of each other, and reevaluate your position for  
9 reasonableness, correctness and impartiality. You  
10 must lay aside all outside matters and reexamine  
11 the question before you based upon the law and the  
12 evidence in this case.

13 If you do not agree on a verdict in this  
14 case, I must declare a mistrial. In that case it  
15 does not mean that anybody wins. It just means  
16 that at some future time, I or another judge will  
17 retry this case with some other jury sitting where  
18 you are sitting now. And the same participants  
19 will come in, probably the same lawyers. And will  
20 ask basically the same questions and get basically  
21 the same answers and we will go through this whole  
22 process again.

23 You were selected in the same manner and  
24 from the same source as a future jury will be.  
25 And there is absolutely no reason for me to

1       suppose that the case will ever be submitted to 12  
2       more intelligent, impartial, conscious and  
3       competent jurors than you. Or that more or  
4       clearer evidence will be produced on one side or  
5       the other. Therefore, I am going to ask you to  
6       return to your deliberations with the hope that  
7       you can arrive at a verdict within a reasonable  
8       period of time. Thank you, Ladies and gentlemen.

9               (Whereupon, At 1:43 p.m. the jury  
10       commences deliberations.)

11              (Whereupon, the following takes place  
12       outside the presence of the jury.)

13              (Whereupon, at 1:56 p.m. the jury has a  
14       note.)

15              THE COURT: We have a note which says, can  
16       we get a copy of the transcript. Obviously it's  
17       not -- it's not transcribed. Is there any way to  
18       read back a particular part of the transcript.  
19       And I may ask them if there is any specific  
20       testimony. We can do that. Do we have that  
21       available, Margaret?

22              COURT REPORTER: Yes.

23              THE COURT: So if there is something  
24       specific they want to hear then we can read that  
25       back to them. Bring them in here and read it

1 back.

2 MR. MEADORS: Your Honor, would you read  
3 it or play it back?

4 COURT REPORTER: Play it back.

5 THE COURT: The answer is a copy of the  
6 transcript is not available; however, if there is  
7 specific testimony of a witness, the tape may be  
8 played for you in the court.

9 MR. MEADORS: Thank you.

10 MR. MURPHY: Yes, sir.

11 THE COURT: And I am going to stay right  
12 here to see what they want.

13 (Whereupon, At 2:00 o'clock p.m. jury  
14 reaches verdict.)

15 THE COURT: I understand the jury has  
16 reached a verdict. You may bring the jury.

17 (Whereupon, the following takes place  
18 within presence of the jury.)

19 THE COURT: Mr. Foreman, has the jury  
20 reached a verdict?

21 THE FOREMAN: Yes, sir.

22 THE COURT: Is it unanimous?

23 THE FOREMAN: Yes, sir.

24 THE COURT: Please hand it to the bailiff.

25 THE COURT: Mr. Bradley, if you would

1 please publish the verdict. If the defendant will  
2 please stand.

3 THE CLERK: For the State of South  
4 Carolina, County of Sumter, in the Court of  
5 General Sessions, Docket No. 2011-GS-43-1155.  
6 State of South Carolina versus Thomas Lee Geddie,  
7 defendant, as to the charge of murder, we the jury  
8 unanimously find the defendant Thomas Lee Geddie,  
9 guilty. Signed Stephen Baxter, foreperson. Dated  
10 June 7th 2012. Ladies and gentlemen, if this is  
11 your verdict so say you all by raising your right  
12 hand.

13 (Whereupon all jurors affirm.)

14 THE COURT: The defendant and his attorney  
15 may sit down. Does either party request polling  
16 of the jury?

17 MR. MURPHY: I request it.

18 THE COURT: Please poll the jury.

19 THE CLERK: Ladies and gentlemen, when I  
20 call your name, please stand and answer two  
21 questions, please.

22 Juror No. 139 Miranda Rivers. Is this  
23 your verdict and still your verdict?

24 THE JUROR: yes.

25 THE COURT: Thank you. You may be seated.

1 Betty Webb, is this your verdict and still your  
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Stephen Baxter, is this your  
5 verdict and still your verdict?

6 THE JUROR: Yes, sir.

7 THE CLERK: Patricia Wiley, is this your  
8 verdict and still your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Thank you. Deidra Pleasant,  
11 is this your verdict and still your verdict?

12 THE JUROR: Yes, sir.

13 THE CLERK: Crystal June Fraser, is this  
14 your verdict and still your verdict?

15 THE JUROR: Yes, sir.

16 THE CLERK: Thank you. Ellen Burcham, is  
17 this your verdict and still your verdict?

18 THE JUROR: Yes, sir.

19 THE CLERK: Dawne Walters, is this your  
20 verdict and still your verdict?

21 THE JUROR: Yes, sir.

22 THE CLERK: Abraham Samuels, is this your  
23 verdict and still verdict?

24 THE JUROR: Yes, sir.

25 THE CLERK: Thank you. Ellen Moore, is

1       this your verdict and still your verdict?

2               THE JUROR:   Yes.

3               THE CLERK:   Marie Hill, is this your  
4       verdict and still your verdict?

5               THE JUROR:   Yes, it is.

6               THE CLERK:   David Williams, is this your  
7       verdict and still your verdict?

8               THE JUROR:   Yes.

9               THE CLERK:   Your Honor, the jury has been  
10      polled and the verdict stands.

11              THE COURT:   Thank you.   Ladies and  
12      gentlemen, that completes your duty as jurors.  
13      You have come to a verdict, and I want to tell you  
14      thank you for taking the time to come to the  
15      verdict whichever it would have been.   But thank  
16      you for taking the time to come to a unanimous  
17      verdict in this case.   As have you seen it is a  
18      lot different than it is on TV.   It is never easy  
19      holding the life of a fellow citizen in your hand  
20      and trying to determine what is true and not true.

21              But thank you for taking time to review  
22      the evidence and reaching a verdict.   Now  
23      throughout this trial, I've told you that you  
24      cannot discuss the case with anyone.   That  
25      prohibition is now lifted.   You may talk to anyone



1 that you want to for as little or as long as you  
2 want to. If somebody persists in talking to you  
3 and you don't want to talk to them, let one of the  
4 bailiffs know and I will make sure that doesn't  
5 happen any longer.

6 Ladies and gentlemen, you know, what makes  
7 this country great is people like you all who take  
8 a week out of their lives and come here and decide  
9 issues. That's why our system works, and I truly  
10 believe it is the greatest system in the world  
11 because of people like you who take the time and  
12 do what you had to do. Because if you all hadn't  
13 done it, somebody else would have done it. But  
14 you stepped up and did your job.

15 Ladies and gentlemen, I remind you that  
16 this counts as your jury service. So you cannot  
17 serve on a jury for the next year. And you don't  
18 have to serve for the next 3 years if you don't  
19 want to. And if you need work excuses as you  
20 leave, they have those for you.

21 Now ladies and gentlemen, you have found  
22 the defendant guilty. It is now my responsibility  
23 to sentence the defendant. And I am going to give  
24 the parties a few minutes to get their stuff in  
25 order. So I will sentence the defendant at 2:30,

1       which is 25 minutes. You all have been involved  
2       in this case from the beginning. You are welcome  
3       to go back in the audience if you would like and  
4       see what my sentence is going to be. And I will  
5       hear from the state and from the defendant.

6               Ladies and gentlemen, it has been my honor  
7       to work with you this week. If I can have the  
8       honor of shaking your hands as you leave.

9               THE COURT: Any post-trial motions?

10              MR. MURPHY: My motion, I would renew my  
11       motions at the close of the evidence.

12              THE COURT: I think the jury has spoken.  
13       It's obvious they looked at everything. And I am  
14       not going to reverse them. So the conviction  
15       stands. I will sentence the defendant at 2:30.

16              MR. MEADORS: We have got the paperwork  
17       prepared.

18              THE COURT: Thank you. The court is in  
19       recess until 2:30.

20              (Whereupon, the court takes a short  
21       recess.)

22              THE COURT: We are back on the record in  
23       the case of the State versus Thomas Lee Geddie.  
24       Is there anything from the state for the record?

25              MR. MEADORS: Just for the -- a couple of

1 Terrell Titus, brother. Of course, Cedric Hilton,  
2 a friend. Rakeem Dash, brother. Titus Sanders, a  
3 brother. Wilhimena Titus Young. Kimberly Tindal,  
4 sister, best friend. Maurice Witherspoon. And  
5 Jody Williams, girlfriend and a good family friend  
6 of this family.

7 I want to thank law enforcement. I want  
8 to thank the jury publicly. I don't know what  
9 else to say. We just thought it was one of the  
10 better circumstantial and direct evidence cases  
11 I've ever tried. And the Fingerprint corroborated  
12 from the co-defendant and we want to thank them  
13 for their verdict. Judge, that's all I have to  
14 say from the solicitor's office. Two of family  
15 members would briefly like to speak.

16 THE COURT: They may come forward. Yes,  
17 ma'am.

18 MS. TITUS: My name is Salesta Titus. I  
19 am Xavier's mother. And I would just like to  
20 thank Your Honorable Judge Jeffrey Young. I would  
21 like to thank the sheriff's department. I would  
22 like to thank the investigators that did a fine  
23 job. And then I would like to thank the jury.  
24 They did a good job. I just want to say that  
25 Xavier was my heart, you know. And he always

1 would tell me, Mom, I got your back. Now that he  
2 is not here anymore, but the love that I have for  
3 him still linger in my heart.

4 I also would like to speak on behalf of  
5 his three children. They are without a father  
6 today. But we are asking everybody to keep them  
7 in prayer, because I have one with me, she is only  
8 six years old. And there was a question that she  
9 wanted to ask. But then I feel like I didn't want  
10 to bring her up here, you know, because she's such  
11 a young, at such a young age. We was very close.  
12 And Xavier was the life of the family. And when  
13 my family members come down for anything, they  
14 don't go back until they get to Xavier because  
15 they knew they would have a laugh once he comes.

16 And I thank Sumter County so much. They  
17 did an excellent job. And I thank you, Judge  
18 Young.

19 THE COURT: Yes, ma'am. Thank you.

20 MR. TITUS: My name is Terrell Titus, the  
21 brother of Xavier. I just want to say, thank the  
22 jury, the judge, the investigators, the  
23 prosecutor. I think you all did a good job. And  
24 I think my family very pleased with you.

25 THE COURT: Thank you.

1           MR. MEADORS: Judge, he was 23-years-old  
2 when he left. Too young to die. It shouldn't  
3 have happened. That's all we have. Thank you.

4           THE COURT: Mr. Thomas Lee Geddie, you  
5 have been tried by a jury of your peers who have  
6 reviewed the evidence and found you guilty. Would  
7 you or your attorney like to present anything to  
8 the court at this time?

9           MR. MURPHY: Your Honor, just very  
10 briefly. You have my client's record. And  
11 obviously we're disappointed in the verdict, but  
12 the jury has spoken. That's all we have.

13          THE COURT: Would your client like to say  
14 anything?

15          THE DEFENDANT: No, sir.

16          THE COURT: You may be seated. Please  
17 stand. You know every killing that we have in  
18 this town is senseless. Every one of them. I  
19 have not seen one of them. And I've never gotten  
20 used to doing this. And I pray that I never get  
21 used to sentencing people. Because when I get  
22 used to it, then I become callous. And it tears  
23 me up every time I do that. But this is what a  
24 judge has to do. And this is what they pay me  
25 money to do this for.

1           Again every killing we have like this is  
2 actually senseless. But this one is particularly  
3 brutal. I find that, and I listened to the  
4 testimony. Again we have situations where  
5 somebody gets upset and a shooting takes place and  
6 someone is killed. And this was a planned  
7 execution. It was not going to fail. The victim  
8 in essence was just executed by somebody he never  
9 even saw. I can understand and I don't agree, but  
10 when you don't like somebody you may do that. And  
11 it's horrible for someone to have to do that. But  
12 this was an anonymous person to you. You did not  
13 even know this man. They were actually out there  
14 doing you a favor. And this is what happens when  
15 people get strung out on drugs. And people say  
16 well they need to legalize drugs. Well no,  
17 because this is what happens when people go out  
18 of control that way.

19           You shot him. You may say you didn't.  
20 That's fine. But the jury listened to the  
21 evidence, and they found that you put 5 rounds in  
22 that young man. And he couldn't have seen you,  
23 because I know the guy who was with him didn't see  
24 you. You came out of the dark and killed him in  
25 cold blood. I have a range of 30 years to life to

1 give you.

2 I have seen nothing in the record that  
3 would take me down from the life sentence. And  
4 therefore, the sentence of this court is that  
5 Thomas Lee Geddie under Indictment 2011 GS-43 1155  
6 that you be committed to the State Department of  
7 Corrections for the remainder of your life on  
8 earth. God be with your soul.

9 ----End of Requested Transcript of Record-----

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the Court of General Sessions on June 4th-7th 2012, in Sumter County, Sumter, South Carolina.

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

11/20/12  
DATE

Margaret T. Sullivan  
COURT REPORTER  
My Commission expires: 9/7/21



STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

RECEIVED

OCT 25 2013

SC Court of Appeals

Appeal from Sumter County

William Jeffrey Young, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THOMAS GEDDIE,

APPELLANT

Appellate Case No. 2012-212226

---

ANDERS BRIEF OF APPELLANT

---

ROBERT M. DUDEK  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

|                                                                                                                                                                                                                                                                                                                                                                                                                            |    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| TABLE OF CONTENTS .....                                                                                                                                                                                                                                                                                                                                                                                                    | 1  |
| TABLE OF AUTHORITIES.....                                                                                                                                                                                                                                                                                                                                                                                                  | 2  |
| STATEMENT OF ISSUE ON APPEAL.....                                                                                                                                                                                                                                                                                                                                                                                          | 3  |
| STATEMENT OF THE CASE .....                                                                                                                                                                                                                                                                                                                                                                                                | 4  |
| ARGUMENT                                                                                                                                                                                                                                                                                                                                                                                                                   |    |
| The court erred by forcing appellant to agree that in order to<br>get the jury instruction on “mere presence” he had to agree to<br>an instruction on the “hand of one is the hand of all” since<br>appellant was entitled to a “mere presence” charge based<br>upon the facts of this case, and appellant should not have<br>been forced to accept the highly prejudicial “hand of one”<br>instruction to receive it..... | 5  |
| Relevant Facts .....                                                                                                                                                                                                                                                                                                                                                                                                       | 5  |
| Request to charge .....                                                                                                                                                                                                                                                                                                                                                                                                    | 6  |
| Discussion .....                                                                                                                                                                                                                                                                                                                                                                                                           | 8  |
| CONCLUSION.....                                                                                                                                                                                                                                                                                                                                                                                                            | 10 |
| PETITION TO BE RELIEVED AS COUNSEL .....                                                                                                                                                                                                                                                                                                                                                                                   | 11 |

TABLE OF AUTHORITIES**Cases**

|                                                                             |      |
|-----------------------------------------------------------------------------|------|
| <u>State v. Dennis</u> , 321 S.C. 413, 468 S.E.2d 674 (Ct. App. 1996) ..... | 8, 9 |
| <u>State v. Franklin</u> , 299 S.C. 133, 382 S.E.2d 911 (1989) .....        | 8    |
| <u>State v. Mattison</u> , 388 S.C. 469, 697 S.E.2d 578 (2010) .....        | 9    |

STATEMENT OF ISSUE ON APPEAL

Whether the court erred by forcing appellant to agree that in order to receive a jury instruction on "mere presence" counsel had to agree to a charge on the "hand of one is the hand of all" since appellant was entitled to a "mere presence" charge based upon the facts of this case, and appellant should not have been forced to accept the highly prejudicial "hand of one" instruction to receive it?

STATEMENT OF THE CASE

Appellant was indicted by the Sumter County Grand Jury for the offense of murder. His case was called to trial on June 4, 2012 before the Honorable W. Jeffrey Young, and a jury. Timothy Ward Murphy represented appellant. John P. Meadors was the assistant solicitor. R. 1.

On June 7, 2012, the jury found appellant guilty of murder after previously informing the court that they were deadlocked and could not reach a verdict. R. 294, ll. 3-12. Judge Young sentenced appellant to life imprisonment. R. 304, ll. 2-8.

This appeal follows.

### ARGUMENT

The court erred by forcing appellant to agree that in order to receive a jury instruction on "mere presence" counsel had to agree to a charge on the "hand of one is the hand of all" since appellant was entitled to a "mere presence" charge based upon the facts of this case, and appellant should not have been forced to accept the highly prejudicial "hand of one" instruction to receive it.

#### **Relevant facts**

The state's case against appellant was the testimony of Kelvin Green who was a schizophrenic man on crack cocaine. Green dreamed up the plan to purchase more crack cocaine from the decedent at a prearranged place in the woods, and to rob him. R. 138, l. 15 – 146, l. 16.

