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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY
COURT OF GENERAL SESSIONS

SC Court of Appeals

The Honorable Brooks P. Goldsmith, Circuit Court Judge

Case No. (s) 2012-GC-07-2246 & 2012- GS-07-2247

State of South Carolina

Respondent,

v.

Walter Tucker,

Appellant.

RECORD ON APPEAL
VOLUME 4 OF 5

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1 heard, what you saw.

2 And don't rely on what I tell you. Don't rely on what
3 the State tells you. It is what you saw, what you remember.
4 I am simply trying to help you maybe remember some of the
5 things that two or three days ago may not be quite as fresh
6 in your mind.

7 And in doing so I'm going to suggest to you that the
8 truth started to show itself in this trial. And the truth
9 it is sort of like water; you can cover it and try to
10 contain it, but eventually it is going to find its way out
11 and when it does it gets free.

12 And I am suggesting to you that in this case -- and I
13 am not the neatest writer. But I am going to do my best.
14 And I am going to sort of try to keep it simple. I use
15 colors just so I know how to distinguish different
16 information for you.

17 But hold me accountable if you think I am trying to
18 stretch something, I am trying to get you to believe
19 something that is not in evidence or is not a fact.

20 Myself and Mr. Thornton our job isn't to change things.
21 It is not to stretch things. It is to give you the
22 information and trust in you that if you are given all of
23 the information you can then make the best decision.

24 And if we are not giving you all of the information
25 then you have to ask yourself why. And in this system, in

1 this court, when the information isn't all there to you,
2 there is stuff that is missing that leaves you unsatisfied,
3 the law says the burden is on the State. You have to hold
4 it against them.

5 You never hold it against an accused if there is
6 something that is not here that you want and you think will
7 help you make that decision to make you satisfied about
8 something.

9 Now the first evidence that you saw was the 911 calls.
10 And excuse me, ever so often I may turn my back to you. And
11 I so apologize. There is not an easy way for me to get back
12 and forth.

13 The 911 calls, the first call you heard hopefully you
14 put together later on when you saw Miss Kalin Higgs, she is
15 that first 911 caller. That is undisputed.

16 And if you remember when you were listening to that
17 call, she said shots were fired. She said there was one
18 suspect. Black. Got into the car and the car made a right
19 turn. She said the suspect was wearing a white T-shirt and
20 a white bandanna on his head. A guy chasing the car there
21 was one guy chasing the car and another guy running the
22 other direction.

23 And again she is referring to this scene. And what she
24 is saying is the suspect was running to the car, got in and
25 left; the other guy was going the other direction, that

1 being Mr. Greer. The guy with the gun was shooting as he
2 ran to the car. Again talking about the suspect.

3 Now we all know from other stuff she was talking about
4 Travis Polite. And the State has told you this guy is
5 Travis Polite. The gentleman that ran the other direction
6 is Mr. Greer.

7 But here is the important thing. This is a 911 call.
8 No one is taking a side. This isn't about which side on
9 trial. This is just right as it happens a person with no
10 dog in this fight saying what they see. They don't say two
11 suspects; they say one.

12 The second call says I saw a black guy shooting in the
13 air with a white thing on his head. Well, that makes sense
14 because we already know from the first call the suspect had
15 a white thing on his head. No other information.

16 Call three and four are just saying gunshots and shots
17 fired.

18 Now call five, if you remember, is a female. And she
19 is sort of helping give assistance to Mr. Greer. She is
20 saying a black male has been shot, we are helping him. But
21 she said she didn't see anything. So that doesn't really
22 give you anything to sort of help. But it does confirm that
23 what we already know that after the shooting Mr. Greer made
24 it some way before he collapsed and he was given assistance.

25 The sixth call you now know was Chip Jabar. That was

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1 the one defense witness you heard from. Remember he says my
2 homegirl is hiding under the trailer.

3 So you didn't have to believe him when he says now well
4 that is my girlfriend, ex-girlfriend; you heard it on the
5 911 call. So any argument that he is all of a sudden
6 inventing that, that somehow he is not aligned with Jessica
7 Powers, that just doesn't make sense.

8 From the very inception minutes after the shooting his
9 own words you see where he is at. He says Lot 32, Trailer
10 42, someone got shot.