Green would later claim that appellant was in on the robbery with him. Green maintained that he dropped appellant off in the woods before he met the decedent nearby. When Green approached the decedent's vehicle he claimed appellant unexpectedly jumped out of the woods and shot the decedent. R. 145, l. 5 – 154, l. 25.

Cedric Hilton was riding with the decedent on the night of the drug deal. Hilton remembered Kelvin Green met them in the woods, and told them to follow his Toyota truck further into the woods. When Green stopped, he walked over to the decedent's vehicle and told him to turn off the lights. Hilton was nervous about the situation, and he told the decedent to leave the lights on. Hilton testified as soon as the decedent turned off the lights that shots were fired. As will be seen infra, the decedent was shot five times, and he died at the scene. R. 41, l. 21 – 47, l. 23.

Hilton acknowledged that afterwards he thought Green had shot and killed the decedent. Hilton said he changed his mind upon learning “more about the case,” and hearing that another man – appellant -- had been arrested after Green. R. 63, l. 23 – 65, l. 14. Hilton admitted that Kelvin Green was the only person he saw on the night the decedent was shot. R. 62, ll. 12-24.

Green claimed when the shooting started that he ran to his truck and that was when “I lost my phone.” Green also maintained that prior to the shooting he dropped appellant off in the woods with a bottle of Budweiser and a cigar. R. 154, l. 15 – 155, l. 13.

The state presented the expert opinion of Marie Hodge that appellant’s fingerprint were on the Budweiser bottle collected from the crime scene. R. 126, l. 4 – 132, l. 13. Hodge admitted there was no way to “date” fingerprints, and it was possible the bottle had been in the woods for some time. R. 132, l. 19 – 133, l. 10.

The decedent’s body was found in the woods that night by the police -- after a “shots fired” call -- with his pants down, his shirt up, and gunshot wounds. R. 82, l. 18 – 83, l. 20.

The pathologist, Dr. Janice Ross, testified the victim had been shot five times. He had shrapnel in his body consistent with the bullets having gone through a car door. R. 192, l. 10 – 194, l. 21.

### **Request to charge**

Defense counsel Murphy requested a charge on mere presence. The following then occurred between the Court and Defense Counsel Murphy:

Q. [B]ut, Mr. Murphy, you understand that under that theory if I charge mere presence, then I also because there is testimony that they conspired to commit an armed robbery that the hand of one, hand of all, now *gets attached to the mere presence charge.*

Mr. Murphy: Yes, Your Honor, I understand that. I think it is a more accurate reflection of allowing the jury the opportunity, the more full opportunity to discern whether or not to believe Mr. Green's testimony. The evidence of the hand of one hand of all, the evidence that my client was the shooter, all come from Mr. Green.

The Court: Yeah, you understand if they believe Mr. Green ---

Mr. Murphy: Right.

The Court: --- that your guy --

Mr. Murphy: There is two theories.

The Court: --- is the shooter. If they don't believe Mr. Green, but they find your guy is part of the armed robbery, he still gets convicted.

Mr. Murphy: I understand. But there is also the point -- I think the point is important is, there is independent evidence that my client was at the scene.

The Court: No question about that based upon that one fingerprint.

Mr. Murphy: And the jury could absolutely reject everything Mr. Green said, but be convinced beyond a reasonable doubt that my client was there. And I think it is important for them to know that his presence alone is an insufficient basis for conviction.

The Court: Right, but again, you get hooked a second time with a possibility of the hand of one.

Mr. Murphy: I appreciate that, Your Honor.

R. 234, l. 6 – 235, l. 19. (emphasis added).

The judge then read his proposed charge on the "hand of one is the hand of all," and "mere presence." Defense counsel responded: "That's agreeable." R. 236, ll. 5-25.

Counsel also did not take exception to the instruction. R. 287, ll. 2-6.



The jury later sent out a note asking: "If Geddie gets off does Kelvin Green get charged. And the answer to that is, that is not for your consideration." The jury also wanted to know: "Can you just convict someone for being present, or do you have to show intent that they were planning a crime." Now I am going to give them a copy of the charge." Defense counsel agreed that sending the jury the written charge was a proper way to answer the question. R. 287, l. 15 – 289, l. 20.

An hour and a half later, the jury sent in a note stating they were deadlocked. The judge gave an Allen charge without objection. R. 289, l. 21 – 292, l. 10. The jury then requested a copy of the transcript, and was told one was no available but they could request that certain testimony be read back. Four minutes later the jury returned with its guilty verdict. R. 292, l. 15 – 293, l. 16.

### **Discussion**

The law being charged is determined by the evidence presented at trial. State v. Dennis, 321 S.C. 413, 468 S.E.2d 674 (Ct. App. 1996). If the law supports it a defendant is entitled to a mere presence charge. State v. Franklin, 299 S.C. 133, 382 S.E.2d 911 (1989).

In this case, defense counsel correctly argued the jury could find that appellant was merely present at the crime scene. Meaning, that appellant was only at the crime scene when Kelvin Green shot and murdered the decedent. This is what eyewitness Hilton thought occurred until he apparently became tainted by the fact appellant also was arrested, and the state's theory of the case that appellant was the shooter.

Appellant recognizes that a mere presence charge is usually proper under two circumstances. First, if there is any doubt whether the defendant is guilty as an accomplice to a crime, the court may be required to instruct the jury that mere presence at the scene of a

crime is insufficient to find the defendant is an aider and abettor. State v. Dennis, 321 S.C. at 413, 468 S.E.2d at 674. The second, and not applicable here, is in a drug case where possession of the contraband is at issue.

Appellant submits these are not the only situations where a "mere presence" instruction may be required. Here, the judge forced appellant to agree to an instruction on the "hand of one is the hand of all" if the judge were to agree to charge "mere presence." The solicitor argued he may be entitled to the "hand of one instruction anyway. The judge told the solicitor he might be right, but the judge was basing his decision to charge the "hand of one is the hand of all" on defense counsel agreeing to that instruction in order to get a "mere presence" instruction.

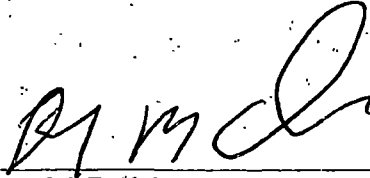
In State v. Mattison, 388 S.C. 469, 697 S.E.2d 578 (2010), the Court found that the defendant was entitled to a mere presence instruction. The Court also held that an instruction that "mere association" with the principal was not sufficient to establish guilt was covered in the trial court's alternative instruction. Further, the legal concept that "mere knowledge" that a crime was going to be committed is not enough to establish guilt was also adequately covered by his charge.

The right to a jury instruction - - here "mere presence" - - must fall or rise on its own merits. Forcing appellant to accept the dynamite "hand of one is the hand of all" instruction in order to receive a "mere presence" instruction he was entitled to anyway was legal error on the part of the judge.

CONCLUSION

By reason of the foregoing arguments, appellant's conviction should be reversed and this case remanded to the Sumter County Court of General Sessions for a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 25th day of October, 2013.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

William Jeffrey Young, Circuit Court Judge

RECEIVED

OCT 25 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

THOMAS GEDDIE,

APPELLANT

---

 PETITION TO BE RELIEVED AS COUNSEL
 

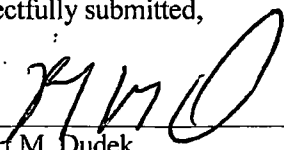
---

Counsel for Thomas Geddie states:

1. He is Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge William Jeffrey Young, which was held June 4-7, 2012, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Thomas Geddie.

Respectfully submitted,



 Robert M. Dudek  
 Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 25th day of October, 2013.

## STATE OF SOUTH CAROLINA

## IN THE COURT OF APPEALS

---

Appeal from Sumter County

---

William Jeffrey Young, Circuit Court Judge**RECEIVED**

OCT 25 2013

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

THOMAS GEDDIE,

APPELLANT

---

**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

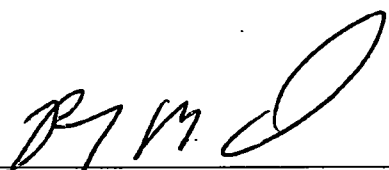
---

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment;
- (2) Entire Trial Transcript.

I certify that this designation contains no matter which is irrelevant to this appeal.

October 25th, 2013



---

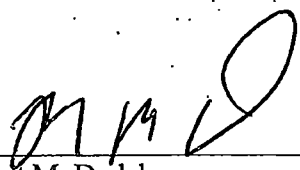
Robert M. Dudek  
Chief Appellate DefenderSouth Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1343

Attorney for Appellant

## CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 25, 2013

  
\_\_\_\_\_  
Robert M. Dudek  
Chief Appellate Defender

S.C. Commission on Indigent Defense  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

**RECEIVED**

OCT 25 2013

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

OCT 25 2013

Appeal from Sumter County  
William Jeffrey Young, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

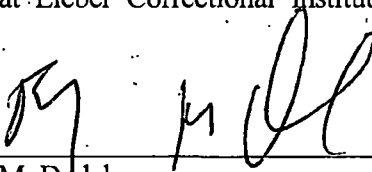
V.

THOMAS GEDDIE,

APPELLANT

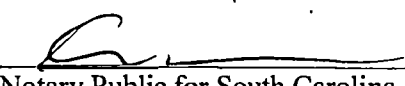
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Thomas Geddie, #351166 at Lieber Correctional Institution, this 25th day of October, 2013.

  
Robert M. Dudek  
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 25th day of October, 2013.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: August 21, 2023

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

State of South Carolina, Respondent,

v.

Thomas Lee Geddie, Appellant.

Appellate Case No. 2012-212226

---

Appeal From Sumter County  
W. Jeffrey Young, Circuit Court Judge

---

Unpublished Opinion No. 2014-UP-219  
Submitted April 1, 2014 – Filed June 11, 2014

---

**APPEAL DISMISSED**

---

Chief Appellate Defender Robert Michael Dudek, of  
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior  
Assistant Deputy Attorney General Donald J. Zelenka,  
both of Columbia, for Respondent.

---



**PER CURIAM:** Dismissed after review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.<sup>1</sup>

**APPEAL DISMISSED.**

**WILLIAMS, KONDUROS, and LOCKEMY, JJ., concur.**

---

<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

June 27, 2014

The Honorable James C. Campbell  
Sumter County Judicial Center  
215 N Harvin St Rm 303  
Sumter SC 29150-4974

### REMITTITUR

Re: State v. Thomas Lee Geddie  
Lower Court Case No. 2011GS4301155  
Appellate Case No. 2012-212226

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Thomas Lee Geddie, 351166  
Robert Michael Dudek, Esquire  
Donald J. Zelenka, Esquire  
Alan McCrory Wilson, Esquire

## FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF SUMTERThomas Lee Geddie # 351166  
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

RECORDED

2011 OCT - 5 IN THE COURT OF COMMON PLEAS

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.2014-08-45 2142

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Dept. of Corrections; Lieber Cor. Inst
2. Name and location of Court which imposed sentence Hon. William Jeffrey Young, Judge  
Sumter County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) Kelvin Green
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2011-GS-43-1155; Murder
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) June 7, 2012; Life Without Parole
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
\_\_\_\_\_
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed per curiam pursuant to Anders v. Cal.
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. June 11, 2014 (Filed) have not received Remittitur
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2014-UP-219
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Trial Counsel  
 (b) Prosecutorial Misconduct  
 (c) Due Process Violation - Fourteenth Amendment  
and Art. 1, § 3 of the S.C. Constitution

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) see attached pages #3A-11A  
 (b) " " " " "  
 (c) " " " " "

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No  
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No  
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No  
 (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_  
 iv. \_\_\_\_\_

(b) the name and location of the Court in which each was filed:

- i. N/A  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_  
 iv. \_\_\_\_\_

(c) the disposition thereof:

- i. N/A  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

10.(a) Ineffective Assistance of Trial Counsel: Applicant's rights to the effective assistance of counsel, a fair trial, and Due Process as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article 1, §§ 3 and 14, of the South Carolina Constitution, were violated by trial counsel's deficient performance, both prior to and during trial, by the following acts and/or omissions, including but not limited to the following:

11.(a)(1) Trial counsel was ineffective for failing to investigate and to adequately prepare for trial. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 278 (1984).

Specifically, trial counsel failed to investigate the state's case, evidence, and conduct proper discovery. Counsel failed to:

- (i) Obtain tape of "911" call of Cedric Hilton; or unnamed individual(s);
- (ii) Obtain police reports, and supplemental police reports, of any break-in, or attempted break-in at "Spann's Store," in the Wedgfield Community on September 19th and 20th, 2010;
- (iii) Obtain patrol log of the Sumter County Sheriff's Department reflecting the name or names of deputy(ies) patrolling the Wedgfield Community from approximately 6:00 p.m. on September 19th until 1:00 a.m. September 20th, 2010;
- (iv) Obtain the DNA results of swab done on "Budweiser" beer bottle, found at the crime scene, or in the alternative, have DNA <sup>tests</sup> performed on "Budweiser" beer bottle; same for results of cigar butt found at crime scene;
- (v) Obtain fingerprints and DNA off the unfired rifle cartridge(s) found at the crime scene and, in the bed of Kelvin Green's truck; or in the alternative, have fingerprint and DNA performed of unfired rifle cartridge(s);
- (vi) Obtain information and/or evidence of any deal cut with Kelvin Green for his testimony, as required by State v. Hinson, and/or Brady/Rules motions; and
- (vii) Work history of Kelvin Green as a "Confidential Informant" and his case file.
- (viii) Obtain results of forensics search of Kelvin Green's truck.

11.(a)(2) Trial counsel was ineffective for failing to consult with and discuss potential defenses with Applicant, and failed to contact and interview five potentially important fact witnesses. Strickland v. Washington, 466 U.S. 668.

Specifically, trial counsel met with Applicant twice prior to trial, once at preliminary hearing and once, one week prior to trial. And failed to communicate with and keep Applicant apprised of the status of case.

(ii) Counsel failed to obtain any details from Applicant of his whereabouts at the time of murder as well as who Applicant was with, where, and what social functions were taking place on Saturday, September 19th, 2010, prior to the murder of Zavier Titus.

(iii) Counsel failed to contact and interview five potentially important fact witnesses: (1) Conrad Dinkins; (2) Delores "LOW" Dinkins; (3) James Martin; (4) Sandy Geddie; and (5) Mr. Nathaniel (Pastor) cannot recall his first name. Applicant gave these five names to Mr. Murphy at his preliminary hearing and wrote several letters, which went unanswered, concerning the above named important potential witnesses. Applicant provided addresses for both Conrad Dinkins and Delores "LOW" Dinkins as well as Sandy Geddie. Applicant also informed Mr. Murphy that Sandy Geddie could provide address and/or phone number for James Martin and for Mr. Nathaniel (Pastor) or carry Mr. Murphy to Mr. Nathaniel's home located near crime scene off Isadore Nathaniel Road.

Applicant is informed and believes that (1) Conrad Dinkins and (2) Delores "LOW" Dinkins statements and/or testimony would have directly contradicted State's star witness Kelvin Green's testimony and his statements as well as revealed that he was testifying falsely on several material facts.

Witness 1: Conrad Dinkins could have verified that Kelvin Green was "best of friends" and "running partner" of the deceased "Man"

Dinkins. That "Man" Dinkins had been deceased for approximately three years prior to September 19th, 2010. That Kelvin Green was extremely familiar with the Wedgetfield Community and had been down there at most every day for approximately five-six years (2004-2005 through 2010). That he knew of Applicant from seeing Applicant with Conrad. That Kelvin Green began running errands for Applicant back in June, 2000 and had run errands up until a week or so prior to the murder. That the function Kelvin Green testified about that Saturday, September 19, 2010, began at Delores "LOW" Dinkins house and ended at a graveside memorial service for "Man" Dinkins where people placed flowers and balloons on "Man's" grave and drink and partied in memory of "Man". That this took place from probably 12:30-1:00 p.m. through about 4:30 p.m. September 19th, 2010, ending at "Man" Dinkins' grave site. That Kelvin Green was calling one of Applicant's customers a "Snitch" and Applicant had verbal confrontation where Applicant ran Kelvin Green away from him. That Kelvin Green threatened to get Applicant and left by himself. That Conrad Dinkins and Applicant left together and continued drinking, partying and socializing until around 10:00 p.m., at which time Applicant went home and fell asleep watching T.V. and did not wake up until about 7:45 a.m. Sunday morning, September 20, 2010. (sister of deceased "Man" Dinkins)

Witness 2: Delores "LOW" Dinkins, Applicant is informed and believes that Delores "LOW" Dinkins would have testified to basically the same facts with the exception of what Applicant did after the memorial service for "Man" Dinkins ended at approximately 4:30 p.m. September 19th, 2010. Ms. Dinkins did not accompany Applicant and Conrad Dinkins.

Witness 3: James Martin, observed confrontation between Applicant and Kelvin Green at the end of memorial service for "Man"



Dinkins and observed Kelvin Green threaten to get Applicant for telling him he was the snitch. That Kelvin Green left the memorial service by himself. There was no passengers, and that Applicant left with Conrad Dinkins.

Witness 4: Sandy Geddie (sister of Applicant), Applicant is informed and believes that Ms. Geddie gave a statement to police on either September 22nd or 23rd of 2010 concerning Applicant. Applicant is further informed and believes that Ms. Geddie, whose back yard is the Applicant's front yard would have testified that no loud running rust colored Toyota double cab truck was in Applicant's yard and as a matter of fact no other vehicle was there that did not belong there. That no vehicles - loud running rust colored pickups nor any other vehicles leave Applicant's house on Sunday morning.

Applicant is informed and believes that

Witness 5: Mr. Nathaniel (Pastor) had probably observed Applicant and numerous others meet at the turn around point where crime was committed. That numerous times Mr. Nathaniel had seen the ~~one~~ loud running old rust colored truck at the scene of where the murder of Zavier Titus was committed.

Here, Kelvin Green made statement that he only knew Applicant about three weeks, that he did not know anything about the Wedgfield Community.

Kelvin Green's credibility was open to impeachment through obvious sources, especially Conrad Dinkins and Delores Dinkins. Trial counsel never contacted nor interviewed these witnesses nor the three other named witnesses. Thus, trial counsel through his incompetence, was unaware of this impeachment evidence which would certainly have amplified the jury's apparent struggle with whether Applicant

was guilty of murder as evidenced by its being hung then its requests that "if Applicant gets off does Kelvin Green get charged," as well as requesting transcript of testimony combined with the jury's apparent amplified suspicions roused by what little the jury had heard and knew of Kelvin Green's testimony given in exchange for a significant less sentence when in all actuality "murder" charge was dropped and Kelvin Green allowed to plead guilty to ten years for armed robbery. Over the incremental benefit of each of these witnesses would have added to the defense impeaching the State's key witness, and these witness could have, collectively, provided an effective overall defense strategy [third-party guilt] - particularly in a case such as the present case where the State's case rested entirely on the credibility of a "vulnerable" State's witness - a known drug addict and criminal who was smoking crack who made two inconsistent pretrial statements. If not for trial counsel's deficient performance, Applicant's trial proceeding would have resulted in totally different light, the results would have been different.

11.(a)(3) Trial counsel was ineffective for failing to hire an investigator to investigate and interview the above named witnesses, and the crime scene. Strickland v. Washington, 466 U.S. 668 (1984).

11.(a)(4) Trial counsel was ineffective for failing to interview State's witnesses - Star witness, Kelvin Green, and State's witness Cedric Hilton.

Here, the outcome of Applicant's trial would have been different had counsel interviewed Kelvin Green and Cedric Hilton. Counsel's failure to interview said witnesses put counsel in the place of not knowing how either Green or Hilton would testify and what information he should try to elicit on cross-examination or would otherwise need to present in response. Strickland v. Washington, 466 U.S. 668 (1984).

11.(a)(5) Trial counsel was ineffective for failing to investigate the background and potential involvement of State's witness Cedric Hilton and the crime scene. Strickland v. Washington 466 U.S. 668 (1984).

Specifically, trial counsel failed to investigate Cedric Hilton's background and ties to Kelvin Green as well as Hilton's potential involvement in the murder of Xavier Titus.

Had trial counsel visited the crime scene, his investigation would have revealed that Cedric Hilton's testimony and statement was highly suspicious in that, he, while in the floorboard [lying in the floorboard] with one hand steering and one hand on the gas pedal was able to travel ten-twelve feet, make a ninety degree turn onto Isadore Nathaniel Road, and completely miss mud puddle in the middle of the road that apparently covered most of Isadore Nathaniel Road, all the while down in the floorboard of vehicle.

Here, counsel's failure to investigate the background and potential involvement of Cedric Hilton and investigate crime scene and retain crime scene reconstruction expert or consult with such expert left trial counsel unprepared to effectively argue the issue before the jury.

11.(a)(6) Trial counsel was ineffective for failing to move to quash invalid indictment which deprived the trial court of jurisdiction and violated Applicant's right to have "notice" served upon him by valid indictment as required by the South Carolina Constitution, Article 1, §§ 11 and 22; South Carolina Code Ann. § 17-19-10 (2003), and the Fifth and Fourteenth Amendment Due Process Clauses. Strickland v. Washington, 466 U.S. 668 (1984).

Attached hereto and incorporated into the record as Applicant's Exhibit #1 is copy of letter to the Hon. James C. Campbell, Clerk of Court for Sumter County, dated July 31st, 2014 and recorded August 4, 2014 (original filed with Clerk of Court) with attached Indictment # 2011-GS-43-01155 and Sentencing Sheet.

Trial counsel failed to ascertain the fundamental defect in the indictment and was ineffective for failing to move to quash or motion to dismiss defective indictment even though he was cognizant of the matter and the constitutional and statutory duty to raise issue before the jury was sworn.

Here, the information on the front of the indictment, under the section entitled "ACTION OF GRAND JURY," is blank. The indictment does not show whether indictment was presented to a grand jury, and neither signed by Grand Jury foreman nor stamped "TRUE BILL." And Applicant did not sign his sentencing sheet.

11.(9)(7) Trial counsel was ineffective for failing to object to violation of Applicant's right to a speedy process as guaranteed by Art. 1, §9 of the South Carolina Constitution, and his right to a speedy trial as guaranteed by the Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and Art. 1, §14 of the South Carolina Constitution, and ineffective for failing to motion to dismiss for excessive and oppressive pretrial indictment delay and speedy trial violation.

11.(9)(8) Trial counsel was ineffective for failing to enter Applicant's statement into evidence and request an alibi instruction be given to the jury. Thus denying Applicant his Sixth and Fourteenth Amendment rights as well as rights under Art. 1, §§3 and 14 of the South Carolina Constitution to the effective assistance of trial counsel, the right to present a complete defense, a fair trial and due process of law.

Attached hereto and incorporated into the record as Applicant's Exhibit #2 is copy of Applicant's written statement.

Applicant assents that trial counsel's failure to enter his post-arrest statement into evidence and request an alibi instruction be given to the jury, was the ineffective assistance of trial counsel. In that the Applicant has maintained his innocence - that he was not the perpetrator of the murder and he was not present when it was committed, he was entitled to a charge on the theory of alibi, although not expressly set up as a defense, and only incidentally involved the Applicant's statement. - A charge on the subject of alibi could have properly been made on the basis of the accused statement.

11.(9)(9) Trial counsel was ineffective for requesting a "mere presence" charge be given to the jury when Applicant gave a post-arrest statement that "he was not there and he didn't do it," and deprived Applicant of his Sixth and Fourteenth Amendment right guaranteed by the United Constitution and Art. 1, §§3 and 14 of the South Carolina Constitution to the effective assistance of counsel, a fair trial and Due Process.

Pertinent to issue, pages 233, Line 16 - 237, Line 4 of transcript.

The record is clear as to the testimony of the State's key witness, Kelvin Green, and that testimony clearly revealed that no evidence indicated anyone other than the Applicant was the shooter.

Trial counsel's performance here was deficient for requesting a "mere presence" charge, especially in light of the trial judge advising counsel that he was opening the door to "a hand of one hand of all" charge also and, the danger thereof, not on one occasion but three occasions. Even after three warnings, trial counsel was insistent upon a "mere presence" charge be given to the jury.

11.(a)(10) Trial counsel was ineffective in failing to "motion to suppress," Budweiser beer bottle with Applicant's No. 5 fingerprint on it to be entered into evidence, and for failing to object to said evidence being entered into evidence.

Counsel failed to raise the issue that "the probative value of an accused's fingerprints upon a readily moveable object is highly questionable, unless it can be shown that such prints was impressed only during the commission of the crime."

In the present case, a "Budweiser beer bottle" was found at the crime scene and found to have Applicant's No. 5 fingerprint (right little finger) on it.

The State's fingerprint expert testified that it was impossible to determine how long fingerprint had been on the bottle and could have been there for months - that it could stay there indefinitely unless somebody physically disturbs it and wipes it off, can't date fingerprints.

Other than a beer bottle with Applicant's fingerprint on it found at the crime scene, applicable to the public, was the testimony of a co-defendant with a serious drug habit, mental health issue of "schizophrenic" as well as "confidential informant," whose testimony is "gravely suspicious," in that, co-defendant Green made two post arrest statements. In the first statement Green states that "he does not know Applicant. Then the second statement, the second day, he names Applicant as the sole shooter. But no statement that he [Green] gave Applicant a Budweiser beer nor cigar. Two years later, "belatedly given under gravely suspicious circumstances - during trial testimony - under cross by Murphy, Green stated, "... 'They find a beer bottle out there....' I said they find a beer bottle out there with a fingerprint on it!" Not fingerprints but "a fingerprint!"

There was no testimony of and the record is void of testimony concerning "smudges" being found on bottle, prints impressed on prints, but NO fingerprints of the man who testified that he gave Applicant a Budweiser beer.

## 10.(b) Prosecutorial Misconduct

11.(b)(1) Prosecutorial misconduct in that the prosecuting attorney violated *Brady v. Maryland*, and Rule 5 of the South Carolina Rules of Criminal Procedure by not revealing that there was a plea agreement in place Kelvin Green, or just a promise of potential favors in exchange for his favorable testimony for the State, on pending murder and armed robbery charges prior to Applicant's trial.

11.(b)(2) Prosecutorial Misconduct and unfairness in relying on the perjured testimony of Kelvin Green who testified that he had entered no plea agreement with the State or promised potential favors and or lenient sentence. *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763 (1972); *Napue v. Illinois*, 360 U.S. 264, 79 S.Ct. 1173 (1959); and *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963)

## 10.(c) Due Process violation of Applicant's right to a fair trial.

11.(c)(1) Violation of Applicant's Due Process rights as guaranteed by the Fourteenth Amendment right to a fair trial as well as Art. 1, § 3 of the South Carolina Constitution, in that, the State misled the jury and held out that there was no plea bargain or promise a lenient sentence or other promise of favorable consideration.

Applicant reserves the right to amend his pro se Application for Post-Conviction Relief as soon as discovery is completed and discovery of other potential issues.

- iv. \_\_\_\_\_
- (d) the date of each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

- (b) the proceedings in which each ground was raised:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) First opportunity and proper venue to raise
- (b) IAC.
- (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
- i. Timothy W. Murphy, Esq., 107 W. Main St. Sumter, S.C.
- ii. Robert M. Dudek, Chief Appellate Defender, S.C. Comm.
- iii. on Indigent Defense, Div. of Appellate Defense, P.O. Box 11589  
Columbia, S.C. 29211-1589
- (b) the proceedings at which each such attorney represented you:
- i. Trial and sentencing
- ii. Direct Appeal
- iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application: Conviction and Sentence reversed and remanded for new trial and any other relief the Court seems just and proper
20. Are you now under sentence from any other court that you have not challenged?  
No



STATE OF SOUTH CAROLINA )

County of Sumter )

VERIFICATION

Thomas Lee Geddie, #351166

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

X Thomas Geddie

SWORN to and subscribed before me this 2<sup>nd</sup>  
day of October, 2014.

Luduan Bryant (L.S.)  
Notary Public

My Commission Expires: May 26, 2020

Applicant, by his above signature that the following attached Applicant's Exhibits and true and exact copies of the copies he received from the Clerk of Court for Sumter County and that was given to him by defense attorney, Timothy Ward Murphy, and that Applicant's Exhibit #1 consists of (a) copy of original letter sent to clerk requesting attached documents (original filed with the Clerk's Office; (b) Indictment # 2011-GS-43-1155; and (c) Sentencing Sheet; and Applicant's Exhibit #2 is the statement Applicant gave the day of his arrest.

Thomas Geddie

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

Thomas Lee Geddie, #351166

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

X Thomas Geddie  
Applicant

SWORN or affirmed to and subscribed before me this  
2nd day of October, 2014.

Ludrean Bryant  
Notary Public

My Commission Expires: May 26, 2020



ALAN WILSON  
ATTORNEY GENERAL

RECORDED  
2015 JAN -7 PM 3:15  
JAN 14 2015  
CLERK OF COURT  
SUMTER COUNTY S.C.

January 6, 2015

The Honorable James C. Campbell  
Clerk of Court, Sumter County  
Sumter County Judicial Center  
215 N. Harvin Street  
Sumter, SC 29150

**Re: Thomas Lee Geddie, #351166 v. State of South Carolina**  
**2014-CP-43-2142**

Dear Mr. Campbell:

Enclosed please find the original **Return** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

Daniel Gourley  
Assistant Attorney General

DG/cc  
Enclosure

cc: Fulton Casey Dale Cornwell, Esquire

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

Thomas Lee Geddie, #351166,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT

2014-CP-43-2142

**RETURN**

RECORDED

2015 JUN -7 11:30:15

The Respondent, making its Return to the application for post conviction relief filed October 6, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was true bill indicted at the July 2011 term of the Sumter County Grand Jury for murder (2011-GS-43-1155). Timothy Murphy, Esquire represented Applicant. Applicant proceeded to a jury trial before the Honorable W. Jeffrey Young. Applicant was subsequently found guilty as incited. Judge Young sentenced Applicant to life in prison without the possibility of parole. Applicant did not appeal his guilty plea or sentence.

A timely Notice of Appeal was filed on Applicant's behalf and an Anders<sup>1</sup> brief was submitted. By unpublished opinion filed June 11, 2014, the South Carolina Court of Appeals dismissed the appeal. *State v. Geddie*, Un. Op. 2014-UP-219 (S.C. Ct. App. 2014). The Remittitur was issued on June 27, 2014.

<sup>1</sup> Anders v. California, 386 U.S. 738 (1967).

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel.
  - a. Failing to investigate and adequately prepare for trial.
  - b. Failure to meet with Applicant and discuss defense
  - c. Failure to interview 5 fact witnesses
  - d. Failure to hire investigator to interview the witnesses
  - e. Failure to investigate the background of State witness Cedric Hilton and the crime scene
  - f. Failure to move to quash the indictment.
  - g. Failure to object to violation of Applicant's right to speedy trial.
  - h. Failed to enter Applicant's statement into evidence and request an alibi instruction be given to the jury.
  - i. Ineffective for requesting a mere presence jury charge
  - j. Failing to file a motion to suppress Budweiser beer bottle with Applicant's no. 5 fingerprint on it.
2. Prosecutorial Misconduct
  - a. Failing to disclose that there was a plea agreement with Kelvin Green.
3. Due Process Violation – 14<sup>th</sup> Amendment and Article 1 § 3 of the S.C. Constitution.

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

## III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of

trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

#### IV.

The Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Livatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). The Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant’s burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). The Respondent submits the Applicant has not carried his burden of proving actual prosecutorial misconduct, therefore, this allegation should be summarily dismissed.

#### V.

The Applicant alleges that he was denied due process of law. The Applicant’s allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these

constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a prima facie showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

#### VI.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

*[Signature block on following page]*



## VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

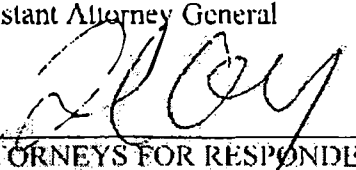
Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

DANIEL GOURLEY  
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

January 6, 2015.



ALAN WILSON  
ATTORNEY GENERAL

RECORDED  
2015 FEB 23 PM 2:2  
JAN 13 2015  
CLERK  
SUMTER COUNTY, S.C.

February 19, 2015

The Honorable James C. Campbell  
Clerk of Court, Sumter County  
Sumter County Judicial Center  
215 N. Harvin Street  
Sumter, SC 29150

**Re: Thomas Lee Geddie, #351166 v. State of South Carolina**  
**2014-CP-43-2142**

Dear Mr. Campbell:

Enclosed please find the original **Amended Return** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

Daniel Courley  
Assistant Attorney General

DC/cc  
Enclosure

cc: Fulton Casey Dale Cornwell, Esquire

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

Thomas Lee Geddie, #351166,

Applicant,

v.

State of South Carolina,

Respondent.

RECORDED

2015 FEB 23

IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT

JAMES B. SMITH

SUMTER COUNTY, S.C.

2014-CP-43-2142

AMENDED RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed October 6, 2014, would respectfully show this Court:

1.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was true bill indicted at the July 2011 term of the Sumter County Grand Jury for murder (2011-GS-43-1155). Timothy Murphy, Esquire represented Applicant. Applicant proceeded to a jury trial on June 4-7, 2012, before the Honorable W. Jeffrey Young. Applicant was subsequently found guilty as indicted. Judge Young sentenced Applicant to life in prison without the possibility of parole.