11 Now if you notice when I write things in black or blue
12 they are just sort of things in fact. But purple is a
13 designation for what I call impeachment stuff, stuff for you
14 to cross reference that shows that somebody is not telling
15 the truth.

16 And purple you see right here (pointing) where I say
17 impeach. And the reason I say impeach is because I said
18 this man -- she called Chip, but she didn't call 911.

19 Well, what does that impeach? What it impeaches is
20 Jessica Powers was not a friend to Mr. Greer. She kept
21 saying my friend, my friend. She was very tearful.

22 But if that was her friend the very first thing he
23 would have said -- or she would say is what? If I am
24 running or I get somewhere, I don't call Chip Jabar; I call
25 911. But look behind it. Like I said, sometimes being a

1 fact finder you have got to sort of look beyond just what is
2 right there and say well wait a second I think he knows
3 someone was shot. He only could have known that from who?
4 Jessica.

5 He is not there. Remember, he is at work. But Jessica
6 gave you the impression she didn't know her friend had been
7 shot and killed for hours. Do you remember when she said
8 that?

9 But she already knew he had been shot because she
10 communicated that information to Chip Jabar. That is the
11 only way he could have known that when he calls the police
12 from a different location. That is why I have this in
13 purple.

14 Basically what the 911 calls do for you is it says
15 there is one suspect, one victim. That suspect is wearing
16 white T-shirt, white bandanna; he was shooting while running
17 to a car. And again, there is one victim. One victim.

18 Now when we go to the witnesses you first heard from
19 Melanie Smith. And all she was a custodian of records to
20 get the 911 tapes in evidence. So she didn't have any
21 personal information. But you remember she just submitted
22 the DVD in and you heard it.

23 Daniel Byrne was the EMT who helped -- tried to help
24 Mr. Greer. He didn't have any personal information to help
25 you on the case but just told you circumstances trying to

1 render assistance.

2 David Roche was your first witness that comes in to
3 talk about what he observed. He was an older gentleman,
4 white, older gentleman.

5 And if you remember what he said is he heard one shot,
6 there was hesitation, and then two more shots. So he
7 clearly says three shots and three shots only.

8 Now on cross hopefully you heard it. Remember I asked
9 him well did all of the shots sound the same. And he said
10 yes. Well, why did I ask that?

11 Because if anyone is contending that there are
12 different guns being used, they would make different noises
13 unless I guess they are the same exact gun with the same
14 exact ammo.

15 So very quickly -- and it may not have registered well
16 why did he ask him does it all sound the same. Well, I
17 asked that because if they all sounded the same it makes
18 sense that it is one gun being fired by one person. Because
19 remember it is still just one suspect. He said not long
20 between shots.

21 Now cross reference him. I am going to jump ahead a
22 little bit. Remember Corporeal Disbrow. Remember along
23 with him collecting all the evidence I said well he also
24 interviewed a few people, right. And he said well yes. In
25 fact you interviewed Mr. Roche. He said yes. And I said

1 and Mr. Roche said it was one to two second between the
2 first shot and when the second and third shot were made.

3 So if you wonder, well, what does hesitation mean;
4 Corporeal Disbrow fills that in for you because he
5 interviewed Mr. Roche and Mr. Roche said one to two seconds.
6 So that is why I have this here in terms of a cross
7 reference.

8 Mr. Roche also said you saw a dark vehicle leave, the
9 windows were tinted. Well, that is consistent with the 911
10 caller that said what; that suspect ran to a car, get's in,
11 they leave.

12 No reason to doubt anything David Roche said. He is
13 independent. He doesn't -- he is not biased one way or the
14 other.

15 Then Kailin Higgs comes in. And remember she is that
16 first 911 caller and she said yes I called 911. But she
17 gives a little more information.

18 But specifically now what do you know? She told you
19 she heard three shots. So her 911 call information, her
20 testimony, and what David Roche said, all is consistent;
21 three shots.

22 She saw one person running, the suspect. She said one
23 person on the ground, which was Mr. Greer. So if there was
24 any question about the 911 tape by her coming in she has now
25 made it clear that that is exactly what she meant.

1 But this is the big thing. How did she describe the
2 suspect in her testimony? Dark washed jeans, white tank
3 top, white dew rag on his head, gun in his hand.