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was submitted. By unpublished opinion filed June 11, 2014, the South Carolina Court of Appeals dismissed the appeal. State v. Geddie, Un. Op. 2014-UP-219 (S.C. Ct. App. 2014). The Remittitur was issued on June 27, 2014.

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina

Department of Corrections, appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel.
  - a. Failing to investigate and adequately prepare for trial.
  - b. Failure to meet with Applicant and discuss defense
  - c. Failure to interview 5 fact witnesses
  - d. Failure to hire investigator to interview the witnesses
  - e. Failure to investigate the background of State witness Cedric Hilton and the crime scene
  - f. Failure to move to quash the indictment.
  - g. Failure to object to violation of Applicant's right to speedy trial.
  - h. Failed to enter Applicant's statement into evidence and request an alibi instruction be given to the jury.
  - i. Ineffective for requesting a mere presence jury charge
  - j. Failing to file a motion to suppress Budweiser beer bottle with Applicant's no. 5 fingerprint on it.
2. Prosecutorial Misconduct
  - a. Failing to disclose that there was a plea agreement with Kelvin Green.
3. Due Process Violation – 14<sup>th</sup> Amendment and Article 1 § 3 of the S.C. Constitution.

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

## III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises

questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

#### IV.

The Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). The Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). The Respondent submits the Applicant has not carried his burden of proving actual prosecutorial misconduct, therefore, this allegation should be summarily dismissed.

#### V.

The Applicant alleges that he was denied due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing

which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a prima facie showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

## VI.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

## VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

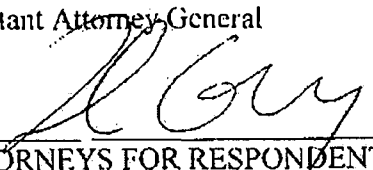
Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

DANIEL GOURLEY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

February 19, 2015.

|                             |   |                               |
|-----------------------------|---|-------------------------------|
| STATE OF SOUTH CAROLINA     | ) |                               |
|                             | ) | IN THE COURT OF COMMON PLEAS  |
| COUNTY OF SUMTER            | ) |                               |
|                             | ) |                               |
|                             | ) | 2014-CP-43-2142               |
|                             | ) |                               |
| THOMAS LEE GEDDIE, #351166, | ) |                               |
|                             | ) |                               |
| Applicant,                  | ) |                               |
|                             | ) |                               |
| vs                          | ) | AFFIDAVIT OF SERVICE BY MAIL. |
|                             | ) |                               |
| STATE OF SOUTH CAROLINA,    | ) |                               |
|                             | ) |                               |
| Respondent.                 | ) |                               |

RECORDED  
 2015 FEB 23 PM 2:2  
 JANET E. CORPUS  
 CLERK OF COURT  
 SUMTER COUNTY, S.C.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Amended Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Fulton Casey Dale Cornwell, Esquire**  
**448 Deerwood Street, Unit 9A**  
**Columbia, SC 29205**

DATED this 19<sup>th</sup> day of February, 2015.

  
 Caroline Collins, Legal Assistant  
 For Respondent

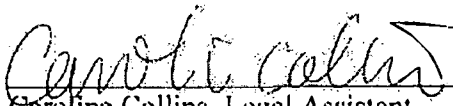


|                             |   |                               |
|-----------------------------|---|-------------------------------|
| STATE OF SOUTH CAROLINA     | ) |                               |
|                             | ) | IN THE COURT OF COMMON PLEAS  |
| COUNTY OF SUMTER            | ) |                               |
|                             | ) |                               |
|                             | ) | 2014-CP-43-2142               |
|                             | ) |                               |
| THOMAS LEE GEDDIE, #351166. | ) |                               |
|                             | ) |                               |
| Applicant,                  | ) |                               |
|                             | ) |                               |
| vs                          | ) | AFFIDAVIT OF SERVICE BY MAIL. |
|                             | ) |                               |
| STATE OF SOUTH CAROLINA,    | ) |                               |
|                             | ) |                               |
| Respondent.                 | ) |                               |
| _____                       | ) |                               |

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Fulton Casey Dale Cornwell, Esquire**  
**448 Deerwood Street, Unit 9A**  
**Columbia, SC 29205**

DATED this 6<sup>th</sup> day of January, 2015.

  
 Caroline Collins, Legal Assistant  
 For Respondent

RECORDED  
 2015 JAN -7 PM 3:50

1 State of South Carolina

2 County of Sumter

3

4 Thomas Geddie,  
Plaintiff

PCR Hearing  
2014-CP-43-02142

5

6 The State of South Carolina,  
Defendant

April 14, 2015  
Sumter, S.C.

7

8

9

10

11

12 BEFORE THE HONORABLE George C. James, Jr.,  
13 Judge.

14

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

16 Mr. Fulton Casey Dale Cornwell,  
Attorney for the Plaintiff

17

18 Mr. Daniel F. Gourley,  
Attorney for Defendants

19

20 Margaret T. Sullivan,  
Court Reporter

21

22

23

24

25

1 I-N-D-E-X

2 Witnesses                      Direct    Cross    Redirect    Recross

3 Thomas Lee Geddie  
       by Mr. Cornwell 3  
 4       by Mr. Gourley           13  
       Timothy Murphy           16  
 5       by Mr. Gourley           25  
       By the Court               29  
 6       by Mr. Gourley       31

7

8

9 E-X-H-I-B-I-T-S

| 10 | No. | Description    | Id . | Ev. |
|----|-----|----------------|------|-----|
| 11 | P-1 | Indictment     |      | 10  |
| 12 | P-2 | Sentence Sheet |      | 10  |

13

14

15

16

17

18

19

20

21

22

23

24

25

1                   THE COURT: This is Thomas Lee Geddie  
2    versus the State of South Carolina. Indictment No.  
3    2014-CP-43-2142. Mr. Cornwell is here with  
4    Mr. Geddie. Mr. Gurley is here for the State. And  
5    Mr. Murphy is here having been trial counsel.

6                   Mr. Cornwell, you can either tell me a  
7    little bit about your claim, or you can call your  
8    first witness. I'll leave that up to you.

9                   MR. CORNWELL: I would please call  
10   Mr. Geddie to the stand.

11                  THE COURT: Come up, Mr. Geddie, you will  
12   be sworn in up here. And is your last name,  
13   G-E-D-D-I-E?

14                  A. Yes, sir.

15                               Thomas Lee Geddie, being first  
16   duly sworn, testified as follows:

17                  THE COURT: And I have that he was  
18   convicted of murder and sentenced to life without  
19   parole. Is that right?

20                  MR. CORNWELL: That's correct, Your Honor.

21                               Direct Examination by Mr. Cornwell:

22                  Q. Mr. Geddie, I am just going tell you to  
23   speak up and pronounce everything clearly so the  
24   court reporter can take down everything you are  
25   saying, okay.

1 A. Yes, sir.

2 Q. Do you see trial counsel in here?

3 A. Yes, sir.

4 Q. And that's him right there?

5 A. Yes, sir.

6 Q. Now I'm going to ask you a few questions  
7 about what happened during the course of your trial,  
8 and what happened before the trial. Things of that  
9 nature. You and I have discussed that. And so the  
10 first thing I want to ask you is, how many times  
11 were you able to meet with your lawyer before you  
12 guys went to trial?

13 A. Twice.

14 Q. Two times that you can recall?

15 A. A preliminary hearing and then again  
16 before court.

17 Q. And when you say before court, do you mean  
18 immediately before court, or how long before?

19 A. I don't know a week or two, I think.  
20 Maybe two or three weeks maybe prior to court.

21 Q. And in those meetings, were you able to  
22 discuss your case?

23 A. No. The second meeting we discussed about  
24 hiring. He was going to hire an investigator.

25 Q. He was going to hire an investigator?

1 A. Yes, sir.

2 Q. And to your knowledge, do you know if he  
3 hired an investigator?

4 A. No, sir.

5 Q. Were you able to go over the facts in the  
6 case with your attorney?

7 A. No, sir. Not to the extent to like we  
8 talked in the bull pen for a brief moment of time  
9 before court.

10 Q. You said you meet him before court a  
11 second time. During that second meeting do you  
12 remember going over your case and possible defenses?

13 A. No, sir.

14 Q. So you are you saying you never got to  
15 review the evidence with your attorney?

16 A. No, sir.

17 Q. You don't recall talking about maybe some  
18 legal strategies or defenses for your case with  
19 your attorney?

20 A. No, sir.

21 Q. You don't remember going and reviewing the  
22 discovery and him talking about the evidence with  
23 you?

24 A. We discussed something about a beer bottle  
25 and a cigar butt.

1 Q. Now is the beer bottle that you're talking  
2 about that they found a---

3 A. Yeah, the right pinkey finger on.

4 Q. So he did tell you about the evidence they  
5 had against you.

6 A. Yes, sir.

7 THE COURT: Said a beer bottle and a what?

8 MR. CORNWELL: It was a cigarette butt.

9 And I----

10 A. A cigar butt.

11 THE COURT: Cigar butt.

12 MR. CORNWELL: I apologize.

13 Q. Were you able to talk to any witnesses, or  
14 do you know if your attorney talked to any  
15 witnesses?

16 A. No, sir. I know I gave him some names of  
17 the people he could contact. And tell the  
18 investigator who he could talk to.

19 Q. Do you recall the names of the people you  
20 gave him?

21 A. Yes, sir.

22 Q. Would you mind saying his name?

23 A. Conrad Dinkins, Deloris Dinkins, James  
24 Martin.

25 THE COURT: You need to slow down. Conrad

1 Dinkins is the only one I got.

2 A. Conrad Dinkins, Deloris Dinkins.

3 THE COURT: Okay.

4 A. James Martin, Sandy Geddie, and Pastor  
5 Nathaniel that lives around the crime scene.

6 Q. And were those witnesses called at your  
7 trial?

8 A. No, sir.

9 Q. None of them took the stand on your  
10 behalf?

11 A. No, sir.

12 Q. Were you ever able to able to ask your  
13 attorney why that wasn't done?

14 A. No, sir.

15 Q. Did you ever talk to your attorney about  
16 if he even spoke to those witnesses.

17 A. I don't know about -- I think I may  
18 remember he might have said that he couldn't contact  
19 him or something of that nature.

20 Q. Now about the investigator, do you recall  
21 speaking to an investigator yourself?

22 A. No, sir. I have never even saw one.

23 Q. So you never saw an investigator?

24 A. No, sir.

25 Q. As far as you know, do you know if an



1 investigator was ever---

2 A. No, sir,---

3 Q. ---hired in the case?

4 A. ---I never did.

5 Q. So you never received a report from an  
6 investigator or anything.

7 A. Nothing.

8 Q. I know me and you spoke, and you had an  
9 issue with the indictment.

10 A. Yes, sir.

11 Q. Could you kind of explain that to the  
12 court?

13 A. Yes, sir. I sent off for -- when I sent  
14 my PCR, for my PCR for a copy of the indictment,  
15 the sentencing sheet and all of that. And this is  
16 what the certified, the two copies that the Clerk of  
17 Court sent me with noting on it, stamped, signed,  
18 nothing. And the sentencing sheets signed by me or  
19 my attorney or anything of that nature.

20 THE COURT: Are you going to put those  
21 into evidence? If you're going to, go ahead and get  
22 them marked and let's get them in.

23 A. Yes, sir. It was a certified true copy  
24 from the Clerk of Court of the original file with  
25 the Sumter County Clerk of Court.

1 Q. And these indictments weren't signed or  
2 anything like that.

3 A. That was just how I got them. These are  
4 copies of the ones that I gave you. That's the  
5 original copy of what they sent me right there.

6 Q. And so your issue was that this indictment  
7 wasn't true billed.

8 A. No, sir.

9 THE COURT: Let me see it.

10 Q. Or at least that's the copy they sent you.  
11 They sent you a copy of a non-true billed  
12 indictment. Now you also had an issue with the  
13 sentencing sheet, is that correct?

14 A. Yes, sir. It's neither signed by me or my  
15 attorney Mr. Murphy. There's nothing saying on that  
16 signature saying where we're supposed to sign that.

17 Q. But this is signed by the judge and signed  
18 by the prosecutor.

19 A. Yes, sir.

20 THE COURT: You can mark those as Exhibits  
21 1 and 2, or A and B. However you court reporters  
22 mark them. 1 and 2?

23 THE REPORTER: 1 and 2. Plaintiff 1 and  
24 Plaintiff's 2.

25 MR. GOURLEY: I have no objection, Your

1 Honor.

2 (Indictment-Plaintiff's Exhibit No. 1 and  
3 Sentence Sheet-Plaintiff's No. 2 into evidence.)

4 THE COURT: What was the indictment  
5 number? It was a 2011 indictment?

6 MR. CORNWELL: Yes, Judge.

7 THE COURT: 2011-GS-43-115.

8 MR. CORNWELL: That is correct, Your  
9 Honor.

10 Q. Now during the course of your trial, there  
11 is a for lack of a better word, a snitch that  
12 testified against you. Is that correct?

13 A. Yes, sir.

14 Q. And what was his name?

15 A. Calvin Green.

16 Q. And according to the prosecution, what  
17 role did he play in the crime that they accused you  
18 of?

19 A. The set up man is supposedly the role he's  
20 supposed to have been.

21 Q. And they allege that he was co-defendant?

22 A. Yeah.

23 Q. Now---

24 THE COURT: They allege that, or he was?

25 MR. CORNWELL: Well he was. He admitted

1 that he was a co-defendant.

2 Q. Now did you speak with your attorney about  
3 Mr. Green before trial?

4 A. Yes, sir. We talked about it.

5 Q. And you were aware that he would be  
6 testifying against you?

7 A. Yes, sir.

8 Q. And what was your impression of  
9 Mr. Green's demeanor on the stand?

10 A. He wasn't the Calvin Green that I knew.  
11 This is somebody different they brought in. I'm  
12 just actually had to say, it looked like a clown  
13 they brought for a show. That wasn't the person I  
14 know.

15 Q. Do you think he was for lack of a better  
16 word, you're trying to say he's play acting.

17 A. Yes, sir.

18 Q. Did you discuss that with your attorney---

19 A. No, sir. We just---

20 Q. ---during the trial?

21 A. We briefly spoke on it I think about is  
22 his some kind of differential about it. You know,  
23 like this isn't the person, you know, that I know.  
24 I told them that ain't the Calvin Green that I knew  
25 as I recall saying.

1 Q. Do you remember your attorney questioning  
2 Calvin Green about his demeanor?

3 A. No, sir. I don't think he brought it up  
4 about his demeanor.

5 Q. So he didn't challenge his affects in  
6 court, if you will?

7 A. No, sir. Not as I recall.

8 Q. To the best of your knowledge, how well  
9 did you know Mr. Green?

10 A. I knew him, like I said, for maybe 3 or 4  
11 months prior to this incident.

12 Q. And in that time you know him, did you  
13 have the same impression that---

14 A. No, sir.

15 Q. ---the evidence he gave in court?

16 A. No, sir. A totally different person.

17 Q. A totally different person. And you feel  
18 like your lawyer should have cross examined him in  
19 pursuing whether or not he was faking?

20 A. Yes, sir. Yeah.

21 Q. And he did not do that?

22 A. No, sir.

23 THE COURT: Faking what? Lying?

24 MR. CORNWELL: As in his demeanor on the  
25 stand, Your Honor. No further questions of this

1 witness. Please answer any questions the AG's  
2 office has for.

3 THE COURT: Mr. Gourley.

4 MR. GOURLEY: Thank you, Your Honor.

5 Cross Examination by Mr. Gourley:

6 Q. Mr. Geddie, let's kind of get a little bit  
7 of background for the judge of what was presented at  
8 trial, okay.

9 A. Yes, sir.

10 Q. So at trial, they allege that you and your  
11 co-defendant Calvin Green, basically robbed the  
12 victim and shot him, correct?

13 A. That's what they allege, yes, sir.

14 Q. And they said that Calvin Green kind of  
15 met with the victim at this grocery store.

16 A. Yes, sir.

17 Q. And then had him follow him down this kind  
18 of dirt road, if you will.

19 A. Yes, sir.

20 Q. And the State alleged that you kind of  
21 popped out of the bushes with an AKA and lit him up?

22 A. That's what they allege, yes, sir.

23 Q. And now they've presented some evidence of  
24 a beer bottle with your pinky finger on it.

25 A. Yes, sir.

1 Q. And a cigar butt, right?

2 A. Nothing was conclusively said about no  
3 cigar butt.

4 Q. Okay.

5 A. They just said it was there. Ain't  
6 nobody showed me nothing, or said that my DNA or  
7 anything was on it. No, sir.

8 Q. And Mr. Green testified at trial that you  
9 were just talking about, right?

10 A. Yes, sir.

11 Q. So that's kind of the overall big picture  
12 of things of what was presented at trial, would you  
13 agree?

14 A. Yes, sir.

15 Q. Now these witnesses that you told  
16 Mr. Murphy about, are they here today?

17 A. No, sir.

18 Q. And it's your testimony that you never saw  
19 an investigator, and never talked to anybody like  
20 that?

21 A. No, sir.

22 Q. It was also your testimony that you didn't  
23 review any kind of discovery material with  
24 Mr. Murphy?

25 A. No, sir. About the beer, he told me about

1 that he had a beer bottle and a cigar butt, yeah.

2 Q. Yes, sir.

3 A. If that's what you mean by that, yeah.

4 Q. And did you all talk about any defenses or  
5 anything for trial?

6 A. No, sir, not as I recall about anything.

7 Q. And you're saying your attorney failed to  
8 investigate your case?

9 A. Yes, sir.

10 Q. What more do you think he should have  
11 done?

12 A. He should have talked to the people like I  
13 gave him those names, and to find out that Calvin  
14 Green lied about him knowing the area.

15 Q. Okay.

16 A. Yes, sir.

17 MR. GOURLEY: I appreciate it, Mr. Geddie.

18 A. Yes, sir.

19 MR. GOURLEY: Your Honor, that's all I  
20 have.

21 THE COURT: Redirect?

22 MR. CORNWELL: No, Your Honor.

23 THE COURT: Step down. Thank you,  
24 Mr. Geddie.

25 A. Yes, sir.



1 THE COURT: Additional witnesses?

2 MR. CORNWELL: No, Your Honor.

3 THE COURT: State's witnesses.

4 MR. GOURLEY: Your Honor, we would call  
5 Mr. Murphy to the stand.

6 THE COURT: Mr. Murphy, you can come on  
7 up. I will swear you in.

8 Timothy Murphy, being first duly  
9 sworn, testified as follows.

10 MR. GOURLEY: May it please the court,  
11 Your Honor.

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION by Mr. Gourley:

14 Q. Mr. Murphy, were you appointed or retained  
15 in this case?

16 A. I was appointed through the public  
17 defender's office on October 14th 2010.

18 Q. How many times did you meet with  
19 Mr. Geddie before his trial?

20 A. I met with 11 times. I met with him at  
21 the preliminary hearing on October 21st 2010. I met  
22 him with him shortly thereafter at the bond hearing.  
23 Before that, before the bond hearing, on  
24 November 1st 2010. Then we had a series of what I  
25 would call our first substantive meeting on

1 November 15th 2010. I met with him on January 14th  
2 2011, April 11th 2011, August 5th 2011, September  
3 6th 2011, October 19th 2011. The week of February  
4 2nd. Well my note is a little off here. But it was  
5 in early February 2012, May 14th 2012, May  
6 18th 2012, June 1st 2012. And then he took a  
7 polygraph on June 4th 2012. And I met with him  
8 about an hour before the polygraph. I also wrote to  
9 him three times. Typically when he wrote to me, I  
10 would go out to see him.

11 Q. Now did you all have the opportunity to  
12 review the evidence in the case?

13 A. Yes. I gave him a copy of the discovery.  
14 My practice is when I get discovery from the State  
15 to provide my -- they scan it into our data base.  
16 And I don't keep the hard copy. What I do is I give  
17 the copy to my client, and then I use the scan to  
18 copy for my own purposes. And then if I need  
19 something from it, I print it. It's more efficient  
20 that way.

21 Q. Did you all have the opportunity to talk  
22 about the version of the events that took place?

23 A. Multiple times. Mr. Geddie consistently  
24 denied being at the scene. We discussed potential  
25 witnesses. We discussed the viability of any sort

1 of alibi defense. He really didn't have any.  
2 The -- he gave me some information about Mr. Green  
3 that I pursued. And talked about the information we  
4 gleamed from the witnesses that we interviewed. I  
5 didn't enter -- well I actually did interview two of  
6 them. But Mr., I hired Mr. Chris Hildige. He was  
7 called Carolina Investigators, I think then. He was  
8 a private investigator I used at that time. I don't  
9 think he practices anymore.

10 THE COURT: Which witnesses, did you  
11 interview?

12 A. The individuals that Mr. Geddie just  
13 testified to, I don't recall him mentioning those  
14 names at all. I interviewed four individuals. Or  
15 either Mr. Hildige, me or both, interviewed  
16 Mr. Tommy Stavis, Mr. Carlton Bracey, a Mr. Lowery.  
17 I can't his first name. And a Mr. Tony.

18 All of these four individuals, Mr. -- what  
19 Mr. Geddie advised me was that there was a period of  
20 time where Mr. Green was getting his hair cut, over  
21 at the Sumter/Lee Regional Detention Center; that he  
22 was making comments about the case, and how he was  
23 going to basically shift the blame to my client.  
24 And that Mr. Geddie wasn't there. And that these  
25 four individuals came up to Mr. Geddie and told him,

1    hey, Mr. Green is making these statements. So  
2    we -- Mr. Hildige went out. Mr. Carlton Bracey was  
3    serving, I represented his brother on a murder  
4    case. He's serving 30 something years out at the  
5    prison. So Mr. Hildige went out to talk to him.  
6    And then he went and talked to -- well he talked to  
7    all four of these individuals.

8               Mr. Tony and Mr. Lowery denied knowing  
9    anything. Mr. Bracey told Mr. Hildige something  
10   similar to actually similar to what my client told  
11   me; that Mr. Green was making comments about that  
12   Mr. -- that my client was not the shooter; that he  
13   was there, but he was not the shooter. And that he  
14   was going to shift the burden over to him. And  
15   Mr. Stavis said a similar -- made a similar comment.  
16   So then I had Mr. Bracey transported for trial.

17              THE COURT: So Stavis said the same thing  
18   to Mr. Hildige?

19              A. Well he said something similar to  
20   Mr. Hildige. Afterwards, I have a -- I represented  
21   Mr. Stavis on multiple cases, so I have a pretty  
22   good relationship with him. He actually came to my  
23   office and told me that if he was called, that he  
24   didn't tell Mr. Hildige everything. And that my  
25   client had told -- this is what Mr. Stavis told me.

1 Mr. Stavis told me that Mr. Green had made the  
2 comment about shifting the shooting over to  
3 Mr. Geddie. Mr. Stavis said when he asked  
4 Mr. Geddie about it, Mr. Geddie told him that, yes,  
5 they were both there. That, yes, they planned to  
6 rob the decedent who was a drug dealer, but that my  
7 client wasn't the shooter. But he helped Mr. Green  
8 hide the murder weapon. And that yet he was part of  
9 the robbery, but he wasn't actual shooter. And  
10 that when Mr. Green pulled out the gun he started to  
11 back up and go away.

12 THE COURT: Who pulled out the gun?

13 A. Mr. Green did. According to Mr. Stavis'  
14 version of what Mr. Geddie told him. Okay. So  
15 based on that information I had Mr. Bracey  
16 transported. And I had a conversation with my  
17 client about that information in particular, both  
18 what Mr. Bracey said and what Mr. Stavis said.  
19 Mr. Geddie told me on multiple occasions he wasn't  
20 there. So when I approached him with what  
21 Mr. Stavis had told me, he said well we -- you know,  
22 that's just not true. I never told him anything  
23 like that. And at that point, it was like, okay,  
24 well, you know, we can't use him and he agreed.

25 THE COURT: So Bracey recanted.

1           A.    Stavis.  So Bracey wouldn't cooperate.  I  
2  bought him down from -- I brought Mr. Bracey down  
3  from the prison, and he would not cooperate.  He  
4  would not repeat what he told Mr. Hildige.  He said  
5  if he couldn't get some sort of time cut, he wasn't  
6  interested in testifying.  And, you know, I thought  
7  about maybe putting him on the stand to see if we  
8  could -- the judge could force him to testify.  But  
9  at that point I wasn't sure what he'd say.

10               And so I again I spoke to my client about  
11  Mr. Bracey's recalcitrance.  And, you know, you  
12  don't want a witness to go up there who you don't  
13  know -- you don't know exactly what they're going to  
14  say.  And we both agreed that given the -- first of  
15  all, given my client's position that he wasn't  
16  there, given the nature of the case, which I viewed  
17  at the time, and I still view as a relatively close  
18  case.  You know, I mean I guess ultimately I make  
19  decisions about which witnesses are called.  But  
20  with my client's consent, we did not call those  
21  two witnesses.  But we had a long conversation about  
22  those witnesses.  And I revealed all that  
23  information to him before making the final decision  
24  not to call him.

25           Q.    Mr. Murphy you said that Mr. Geddie gave

1 you some information about Mr. Green. What was that  
2 about?

3 A. At the -- you know, when Mr. Green  
4 testified, he did make the comment that Mr. Green  
5 appeared not to be acting straight. And I had  
6 individuals tell me prior both, I believe Mr. Stavis  
7 told me, and a couple of police officers told me  
8 beforehand, that Mr. Green was not and actually  
9 Mr. Meadors I believe told me ahead at the time.  
10 See one of the things was, even Mr. Meadors told me  
11 that when they first got the case, they didn't  
12 really know who shot him. You know, and I think if  
13 you read the transcript it's pretty clear that the  
14 surviving victims were two people in the vehicle.  
15 And the survivor didn't know who shot. He never  
16 actually saw Mr. Geddie.

17 So then there was a discussion, you know,  
18 I guess in my own mind there was a discussion well,  
19 you know, what if Mr. Green is the actual shooter  
20 and Mr. Geddie -- was the -- I mean if what  
21 Mr. Stavis told me Mr. Geddie him was true. And,  
22 you know, would that have made a difference. And  
23 one of the comments made Mr. Meadors made to me, I'm  
24 pretty sure it was Mr. Meadors, was that Mr. Green  
25 is not the kind of guy that would concoct a plan

1 like that. That he's just kind of slow.

2 So I mean, I know, Mr. Geddie did make  
3 that comment about his demeanor. He did come across  
4 as really slow. If it was an act, it may have been  
5 an act. I mean, I don't know. I mean obviously the  
6 jury saw how he came across. I argued his  
7 simplicity, I guess in part of my closing argument,  
8 to argue that he was kind of a child like guy trying  
9 to shift the blame for his actions to somebody else.

10 Again, I really thought the case was  
11 close. And I still do. But it came out the way it  
12 came out.

13 Q. Well regarding the State's evidence,  
14 Cedrick Hilton the other passenger in the car,  
15 I.D.'d Calvin Green as the person---

16 A. Yes.

17 Q. ---involved, correct?

18 A. Yes, he never -- and he did not ID my  
19 client.

20 Q. And Calvin Green testified at trial that  
21 the applicant was the shooter, right?

22 A. Yes.

23 Q. And then the beer bottle had Mr. Geddie's  
24 latent print on it, correct.

25 A. Yes.



1           Q.    That was located at the scene of the  
2 crime.

3           A.    Yes.  Yes, that's true.

4           Q.    Was there any additional investigation  
5 that you did outside of looking into the witnesses  
6 even by Mr. Geddie?

7           A.    I went out to the murder scene.  That was  
8 about it.

9           Q.    Did you feel you had any basis to object  
10 to the indictment?

11          A.    At the time, no.

12          Q.    Did you feel there was any basis to  
13 request a speedy trial in this case?

14          A.    No.  And I know that---

15                THE COURT:  Is that a ground, a speedy  
16 trial?

17                MR. GOURLEY:  It was raised in his  
18 application.

19                THE COURT:  It's not raised today so...

20                MR. GOURLEY:  Okay, I'll withdraw that  
21 question.

22          Q.    Mr. Murphy, did you feel you had ample  
23 time to prepare for trial?

24          A.    Yes.

25          Q.    And what was your ultimate trial strategy

1 in this case?

2 A. Consistent with what my client told me  
3 about his lack of presence there, the strategy was  
4 that Mr. Green was the sole shooter. My client  
5 wasn't there. And that Mr. Green was looking to pin  
6 the crime on somebody. And that that was basically  
7 it. I mean Mr. Green was the one that was I.D.'d  
8 being there. And you know as far as the beer bottle  
9 goes, it's just a quirk that the beer bottle  
10 happened to be there. They were driving around. I  
11 mean the allegation was that I guess Mr. Green's  
12 vehicle was an open bed truck. So the beer bottle  
13 could have just flown out. And it's just kind of a  
14 sad coincidence that's there a fingerprint on it.

15 Q. And just to be clear for the record,  
16 Mr. Green or Mr. Geddie never relayed any of the  
17 victim's or not victim's, but witnesses to you?

18 A. I don't recall. Those names that he  
19 just -- I don't recall him ever telling me anybody  
20 other than the four individuals who were in  
21 Sumter/Lee County and those four individuals. Now  
22 if he did, I just don't recall. I mean, they I  
23 don't know who those people are. I don't recall  
24 ever hearing then. In my notes, I don't have those  
25 names written down or anything.

1 MR. GOURLEY: Thank you, Mr. Murphy, no  
2 further questions.

3 THE COURT: Cross examination.

4 MR. CORNWELL: I beg the court's  
5 indulgence.

6 Cross Examination by Mr. Cornwell:

7 Q. Mr. Murphy, do you recall receiving a  
8 true billed indictment in this case?

9 A. No.

10 Q. You never saw a true billed indictment?

11 A. I don't recall. Your question was, do I  
12 recall, and I don't recall.

13 Q. And you don't know if have a copy of one  
14 in your file?

15 A. I can't speak to that.

16 Q. You according to your testimony, met with  
17 Mr. Green multiple times?

18 A. Yes.

19 Q. And you don't recall him ever bringing up  
20 the other names that he mentioned on the stand?

21 A. What I recall are, the four names that he  
22 gave me that were clearly relevant to me. I mean if  
23 he brought up other people -- I don't recall those  
24 names. Now look I am not going to say he didn't,  
25 but, you know, sometimes clients give you a list of

1 names. And then you start asking them, well what  
2 would they say. What would they say. What would  
3 they say. And it's not stuff that's going to make  
4 a difference. I don't recall him ever -- what I  
5 recall him and us having discussions about were  
6 those four guys. Because that would have made a  
7 difference.

8 Q. So it's your testimony that if those  
9 witnesses would have been -- would have made a  
10 difference, you would have called them.

11 A. My testimony is, if he would have told me  
12 about them, I would have asked him about them. And  
13 then we would have had a more substantive  
14 discussion.

15 Q. Now did you -- did at any time did your  
16 investigator actually speak with Mr. Geddie?

17 A. According to my notes, no, I don't believe  
18 that that's recorded.

19 Q. But you did hire an investigator.

20 A. Yes, sir.

21 Q. And I am going have you look at State's  
22 Exhibit -- not State, Exhibit No. 2 here. The  
23 sentence sheet.

24 A. Uh-huh. (Affirmative.)

25 Q. Do you recall seeing the sentence sheet?

1 A. After the fact.

2 Q. Is there is a reason why it's not signed  
3 by you or Mr. Geddie?

4 A. He didn't plead.

5 Q. And do you recall allowing Mr. Geddie to  
6 review that sentence sheet beforehand, or did he see  
7 that all?

8 A. I don't recall. I don't recall seeing it  
9 until I got the materials from the attorney general  
10 for this hearing. My understanding is, that's  
11 common practice for convictions as opposed to, I  
12 mean, as opposed to pleas.

13 Q. And during the course of your  
14 representation to Mr. Geddie, you did, you were able  
15 to talk about possible defenses and things of  
16 nature.

17 A. Oh, yes. Uh-huh. (Affirmative.)

18 Q. You do recall going over evidence with the  
19 him.

20 A. Yes.

21 Q. Is that your testimony?

22 A. Uh-huh. (Affirmative.)

23 Q. And you discussed everything including the  
24 beer bottle---

25 A. Yes.

1 Q. ---and the possible alibi defense?

2 A. Yes.

3 Q. You guys went over strategy and  
4 everything?

5 A. Yes.

6 Q. And you talked to him about the potential  
7 witnesses that could be called for and against him?

8 A. Yes.

9 MR. CORNWELL: I beg the Court's  
10 indulgence. No further questions.

11 THE COURT: Any objections to me asking a  
12 question?

13 MR. CORNWELL: No, Your Honor.

14 MR. GOURLEY: No, Your Honor.

15 THE COURT: Mr. Murphy, could you give me  
16 the dates again that you met with him, please, a  
17 little slower than you did before?

18 A. Yes, sir. We met at the preliminary  
19 hearing. I talked to him briefly beforehand.

20 THE COURT: That day?

21 A. Yes, sir. October 21st 2010. We met at  
22 the bond hearing. Again, I talked to him privately  
23 for a bit, I believe after the bond hearing. On  
24 November 1st 2010.

25 THE COURT: Okay.

1           A.    Then I met with him and I would argue this  
2   was probably our first substantive conversation, you  
3   know, on November 15th 2010.  Again on January 14th  
4   2011, April 11th 2011, August 5th 2011, September  
5   6th 2011, October 19th 2011, and early  
6   February 2012.  I don't have the particular specific  
7   date.  May 14th 2012.  May 18th 2012.  June 1st  
8   2012.  And then for about an hour before he took a  
9   polygraph examination on June 4th 2012.  And then  
10  we, you know, the trial started shortly after that.  
11  And obviously we talked before and after the trial  
12  during that time frame.