4 And she even said while he is running he takes the dew
5 rag off of his head. What does that tell you? She watched
6 as this unfolded. She saw this suspect running. She saw
7 the victim.

8 So what does that mean? What that means, ladies and
9 gentlemen, is remember this is the diagram of the crime
10 scene. Here is the trailer (pointing). Here is the car
11 (pointing). That means she has a view which is seeing all
12 of this.

13 And whether her views is coming from this direction
14 (pointing) or this direction (pointing) she has a complete
15 view of everything that is going here. Because everything
16 happens between Lot 60 and Lot 59.

17 And if anyone else came out of that trailer, if anyone
18 in shorts came out of that trailer she would have seen them,
19 period. Period.

20 And again, she is not -- she doesn't know any of these
21 people. She doesn't have any bias. She is an independent
22 witness just telling you the truth what she saw.

23 There is just one suspect. And the State is telling
24 you that suspect, the shooter that shot and killed Mr.
25 Greer, is Travis Polite. That is undisputed. Undisputed.

1 Now Corporeal Disbrow testified next. Do you remember
2 he is the gentleman that started to collect different
3 evidence: the money that was outside of the passenger door
4 by the tree, the money on the floor board, the bullet hole.

5 Now let me show you some of the things to remind you.
6 One, he made this diagram. But then remember when he
7 started talking about the things that were marked. Let me
8 sort of put them in an order for you.

9 He shows you pictures showing this is the trailer
10 (pointing), this is the vehicle of Mr. Greer (pointing).
11 Here is the tree (pointing). And here you see one of the
12 cones (pointing). And right down here - and I will show you
13 in a different picture - is the corner of Lot 59. So he is
14 the one that is responsible for giving you photographs that
15 depict things.

16 Now when we talked about on my chart I am showing you
17 the money (pointing). This is the money that is just
18 outside of the passenger door by the tree that is just
19 laying on the ground. Again, the money that is on the
20 ground. The money that is on the floor board.

21 You can take these things as true. This is the
22 forensic crime scene evidence. This is not an opinion by
23 either side. This is -- some things are what they are.

24 This is the condition of the crime scene when he
25 arrives. But what was very important and I wanted to make

1 sure you catch it, remember he said when he arrived at the
2 crime scene both doors were open? And what else? The car
3 was still running. Both doors open and the car is still
4 running.

5 Now you see more purple. Why? Because when Jessica
6 Powers comes in and tells you well he was getting out -- Mr.
7 Greer was getting out of the car with me to walk in. So
8 they were both walking in.

9 And I am going to show you other reasons why you know
10 that is not true. But little thing sometimes go right to
11 the point. So he is going to leave his car running to go in
12 to a trailer? He isn't going to leave his car running.

13 If you are going inside somewhere to do whatever for
14 whatever length of time you are at a mobile -- mobile park,
15 he would have turned his car off.

16 I suggest to you that is another indicator that Mr.
17 Greer did not get out of the car. When Jessica Powers told
18 you he got out of the car she is not telling the truth.

19 Now what else do we know from Corporeal Disbrow? We
20 know that one shot is in the driver's side window. And I
21 would suggest to you - and I believe the State will agree -
22 that is the first shot. That is the shot that strikes Mr.
23 Greer.

24 Now how else do you know that? If I am in the driver's
25 seat of the vehicle and someone shoots, if you look at where

1 that shot comes in, if I am here (pointing) or if I am even
2 like this (pointing) going for the center console, would
3 that not shoot me right along the side possibly a little bit
4 past the mid-marker?

5 Remember the doctor, the medical examiner, came in and
6 told you where the wound is. Ask yourselves if Mr. Greer
7 was in the car when that bullet comes through the window
8 would it likely have struck him where his bullet wound is.
9 And I would suggest to you absolutely. Absolutely. That is
10 how he shot.

11 Let me answer something before -- I don't think the
12 State would contend it, but let's say someone says well how
13 do you know that door wasn't open when it was shot.

14 Well, if you look at it, if that would likely happen it
15 is likely that bullet would have went through the window and
16 probably hit the car in a second place. You know, it
17 depends on the angle. True. Maybe if it was angled that
18 way (pointing).

19 But I think it is reasonable for you to know that door
20 was probably shut at the time. It became open. Because
21 otherwise, you know, something else would have happened.

22 So if someone says oh well maybe that bullet didn't
23 shoot Mr. Greer, maybe the door was open; that is very
24 unlikely. And I will explain to you why.

25 There is no shell casings anywhere on this crime scene.

1 The only other forensic sort of evidence you have is
2 remember Lot 59 Corporeal Disbrow said look a bullet goes
3 through there.

4 And remember I asked him well to create that trajectory
5 wouldn't the person shooting have to be back this way
6 (pointing) shooting back that way (pointing) to create that
7 angle and trajectory.

8 Well, isn't that consistent with what Miss Higgs told
9 you that the first shot happens - I would submit to you
10 right at the side of the car - that gets her attention.

11 When she looks she sees Travis Polite running this way
12 (pointing) towards the car. And let me stop. How do we
13 know it was towards the car? Because remember he said there
14 was a car parked behind that trailer and there is like track
15 marks and burn marks and stuff behind it.

16 Well, if the first shot is here (pointing) and Travis
17 Polite take off this way (pointing), Mr. Greer is taking off
18 this way (pointing), that is when she would be observing.

19 It also means what? If anyone in shorts came out
20 shooting she also would have observed that. But it is
21 consistent with what Ms. Heggs -- Higgs is telling you.

22 Now let me just go ahead through it real quick. I
23 think the forensic evidence in this case is enough to tell
24 you exactly how this thing happens.

25 First of all, Mr. Greer is still in the car. That

1 first shot in the window I showed you, that is the first
2 shot by Travis Polite.

3 We know he is in the car. We know the car is still
4 running. Because we know he never got out of the car.
5 Because as I tell you later, Jessica's first statements to
6 Detective Gobel were what? That she was given the money and
7 she went inside.

8 She didn't say anything about Mr. Greer getting out of
9 the car. That was invented two years later. The bullet
10 wound on Mr. Greer's left side it is where you might expect
11 that bullet to hit somebody who is in the driver's seat.

12 Unfortunately, there are no pictures of the interior of
13 the car; so we don't know if there is blood trails or things
14 of that nature. That stuff is not in evidence.

15 Remember what I said, when you want something and it is
16 not there the burden sits at this table (pointing). You
17 can't hold that against my client. But there is no other
18 evidence you have, so you don't have blood trail evidence.

19 Polite likely approached from around the trailer. You
20 know, -- let's see -- this doesn't quite do it. I think may
21 give you a better picture of it. Let's put it -- first let
22 me do it this way. If Travis Polite in fact came out of
23 this door (pointing) if you put it with what some of the
24 other testimony is, the door had a lock at the very least.
25 But if he is sitting right there, he may well have heard it

1 getting unlocked and he would have seen someone coming out
2 the door to have some sort of reaction.

3 And wouldn't he have expected someone to come out of
4 the trailer if in fact he just sent his money in with
5 Jessica?

6 So he probably had his eye on the door waiting for
7 what? Her to come out with his weed. That probably
8 wouldn't have been a surprise.

9 But if somebody has come around from this direction
10 (pointing) around -- from the trailer or from behind -- and
11 let me put it this way. If there is a car on the other side
12 of the trailer, which is what the State has presented
13 evidence of, you are either walking on the trailer this way
14 (pointing) or coming from behind, you may well have startled
15 Mr. Greer or Mr. Greer would have thought oh wait a second
16 something ain't right here, who is this dude coming at me
17 with a dew rag on his head and why did this girl just take
18 my money and she's just up in there doing what.

19 Now that is what I am saying I think that evidence
20 points you to. But I am saying it because the forensic
21 evidence suggests it.

22 He had a gun in the center console. How do you know
23 that? Because Detective Gobel told you Jessica said the
24 money and his gun, the gun that ends up on the ground, came
25 from Mr. Greer's center console.

1 So when Mr. Greer is startled, he probably reaches for
2 his gun if he didn't already have it. Mr. Polite shoots.
3 Now maybe Mr. Polite intended it from the get go or maybe he
4 is seeing this guy reaching. I can't tell you that. I can
5 only say something happens between Polite and Greer.

6 Polite shoots