13               THE COURT:  Any follow up questions from  
14  the State or the applicant?

15               MR. GOURLEY:  No, Your Honor.

16               THE COURT:  Mr. Cornwell.

17               MR. CORNWELL:  No, Your Honor.

18               THE COURT:  Next witness for the State?

19               MR. GOURLEY:  Your Honor, I don't have any  
20  further witnesses.

21               THE COURT:  Reply witnesses for the  
22  applicant?

23               MR. CORNWELL:  No, Your Honor.

24               THE COURT:  Any closing argument from  
25  either side beginning with you, Mr. Cornwell?

1 MR. CORNWELL: Your Honor, at this point,  
2 no, I do not have any closing remarks to make  
3 except -- No, Your Honor.

4 THE COURT: Mr. Gourley, any closing  
5 comments?

6 MR. GOURLEY: Your Honor, I would just ask  
7 to leave the record open. I would like to check the  
8 solicitor's file and the clerk of court, to see if  
9 we can get a copy of the indictment, in addition to  
10 what we have.

11 THE COURT: Well I will do that. Any  
12 objection to that, Mr. Cornwell?

13 MR. CORNWELL: I have no objection.

14 THE COURT: I will get that today.

15 MR. GOURLEY: Yes, sir.

16 THE COURT: Before we even have lunch.

17 MR. GOURLEY: Yes, sir.

18 THE COURT: Anything else, Mr. Gourley?

19 MR. GOURLEY: Your Honor, in regarding to  
20 closing, obviously Mr. Geddie needed to provide  
21 witnesses that he alleges Mr. Murphy did not  
22 interview to meet his burden of proof. They're not  
23 here today. And, Your Honor, that would be it.

24 THE COURT: What if there is no true  
25 billed indictment? What's the State's position?



1           MR. GOURLEY: Your Honor, I am not quite  
2     sure on the case law on that.

3           THE COURT: We'll have to -- we'll cross  
4     that bridge if we have to.

5           MR. GOURLEY: Yes, sir.

6           THE COURT: Mr. Geddie, what I am going to  
7     do is review this entire transcript in detail. I'm  
8     going to review -- I have made detailed notes today  
9     of both your and Mr. Murphy's testimony. I will  
10    make a decision as to whether or not your  
11    application should be granted or denied. If it's  
12    granted, or either way, I'll be signing an order and  
13    your lawyer will get a copy of that. And you'll  
14    have 30 days from the date that he receives written  
15    notice of the entry of that judgment, to file an  
16    appeal. He can also file a motion for  
17    reconsideration, but he can educate you on those  
18    applicable time frames. All right, sir?

19          THE PLAINTIFF: Yes, sir.

20          THE COURT: Thank you, sir.

21          THE PLAINTIFF: Thank you, sir.

22          --End of Requested Transcript of Record--

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the  
Third Judicial Circuit of the State of South Carolina,  
do hereby Certify that the foregoing is a true, accurate  
and complete Transcript of Record of the proceedings had  
and evidence introduced in Common Pleas Nonjury Court on  
April 14, 2015 in Sumter County, Sumter, South Carolina.

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

1-18-17  
DATE

Margaret T. Sullivan  
COURT REPORTER  
My Commission expires: 9/7/21

STATE OF SOUTH CAROLINA )  
COUNTY OF SUMTER )

# INDICTMENT FOR

Murder / Murder

CERTIFIED TRUE COPY  
OF ORIGINAL FILE

At a Court of General Sessions, convened on July 21, 2011, the Grand Jurors of  
SUMTER County present upon their oath:

DEPUTY CLERK OF COURT  
SUMTER COUNTY  
SOUTH CAROLINA

## COUNT ONE - MURDER

That Kelvin Charles Green did in Sumter County, on or about September 19, 2010, willfully, feloniously, and intentionally kill the victim, Xavier Titus, with malice aforethought, either express or implied, by means of shooting victim multiple times, and the victim did die as a proximate result thereof on or about September 19, 2011 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

## COUNT TWO - MURDER

That Thomas Lee Geddie did in Sumter County, on or about September 19, 2010, willfully, feloniously, and intentionally kill the victim, Xavier Titus, with malice aforethought, either express or implied, by means of shooting victim multiple times, and the victim did die as a proximate result thereof on or about September 19, 2010 in Sumter County, in violation of Section 16-03-0010, 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

*Ernest A. Frazier III*

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

COUNTY OF Sumter  
 STATE VS.  
Thomas Lee Geddie  
 AKA:  
 Race: 2 Sex: M Age: 45  
 DOB: SS#:  
 Address: Orangehill Church Roa  
 City, State, Zip: Wedgefield, SC 29168  
 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 / Murder

INDICTMENT/CASE#: 2011-GS-43-1155A/W#: M442214Date of Offense: 9/19/2010S.C. Code § 16-03-0010 **CERTIFIED TRUE COPY**CDR Code #: 0116 **OF ORIGINAL FILE**

SENTENCE SHEET OF COURT

SUMTER COUNTY

SOUTH CAROLINA

☒ CONVICTED OF ☐ 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 (SC § 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: John P. Meador 10429Donna D. Edgar 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 Life 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.

☐ 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   | \$ <u>100.00</u> |
| § 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    | \$ <u>2500</u>   |
| § 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 (SCCA Surcharge)          | \$5     | \$ <u>5.00</u>   |
| 3% to County (if paid in installments) | \$      | \$               |
| TOTAL                                  | \$      | \$               |

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

## 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

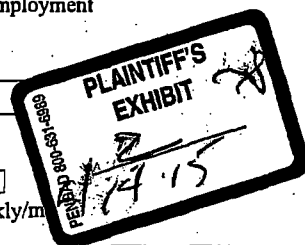
Other: \_\_\_\_\_

☐ 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 James C. Campbell  
 Court Reporter: Margaret Sullivan  
 SCCA/217 (03/2011)

Presiding Judge [Signature]  
 Judge Code: 2156  
 Sentence Date: 06-07-12

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

Thomas Lee Geddie, #351166,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT

2014-CP-43-2142

CERTIFIED TRUE COPY  
OF ORIGINAL FILED

*Sherry H. Hart*  
DEPUTY CLERK OF COURT  
SUMTER COUNTY  
SOUTH CAROLINA

ORDER OF DISMISSAL

RECORDED  
2015 JUL 24 PM 1:31  
JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on October 6, 2014. Respondent made its amended return on February 19, 2015. An evidentiary hearing in to the matter was convened on April 14, 2015, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Casey Cornwell, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

**PROCEDURAL HISTORY**

The records before this Court indicate that The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was true bill indicted at the July 2011 term of the Sumter County Grand Jury for murder (2011-GS-43-1155). Timothy Murphy, Esquire represented Applicant. Applicant proceeded to a jury trial on June 4-7, 2012, before the Honorable W. Jeffrey Young. Applicant was subsequently found guilty as indicted. Judge Young sentenced Applicant to life in prison without the possibility of parole.

*[Handwritten signature]*

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was submitted. By unpublished opinion filed June 11, 2014, the South Carolina Court of Appeals dismissed the appeal. State v. Geddie, Un, Op. 2014-UP-219 (S.C. Ct. App. 2014). The Remittitur was issued on June 27, 2014.

### ALLEGATIONS

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel.
  - a. Failing to investigate and adequately prepare for trial.
  - b. Failure to meet with Applicant and discuss defense
  - c. Failure to interview 5 fact witnesses
  - d. Failure to hire investigator to interview the witnesses
  - e. Failure to investigate the background of State witness Cedric Hilton and the crime scene
  - f. Failure to move to quash the indictment.
  - g. Failure to object to violation of Applicant's right to speedy trial.
  - h. Failed to enter Applicant's statement into evidence and request an alibi instruction be given to the jury.
  - i. Ineffective for requesting a mere presence jury charge
  - j. Failing to file a motion to suppress Budweiser beer bottle with Applicant's no. 5 fingerprint on it.
2. Prosecutorial Misconduct
  - a. Failing to disclose that there was a plea agreement with Kelvin Green.
3. Due Process Violation – 14<sup>th</sup> Amendment and Article 1 § 3 of the S.C. Constitution.

### SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from Timothy Murphy, Esquire. (hereinafter "Trial Counsel"). This Court also had before it a copy of the trial transcript, the Sumter County Clerk of Court records, Applicant's South Carolina Department of Correction records, appellate records, the PCR application, and return.



During the evidentiary hearing, Applicant testified that he met with Trial Counsel twice prior to trial. Applicant stated they met once at the preliminary hearing and once approximately one to three weeks prior to trial. Applicant stated Trial Counsel was supposed to retain an investigator. Applicant stated that they were never able to discuss the evidence or case. Applicant stated that they did not go over any legal issues. Applicant stated that they did discuss the finger print found on the beer bottle. Specifically, Applicant stated a fingerprint from his right pinky finger was found on a beer bottle located at the crime scene.

Applicant stated he gave Trial Counsel various witnesses to investigate. Specifically, Applicant stated he asked Trial Counsel to interview Conrad Dinkins, Delores Dinkins, James Martin, Sandy Geddie, and a Pastor Nathaniel. Applicant further stated that when Kelvin Green (hereinafter "Green") testified, it looked like he was "play acting." Applicant stated that Trial Counsel should have cross-examined Green on his demeanor. Applicant stated Trial Counsel should have challenged his indictment because it was not true billed. Applicant further claimed that his sentence is invalid because he and Trial Counsel never signed the sentencing sheet.

Following Applicant's testimony, Trial Counsel was called to testify by the State. Trial Counsel stated that he was appointed to represent Applicant. Trial Counsel stated that he met with Applicant at least thirteen times. Trial Counsel stated that he filed for and reviewed all Rule 5 and Brady material. Trial Counsel stated that he provided Applicant with a complete copy of the discovery prior to trial.

Trial Counsel stated that Applicant consistently denied ever being at the scene. Trial Counsel stated that he had never heard the names of the potential witnesses Applicant claimed he failed to interview. Trial Counsel stated that Applicant requested he look into Tommy Stavis, Carleton Bracey, a Mr. Lowery, and a Mr. Toney. All of whom were inmates at the local jail.



Trial Counsel stated Applicant told him that they would establish that when co-defendant Green was getting a haircut at the jail, he told them that he was going to put the blame on the Applicant for the murder.

Trial Counsel stated that his investigator, Mr. Hilditch, interviewed these witnesses. Toney and Lowery told him that they didn't know anything about Green stating he was going to put the blame on Applicant. Trial Counsel stated Carlton Bracey told Mr. Hilditch that Green said he was going to shift blame to Applicant, but Carlton Bracey would not cooperate. Trial Counsel stated that he interviewed Stavis and Stavis said that Green told him that he was going to shift the blame to Applicant. However, Trial Counsel stated Stavis said that Applicant told him that he and Green were both present at the scene of the murder, that he was not the shooter, and he was just there to commit the robbery. Trial Counsel testified that Stavis told him Applicant fled the scene when Green pulled out the gun and later helped Green hide the gun. Trial Counsel stated Stavis later recanted his statement because he was not offered a time cut in exchange for his testimony. Trial Counsel stated that he contemplated calling Stavis as a witness, but ultimately chose not to call Stavis due to the uncertainty as to what Stavis would say on the stand.

Trial Counsel stated that he had various people tell him that Green was schizophrenic, smoking crack, and drinking beer. Trial Counsel noted that Green did not give Applicant's name in his first interview. Trial Counsel stated that Green was hoping to receive a plea deal due to his cooperation.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to





observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Specifically, this Court finds Trial Counsel's testimony credible and Applicant's testimony not credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

### INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that,



but for counsel's unprofessional errors, the result of the proceeding would have been different."

Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

**1. Ineffective assistance of counsel for failing to meet prior to trial.**

The Applicant claims Trial Counsel met with him only two times, once at the preliminary hearing and once 1-3 weeks before trial. Applicant claims that at the second meeting, Trial Counsel said he was going to hire an investigator, but he never did. Applicant claims Trial Counsel never reviewed facts, evidence, strategies or defenses with him. Applicant claims Counsel did discuss a beer bottle with his fingerprint on it. However, this Court find's credible Trial Counsel's testimony that he met with the Applicant at least thirteen times in advance of trial, beginning with the preliminary hearing on October 21, 2010, then the bond hearing on November 1, 2010, and then eleven more times from November 15, 2010 through June 4, 2010. Trial Counsel also wrote the Applicant three times and gave him a copy of his discovery. This Court find's credible Trial Counsel's testimony that he talked to Applicant multiple times about the Applicant's version of events, i.e., that he was not present at all at the scene. Also, it is clear from trial counsel's testimony that he did hire an investigator, Chris Hilditch. Mr. Hilditch interviewed several witnesses as discussed below. Based off of the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel's performance.



**2. Ineffective assistance of counsel for failing to interview various witnesses.**

The Applicant claims he gave trial counsel the names of several witnesses to talk to, Conrad Dinkins, Delores Dinkins, James Martin, Sandy Geddie, and a Pastor Nathaniel. None were called to testify at trial. However, none were called to testify at the PCR hearing either, so this court cannot consider what evidence they may have provided. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998). (Holding an applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial).

Trial Counsel's credibility on this issue is bolstered by the fact that Applicant did give him the names of several inmate witnesses from the local jail to speak to including Tommy Stavis, Carleton Bracey, a Mr. Lowery, and a Mr. Toney. These witnesses would supposedly establish that when co-defendant Kelvin Green (who ultimately testified for the State in exchange for a great plea deal) was getting a haircut at the jail, he told them that he was going to put the blame on the Applicant for the murder. Mr. Hilditch interviewed these witnesses and Trial Counsel also talked to Stavis, whom he also represented. Toney and Lowery told Mr. Hilditch that they did not know anything about Green's statement that he was going to shift the blame on to Applicant. Bracey told Hilditch that Green did say that he was going to place the blame on Applicant, but Bracey refused to cooperate. Stavis related that Green did say he was going to blame the Applicant. However, Stavis also stated that the Applicant told him that he and Green were both present at the scene, that he was not the shooter, and that he was just there to be a part of the robbery. Stavis said the Applicant told him that when Green pulled out the gun, he (the Applicant) ran. The Applicant told Stavis he helped Green hide the gun. Trial counsel testified that Stavis then recanted because he wanted a time cut. Trial counsel thought

about calling Stavis to testify but decided not, citing the uncertainty as to what Stavis would actually say on the witness stand. This Court finds credible Trial Counsel's testimony that he revealed all of this to the Applicant and that the Applicant agreed none of these jail witnesses should be called to testify.

Based off of the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel's performance.

**3. Ineffective assistance of counsel for failing to cross-examine co-defendant Green.**

The Applicant claims that when Green testified, it looked like he “was play acting.” Applicant claims Trial Counsel should have cross-examined Green on his demeanor. This claim has no merit. Trial counsel cross-examined Green extensively and a predominant part of his closing argument attacked Green's credibility. Specifically, Trial Counsel pointed out the fact that Green was schizophrenic, smoking crack, drinking beer, and that he helped plan the robbery. (Tr. p. 267 line 12—p. 268 line 6). He also pointed out multiple times that Green failed to give law enforcement the Applicant's name during his first statement, and that he was hoping to receive a ten year sentence for armed robbery for cooperating, instead of a potential life sentence for murder. (Tr. p. 271 line 11—p. 272 line 22). Based off of the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial

Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel’s performance.

**4. Ineffective assistance of counsel for failing to challenge his indictment.**

The Applicant claims the indictment in this case was never true billed. The court held the record open for this issue to be clarified, and the court has been provided with a copy of the true billed indictment. Therefore, this claim has no merit.

**5. Conviction is invalid because he and Trial Counsel never signed the sentencing sheet.**

The Applicant claims his conviction is invalid because he and Trial Counsel never signed the sentencing sheet. This claim has no merit, as trial counsel and a defendant found guilty by a jury never sign sentencing sheets. These sheets are typically signed only upon entry of a guilty plea, and there is no requirement they be signed after a jury verdict of guilty.

**ALL OTHER ALLEGATIONS**

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

*[signature to follow]*

*2/9*

### CONCLUSION

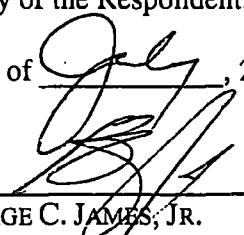
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

#### IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 8 day of July, 2015.

  
\_\_\_\_\_  
GEORGE C. JAMES, JR.  
Presiding Judge  
Third Judicial Circuit

 South Carolina

Thomas Lee Geddie #351166  
 Lieber Corr. Inst. Stone B-28  
 P.O. Box 205  
 Ridgeville, S.C. 29472

August 4, 2015

Hon. Daniel E. Shearouse, Clerk  
 South Carolina Supreme Court  
 P.O. Box 11330  
 Columbia, S.C. 29211

Re: Thomas Lee Geddie #351166 v. State of South Carolina  
 C/A No.: 2014-CP-43-2142

Dear Mr. Shearouse,

Enclosed herewith you will find the Notice of Appeal, Order of Dismissal along with a Proof of Service in reference to the above named Applicant.

If there's any questions or problems, please contact me at the above address.

With kind Regards, I am

Sincerely,

Thomas Lee Geddie  
 Thomas Lee Geddie

**RECEIVED**

AUG 07 2015

File

**S.C. SUPREME COURT**

Enclosed as stated

CC: Daniel Gourley, Assistant Attorney General  
 Office of Attorney General

South Carolina Office of Appellate Defense

Thomas Lee Geddie #351166  
 Lieber Conn. Inst. Stone B-28  
 P.O. Box 205  
 Ridgeville, S.C. 29472

August 4, 2015

Mr. Daniel Gourley, Esquire  
 Assistant Attorney General  
 South Carolina Office of the Attorney General  
 P.O. Box 11549  
 Columbia, S.C. 29211-1549

Re: Thomas Lee Geddie<sup>#351166</sup> v. State  
 CIA No. 2014-CP-43-2142

Mr. Gourley,

Enclosed herewith you will find the Notice of Appeal, Order of Dismissal along with a Proof of Service in reference to the above case.

Sincerely,

Thomas Lee Geddie

Thomas Lee Geddie

File

Enclosures as stated

cc: Hon. Daniel E. Shegrouse, Clerk  
 South Carolina Supreme Court

South Carolina Office of Appellate  
 Defense

**RECEIVED**

AUG 07 2015

**S.C. SUPREME COURT**



Thomas Lee Geddie #351166  
 Lieber Conv. Inst. Stono B-28  
 P.O. Box 205  
 Ridgeville, S.C. 29472  
 August 4, 2015

South Carolina Office of  
 Appellate Defense  
 P.O. Box 11589  
 Columbia, S.C. 29211-1589

Re: Thomas Lee Geddie #351166 v. State  
 CIA No.: 2014-CP-43-2142

Dear Sir or Ma'am,

Enclosed herewith you will find the Notice of Appeal,  
 Order of Dismissal along with a Proof of Service in refer-  
 ence to the above case.

If you have any questions or concerns, please contact  
 me at the above address.

With Kind Regards, I am  
 Sincerely,

Thomas Lee Geddie  
 Thomas Lee Geddie

File

Enclosures as stated

cc: Hon. Daniel E. Shearouse, Clerk  
 South Carolina Supreme Court  
 Daniel Gourley, Assistant Attorney General  
 Office of Attorney General

**RECEIVED**

AUG 07 2015

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

---

APPEAL FROM SUMTER COUNTY

Court of Common Pleas

Honorable George C. James, Jr., Circuit Court Judge

---

Case No.: 2014-CP-43-2142

Thomas Lee Geddie, #351166 . . . . . Appellant,  
vs.

The State . . . . . Respondent.

---

NOTICE OF APPEAL

Thomas Lee Geddie, appeals his Denial for Post Conviction Relief in this case. The Order of Dismissal was imposed and signed by the Honorable George C. James, Jr., July 8, 2015, filed with the Sumter County Clerk of Court on July 24, 2015, and received by me, Thomas Lee Geddie on July 29, 2015.

**RECEIVED**

AUG 07 2015

**S.C. SUPREME COURT**

August 4, 2015  
Other Counsel of Record:  
Daniel Gourley, Esquire  
Assistant Attorney General  
South Carolina Attorney General's Office  
P.O. Box 11549  
Columbia, S.C. 29211-1549

Respectfully Submitted,

Thomas Geddie

Thomas Lee Geddie #351166  
Lieber Corn. Inst. Stono B-28  
P.O. Box 205  
Ridgerville, S.C. 29472  
Pro se Petitioner

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

**RECEIVED**

AUG 07 2015

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

Honorable George C. James, Jr., Circuit Court Judge

Case No.: 2014-CP-43-2142

Thomas Lee Geddie, #351166 . . . . . Appellant,

VS.

The State . . . . . Respondent.

**PROOF OF SERVICE**

I, the undersigned, do hereby certify under the penalty of perjury, §16-9-10(A)(2) of the South Carolina Code of Laws (1976), that on this 4th day of August, 2015, I served the foregoing Notice of Appeal, Order of Dismissal, as well as Proof of Service in this matter by depositing a true copy of it in either the United States Mail or Interagency Mail, on August 4, 2015, addressed to the following as indicated below:

South Carolina Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

Office of Attorney General  
Attn: Daniel Gourley, Esquire  
P.O. Box 11549  
Columbia, S.C. 29211-1549  
(Interagency Mail)

South Carolina Office of  
Appellate Defense  
1330 Lady Street, Suite 401  
P.O. Box 11589  
Columbia, S.C. 29211-1589  
(Interagency Mail)

Dated: August 4, 2015

x Thomas Geddie  
Thomas Lee Geddie #351166  
Lieber Corn. Inst. Stone B-28  
P.O. Box 205  
Ridgeville, S.C. 29472  
Pro se Petitioner

Thomas Lee Geddie #351166

<sup>205</sup>  
Lieber Corr. Inst. Steno B-28

P.O. Box 205

Ridgeville, S.C.

29472

RECEIVED

AUG 04 2015

MAIL ROOM  
LIEBER C.I.

Hon. Daniel E. Shearouse  
Clerk

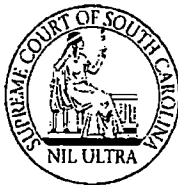
South Carolina Supreme Court

Post Office Box 11330

Columbia, S.C.

29211

FOR OFFICIAL USE ONLY



## The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211

1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

[www.sccourts.org](http://www.sccourts.org)

August 13, 2015

Fulton Casey Dale Cornwell, Esquire  
448 Deerwood Street  
Unit 9A  
Columbia SC 29205

Re: Thomas Lee Geddie v. State  
Appellate Case No. 2015-001687  
Lower Court Case No. 2014CP4302142

Dear Counsel:

Please be advised that your client has served and filed a *pro se* notice of appeal from the order dated July 8, 2015, and this case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

I remind you that you remain his counsel of record before this Court and that you should assist him in obtaining representation from the Division of Appellate Defense if he is indigent. Rule 71.1(g) of the South Carolina Rules of Civil Procedure ("If an applicant represented by counsel desires to appeal, counsel shall serve and file a Notice of Appeal as required by Rule 243, SCACR, and shall continue to represent the applicant on appeal unless automatically relieved under Rule 602, SCACR, or allowed to withdraw under Rule 264, SCACR. If the applicant is indigent, counsel shall assist the applicant in obtaining representation by the Division of Appellate Defense of the Office of Indigent Defense.").

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line and a small flourish.

CLERK

cc: Daniel Francis Gourley, II, Esquire  
Mr. Thomas Lee Geddie, #351166

Thomas Lee Geddie #351166  
 Lieber Corr. Inst. Stono B-28  
 P.O. Box 205  
 Ridgeville, S.C. 29472

September 12, 2015

**RECEIVED**

SEP 21 2015

**S.C. SUPREME COURT**

Hon. Daniel E. Shearouse, Clerk  
 South Carolina Supreme Court  
 P.O. Box 11330  
 Columbia, S.C. 29211

Re: Filing of Pro se Notice of Appeal  
 Thomas Lee Geddie #351166 v. State (PCR)  
 C/A No. 2014-CP-43-2142

Dear Mr. Shearouse,

On August 4th, 2015, I served a <sup>pro se</sup> Notice of Appeal on Mr. Daniel Gourley, Esquire, Assistant Attorney General, S.C. Office of Attorney General and the South Carolina Office of Appellate Defense as well as your office with an Order of Dismissal and Proof of Service attached in reference to the above case.

Mr. Casey Cornwell, Esquire, PCR counsel (appointed) refused to file Rule 59(e) motion and would not acknowledge receipt of Order of Dismissal nor file Notice of Appeal in this case on my behalf.

Please advise of the status of my pro se Notice of Appeal.

I thank you for your assistance in this matter.  
 With kind regards, I am

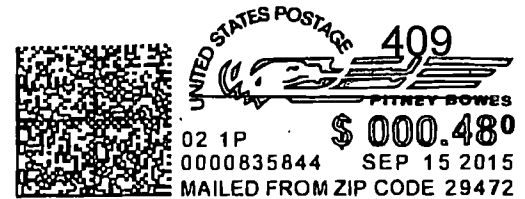
Sincerely,

Thomas L. Geddie

Thomas L. Geertz #J01166  
Lieber Corr. Inst. Stone B-28  
P.O. Box 205  
Ridgeville, S.C. 29472

TIME  
SENSITIVE  
MATERIAL

FIRST CLASS



**RECEIVED**

SEP 15 2015

MAILROOM  
LIEBER CI

SCDC

SEP 28 2015

MAIL ROOM

Hon. Daniel E. Shearouse, Clerk  
South Carolina Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

2921131330



THE DEPARTMENT OF CORRECTIONS HAS NOT  
INSPECTED OR CENSORED THIS ITEM; THEREFORE,  
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY  
FOR ITS CONTENTS.  
LIEBER CORRECTIONAL INSTITUTION  
S.C. DEPARTMENT OF CORRECTIONS

LIEBER CORRECTIONAL INSTITUTION  
S.C. DEPARTMENT OF CORRECTIONS

THE DEPARTMENT OF CORRECTIONS HAS NOT  
CENSORED THIS ITEM; THEREFORE, THE DEPARTMENT  
DOES NOT ASSUME RESPONSIBILITY FOR ITS CONTENTS.



# The Supreme Court of South Carolina

Thomas Lee Geddie, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-001687

The Honorable George C. James, Jr.  
Sumter County  
Trial Court Case No. 2014CP4302142

---

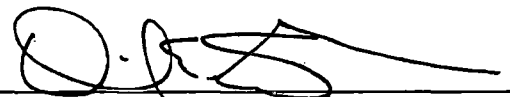
## ORDER

---

Petitioner has failed to order the transcript, as required by Rule 207(a)(1) of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

October 1, 2015

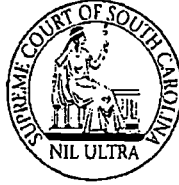
cc:

Fulton Casey Dale Cornwell, Esquire

Daniel Francis Gourley, II, Esquire

Mr. Thomas Lee Geddie, #351166

S.C. Division of Appellate Defense



## The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211  
1231 GERVAIS STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499  
[www.sccourts.org](http://www.sccourts.org)

October 19, 2015

The Honorable James C. Campbell  
Sumter County Judicial Center  
215 North Harvin Street  
Sumter SC 29150-4974

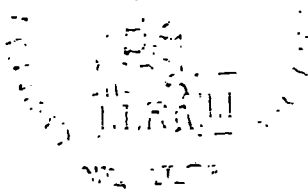
### REMITTITUR

Re: Thomas Lee Geddie v. State  
Lower Court Case No. 2014CP4302142  
Appellate Case No. 2015-001687

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,



CLERK

cc: Fulton Casey Dale Cornwell, Esquire  
Daniel Francis Gourley, II, Esquire  
Thomas Lee Geddie, #351166

STATE OF SOUTH CAROLINA )

County of Sumter )

RECORDED

IN THE COURT OF COMMON PLEAS

2016 JAN 11 PM 12:29

Thomas Lee Geddie, #351166

Full name and prison number (if any) of Applicant )

2016-CP-43-49

v. )

State of South Carolina )

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Dept. of Corr.; Lieber Corr. Inst.
2. Name and location of Court which imposed sentence Sumter County Court of General Sessions; Hon. William Jeffrey Young, presiding Judge; and
3. <sup>9 JURY</sup> Name(s) of co-defendant(s) (if any) Kevin Green
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) 2011-GS-43-1155; Murder

- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) June 7, 2012; Life Without Parole
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. Appeal dismissed per curiam pursuant to Anders
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. June 11, 2014
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2014-UP-219
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A

- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of PCR Counsel
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- Denial of Due Process, State and Federal rights
- (a) PCR counsel was ineffective for failing/refusing to file notice of Appeal and seek review of the denial
- (b) of Applicant's initial application for Post-Conviction Relief
- (c) Counsel was ineffective for failing to forward Applicant a copy of Order of Dismissal, review said Order and file motion to alter
12. Prior to this application have you filed with respect to this conviction:
- see attached letters from S.C. Supreme Court or amend -
- (a) any petition in a State Court under South Carolina Law? NO

- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
- i. Application for Post-Conviction Relief
- ii. 2014-CP-43-2142
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. Sumter County Court of Common Pleas, Sumter, SC.
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

- iv. \_\_\_\_\_
- (c) the disposition thereof:
- i. Denied and dismissed with prejudice
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (d) the date of each such disposition:
- i. July 24, 2015
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. 2014-CP-43-2142
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

- (b) the proceedings in which each ground was raised:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) PCR counsel would not assist me in filing  
 (b) Notice of Appeal of the denial of my APCR  
 (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes  
 (b) your trial, if any? yes  
 (c) your sentencing? yes  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes  
 (e) preparation, presentation or consideration of any petitions, motions or applications

- with respect to this conviction, which you filed? no/yes  
 18. PCR counsel refused to amend or assist me in amending PCR  
 If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you: Timothy W. Murphy, Esq., 107 N. Main St., Sumter, S.C. 29150

- ii. Robert M. Dudek, Chief Appellate Defender, S.C. Comm. on Indigent Defense, Div. of Appellate Defense, P.O. Box 11589, Columbia, S.C. 29211-1589  
 iii. Eulton Cornwell, Esq., P.O. Box 50143, Columbia, S.C. 29250

- (b) the proceedings at which each such attorney represented you:

- i. arraignment and plea; trial and sentencing  
 ii. direct appeal  
 iii. PCR evidentiary hearing

19. State clearly the relief you seek in filing this application:

Belated appeal pursuant to Austin v. State, 305 S.C.  
453, 409 S.E.2d 395 (1991); King v. State, 308 S.C. 348, 417 S.E.2d 868  
and new PCR evidentiary hearing or Rule 59(e) motion to  
amend order of dismissal

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA )

County of Dorchester )

VERIFICATION

I. Thomas Lee Geddie #351166, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

X Thomas Geddie

SWORN to and subscribed before me this 6<sup>th</sup>  
 day of January, 2016.

Quincean Bryant (L.S.)  
 Notary Public

My Commission Expires: May 26, 2020



RECORDED  
APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

CLERK OF COURT  
SUMTER COUNTY, S.C.

I, Thomas Lee Geddie #351166, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Thomas Lee Geddie  
Applicant

SWORN or affirmed to and subscribed before me this  
6<sup>th</sup> day of January, 2016.

Ludheen Bryant  
Notary Public

My Commission Expires: May 26, 2020

I, Thomas Lee Geddie, #351166, declare and state under the penalty of perjury, §16-9-10(A)(2), S.C. Code of Laws (1976), that the attached letters, Remittitur and Order are true and exact copies of the original/copies I received from the S.C. Supreme Court in the United States mail:

- (a) Letter dated August 13, 2015 (2 pages) from the S.C. Supreme Court Clerk, the Hon. Daniel E. Shearouse, addressed to PCR counsel, Fulton Casey Dale Cornwell, Esq., that he was still my counsel of record,
- (b) Order of the South Carolina Supreme Court dated October 1, 2015; and
- (c) Remittitur dated October 19, 2015.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016

Thomas Lee Geddie  
Thomas Lee Geddie, #351166  
Lieber Corv. Inst. Stono B-28  
P.O. Box 205  
Ridgeville, S.C. 29472

STATE OF SOUTH CAROLINA  
 COUNTY OF DORCHESTER

DECLARATION OF  
 TERRY L. HUTTO  
 (UNSWORN)

I, Terry L. Hutto #120283, by my signature below, state that the following statements and facts are true and correct under the penalty of perjury, §16-9-10(A)(2) of the South Carolina Code of Laws (1976):

1) That I am an inmate incarcerated in the State of South Carolina and housed at the Lieber Correctional Institution located at Ridgeville, in the County of Dorchester, in the State of South Carolina.

2) That I work in the law library at the Lieber Correctional Institution, as a law clerk. February, 2014

3) That I met inmate Thomas Lee Geddie at the law library in the first month or two, <sup>of February, 2014</sup> when he came in requesting cases to read concerning his charge and the assistance of his counsel. I gave Mr. Geddie, Strickland v. Washington and helped him pull cases on ineffective assistance of counsel. Mr. Geddie had problems reading and understanding the cases. I explained to Mr. Geddie that I did not fully understand the cases and laws cited, that I had no legal training and that I could not give him an opinion.

later 12/14

4) After a couple of months around April, Mr. Geddie asked me to help him understand some of what he was attempting to read, and to read his transcript with him.

5) Thereafter I helped Mr. Geddie with the issues that he raised, completed his Application for Post Conviction Relief and wrote numerous requests and letters to his trial attorney requesting discovery documents and information [which was never answered], PCR attorney Mr. Cornwell and the Sumter County Clerk of Court's Office.

1 of  
 727

Declaration of Terry L. Hutto #120283

January 2, 2016

Page 2 of 2

6) I did the Notice of Appeal for Mr. Geddie because Mr. Cornwell would not accept any phone calls from Mr. Geddie; would not respond to Mr. Geddie's letters or letter requests that I wrote to Mr. Cornwell for Mr. Geddie.

7) And I again, did this APCR to address PCR counsel's [Mr. Cornwell] lack of diligence to Mr. Geddie and disregard to his professional obligations to Mr. Geddie.

Executed this 2nd day of January, 2016.

*Terry L. Hutto*

Terry L. Hutto #120283  
Lieber Corr. Inst. Star 843  
P.O. Box 205  
Ridgeville, S.C. 29472

Thomas Lee Geddie #351166  
 Lieber Corr, Inst. Stono B-28  
 P.O. Box 205  
 Ridgerville, S.C. 29472  
 01/06/16

Hon. James C. Campbell  
 Clerk of Court for Sumter Co.  
 141 Main St. Room 308  
 Sumter, S.C. 29150-4965

Re: Filing of PCR Application

Dear Mr. Campbell,

Enclosed please find the original of my PCR application. Please file with your Office and, if possible, please return a clock-stamped copy to me. I declare that I am financially unable to provide a copy, under §16-9-10(A)(2) of the South Carolina Code of Laws (1976).

Thank you for your assistance in this matter.

Sincerely,

X *Thomas Lee Geddie*  
 Thomas Lee Geddie

Enclosure

File

Notification to

S.C. Supreme Court



ALAN WILSON,  
ATTORNEY GENERAL

April 11, 2016

RECORDED  
2016 APR 13 PM 1:46  
JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

The Honorable James C. Campbell  
Clerk of Court, Sumter County  
Sumter County Judicial Center  
215 N. Harvin Street  
Sumter, SC 29150

Re: Thomas Lee Geddie, #351166 v. State of South Carolina  
2016-CP-43-49

Dear Mr. Campbell:

Enclosed please find the original **Return and Motion to Dismiss All Claims Beyond Austin Review** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

Daniel Gourley  
Assistant Attorney General

DG/cc  
Enclosure

cc: Timothy L. Griffith, Esquire

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

Thomas Lee Geddie, #351166,

Applicant,

v.

State of South Carolina,

Respondent.

RECORDED THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT  
2016 APR 13 PM 1:46

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

2016-CP-43-49

RETURN AND MOTION TO DISMISS  
ALL CLAIMS BEYOND AUSTIN  
REVIEW

In response to the post-conviction relief application filed January 11, 2016, Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. The Applicant was true bill indicted at the July 2011 term of the Sumter County Grand Jury for murder (2011-GS-43-1155). Timothy Murphy, Esquire, represented Applicant. Applicant proceeded to a jury trial on June 4-7, 2012, before the Honorable W. Jeffrey Young. Applicant was subsequently found guilty as indicted. Judge Young sentenced Applicant to life in prison without the possibility of parole.

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was submitted. By unpublished opinion filed June 11, 2014, the South Carolina Court of Appeals dismissed the appeal. State v. Geddie, Un, Op. 2014-UP-219 (S.C. Ct. App. 2014). The Remittitur was issued on June 27, 2014.

Applicant subsequently filed for post-conviction relief on October 6, 2014 (2014-CP-43-2142). In his application, Applicant asserted claims of ineffective assistance of counsel. An

evidentiary hearing was convened on April 14, 2015, at the Sumter County Courthouse before the Honorable George C. James, Jr. Applicant was present at the hearing and was represented by Fulton D. Casey Cornwell, Esquire. By written Order filed July 24, 2015, Judge James denied and dismissed Applicant's post-conviction relief action.

Thereafter, Applicant filed a *pro se* Notice of Appeal, which was dismissed by the South Carolina Supreme Court for failure to order the transcript. The Remittitur was issued on October 19, 2015.

Attached herewith and incorporated herein are the records of the Sumter County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the prior post-conviction relief records, and appellate records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of PCR Counsel.
  - a. PCR Counsel failed to properly file a notice of appeal.

## III.

There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1990, 95 L.Ed.2d 539 (1987). The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991). Therefore, "the contention that prior PCR counsel was ineffective is not *per se* a 'sufficient reason' warranting a successive PCR application under §17-27-90." Aice, 305 S.C. at 451, 409 S.E.2d at 394.

The only recognized exception to the rule barring claims of ineffective assistance of post-conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Austin recognizes a general exception to this rule where prior post-conviction relief counsel fails to appeal the denial of the application. Id. Austin "is limited to its particular factual situation . . . ." Aice, 305 S.C. at 452, 409 S.E.2d at 394. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

IV.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

*[Signature block on following page]*



V.

WHEREFORE, with the exception of Applicant's allegation that he is entitled to a review of his first PCR application pursuant to Austin v. State, Respondent moves to summarily dismiss the application because it is successive to the Applicant's prior PCR action and was filed after the statute of limitations had expired. Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

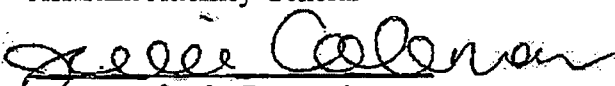
Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

JOHANNA VALENZUELA  
Senior Assistant Deputy Attorney General

DANIEL GOURLEY  
Assistant Attorney General

By:   
Attorneys for the Respondents  
Post Office Box 11549  
Columbia, South Carolina 29211

April 11, 2016

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS

2016-CP-43-49

THOMAS LEE GEDDIE, #351166,  
Applicant,

vs

STATE OF SOUTH CAROLINA,  
Respondent.

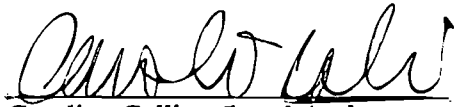
AFFIDAVIT OF SERVICE BY MAIL

RECORDED  
2016 APR 13 PM 1:46  
JAMES P. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss All Claims Beyond Austin Review** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Timothy Lee Griffith, Esquire  
Timothy L. Griffith, Attorney at Law  
360 W Wesmark Blvd, Second Floor  
Sumter, South Carolina 29150

DATED this 11<sup>th</sup> day of April, 2016.



Caroline Collins, Legal Assistant  
For Respondent

State of South Carolina )  
 )  
 County of Sumter )

In the Court of Common Pleas  
 Third Judicial Circuit  
 2016-CP-43-0049

Thomas Lee Geddie, )  
 )  
 Applicant, )  
 )  
 vs. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 )  
 \_\_\_\_\_ )

Transcript of Record

July 25, 2016  
 Sumter, South Carolina

B E F O R E:

The Honorable Jocelyn Newman, Judge

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

Timothy L. Griffith, Esquire  
 Attorney for the Applicant

Julie A. Coleman, Esquire, Assistant Attorney General  
 Attorney for the Respondent

Elizabeth B. Harris, CVR-M-CM  
 Circuit Court Reporter

I N D E X

| <u>Witness/Description</u> | <u>Ev.</u> |
|----------------------------|------------|
| Certificate Page. . . . .  | 6          |

E X H I B I T S

| <u>No.</u> | <u>Description</u> | <u>Page No.</u> |
|------------|--------------------|-----------------|
|------------|--------------------|-----------------|

No Exhibits Introduced.

1 MS. COLEMAN: Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. COLEMAN: May it please the court?

4 THE COURT: Yes, ma'am.

5 MS. COLEMAN: This is *Thomas Lee Geddie vs. The State*  
6 *of South Carolina*, 2016-CP-43-49. Applicant is presently  
7 confined in the South Carolina Department of Corrections  
8 pursuant to orders of commitment of the Sumter County clerk  
9 of court. Applicant was true-bill indicted at the July  
10 2011 term of the Sumter County grand jury for murder.  
11 Timothy Murphy, Esquire, represented applicant.

12 Applicant proceeded to a jury trial on June 4th  
13 through the 7th, 2012 before the Honorable W. Jeffrey  
14 Young. The applicant was subsequently found guilty as  
15 indicted. Judge Young sentenced applicant to life in  
16 prison without the possibility of parole.

17 A timely notice of appeal was filed on applicant's  
18 behalf, and an *Anders* brief was submitted. By unpublished  
19 opinion filed June 11, 2014, the South Carolina Court of  
20 Appeals dismissed the appeal. Remittitur was issued on  
21 June 27, 2014.

22 The applicant subsequently filed for postconviction  
23 relief on October 6, 2014, 2014-CP-43-2142. In his  
24 application, applicant has asserted claims of ineffective  
25 assistance of counsel. An evidentiary hearing was convened

1 on April 14, 2015, at the Sumter County courthouse before  
2 the Honorable George C. James, Jr. Applicant was present  
3 at the hearing and represented by Fulton D. Casey Cornwall,  
4 Esquire. By written order filed July 24, 2015, Judge James  
5 denied and dismissed applicant's postconviction relief  
6 action. Thereafter, applicant filed a pro se notice of  
7 appeal, which was dismissed by South Carolina Supreme Court  
8 for failure to order the transcript. The remittitur was  
9 issued on October 19, 2015.

10 Applicant filed a second application for  
11 postconviction relief on January 11, 2016. Respondent  
12 filed its return on April 11, 2016, and the applicant is  
13 present today and represented by Mr. Timothy Griffith.

14 THE COURT: Yes, sir, Mr. Griffith.

15 MR. GRIFFITH: Your Honor, it's our understanding that  
16 the Attorney General has agreed to consent to his  
17 reapplying, and we would agree for a consent in this PCR.

18 THE COURT: So -- okay.

19 MS. COLEMAN: The state does consent to *Austin* review,  
20 and we would move to dismiss all claims beyond *Austin*  
21 review at this time.

22 THE COURT: Any position on that, Mr. Griffith?

23 MR. GRIFFITH: We consent. We will consent also to  
24 drop everything past *Austin*.

25 THE COURT: Okay. All right. That's fine.

1 MR. GRIFFITH: Thank you, Your Honor.

2 MS. COLEMAN: And we will -- Your Honor, I'll draft an  
3 order, a consent order, and we'll all sign it and send it.

4 THE COURT: Sounds good.

5 MS. COLEMAN: Thank you.

6 --- END OF TRANSCRIPT OF RECORD ---

**CERTIFICATE**

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR SUMTER COUNTY, SOUTH CAROLINA, ON THE 25TH DAY OF JULY, 2016.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

NOVEMBER 30TH, 2016



RCVD 10/17/16

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

Thomas Lee Geddie, #351166,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT  
2016 OCT 11 PM 3:57

2016-CP-43-49

CERTIFIED TRUE COPY  
OF ORIGINAL FILED

DEPUTY CLERK OF COURT  
SUMTER COUNTY  
SOUTH CAROLINA

**CONSENT ORDER GRANTING AN  
APPEAL PURSUANT TO  
AUSTIN V. STATE<sup>1</sup>**

This matter comes before the Court pursuant to an application for post-conviction relief filed January 11, 2016. Respondent files it Return and Motion to Dismiss All Claims Beyond Austin Review on April 11, 2016, requesting an evidentiary hearing be convened solely on the issue of whether Applicant was entitled to an appellate review of his first post-conviction relief action pursuant to Austin. Timothy L. Griffith, Esquire, was appointed to represent Applicant by the Sumter County Clerk of Court. An evidentiary hearing was held on July 25, 2016, at the Sumter County Courthouse. Applicant was present and represented by counsel, Griffith. Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office represented Respondent.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Sumter County Clerk of Court. Applicant was true bill indicted at the July 2011 term of the Sumter County Grand Jury for murder (2011-GS-43-1155). Timothy Murphy, Esquire, represented Applicant. Applicant proceeded to a jury trial on June 4-7, 2012, before the Honorable W. Jeffrey Young. Applicant was subsequently found guilty as indicted. Judge Young sentenced Applicant to life in prison without the possibility of parole.

<sup>1</sup> Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

A timely Notice of Appeal was filed on Applicant's behalf and an Anders brief was submitted. By unpublished opinion filed June 11, 2014, the South Carolina Court of Appeals dismissed the appeal. State v. Geddie, Un, Op. 2014-UP-219 (S.C. Ct. App. 2014). The Remittitur was issued on June 27, 2014.

Applicant subsequently filed for post-conviction relief on October 6, 2014 (2014-CP-43-2142). In his application, Applicant asserted claims of ineffective assistance of counsel. An evidentiary hearing was convened on April 14, 2015, at the Sumter County Courthouse before the Honorable George C. James, Jr. Applicant was present at the hearing and was represented by Fulton D. Casey Cornwell, Esquire. By written Order filed July 24, 2015, Judge James denied and dismissed Applicant's post-conviction relief action.

Thereafter, Applicant filed a *pro se* Notice of Appeal, which was dismissed by the South Carolina Supreme Court for failure to order the transcript. The Remittitur was issued on October 19, 2015. 2015-001687

Applicant subsequently filed a second application for post-conviction relief on January 11, 2016 (2016-CP-43-49). In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of PCR Counsel.
  - a. PCR Counsel failed to properly file a notice of appeal.

At the outset of the evidentiary hearing, Respondent renewed its Motion to Dismiss All Claims Beyond Austin Review of the First PCR. This Court granted the motion and the hearing proceeded on the claim of Austin relief.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant alleged that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of his prior application. Prior to the start of the evidentiary hearing, the State indicated to this Court that it consented to an Austin review.

After review of the facts and circumstances surrounding the waiver of Applicant's right to appeal the denial of his post-conviction relief application, this Court finds that Applicant is entitled to appeal the denial of his post-conviction relief application (2014-CP-43-2142). Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), post-conviction relief applications may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. This Court finds that Applicant did not voluntarily waive his right to appeal the post-conviction relief court's denial and dismissal of his prior post-conviction relief action.

Based on the foregoing, this Court finds that the granting of an appeal of Applicant's first post-conviction relief action (2014-CP-43-2142) pursuant to Austin v. State is warranted.

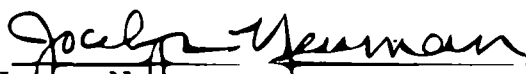
### IT IS THEREFORE ORDERED:

1. That Applicant be granted an appeal of case 2014-CP-43-2142 pursuant to Austin v. State; this second application for post-conviction relief is hereby denied and dismissed with prejudice;
2. Within thirty (30) days of the service of this Order, counsel for Applicant must file a Notice of Appeal to secure the appropriate appellate review of Applicant's first post-conviction relief action. Counsel and Applicant are directed to King v. State, 308 S.C. 348, 417 S.E.2d 868 (1992) and Rule 243, SCACR, for the appropriate procedure for a belated appeal; and



3. That Applicant remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 29<sup>th</sup> day of September, 2016.

  
JOCELYN NEWMAN  
Presiding Judge  
Third Judicial Circuit

Columbia, South Carolina.

1/2

06-05-2017

09:47:41 a.m.

**WITNESSES**

R. Burnish Sumter County Sheriff

**ARREST WARRANT NUMBER**

J296946 M442214

**ACTION OF GRAND JURY**

*True Bill*

Foreperson of Grand Jury

Date: 7/21/2011

**VERDICT**

Foreperson of Petit Jury

Date:

**DOCKET NO. 2011-GS-43-1155**

**The State of South Carolina**

**County of SUMTER**

**COURT OF GENERAL SESSIONS**

July TERM 2011

**THE STATE**

vs.

**KELVIN CHARLES GREEN**

**THOMAS LEE GEDDIE**

**Indictment for**

**Murder / Murder**

*Ernest A. Finney III*

**ERNEST A. FINNEY, III, SOLICITOR**

803436223

439

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SUMTER )

## INDICTMENT FOR

Murder / Murder

At a Court of General Sessions, convened on July 21, 2011 the Grand Jurors of

SUMTER County present upon their oath:

**COUNT ONE - MURDER**

That Kelvin Charles Green did in Sumter County, on or about September 19, 2010, willfully, feloniously, and intentionally kill the victim, Xavier Titus, with malice aforethought, either express or implied, by means of shooting victim multiple times, and the victim did die as a proximate result thereof on or about September 19, 2011 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

**COUNT TWO - MURDER**

That Thomas Lee Geddie did in Sumter County, on or about September 19, 2010, willfully, feloniously, and intentionally kill the victim, Xavier Titus, with malice aforethought, either express or implied, by means of shooting victim multiple times, and the victim did die as a proximate result thereof on or about September 19, 2010 in Sumter County, in violation of Section 16-03-0010, 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

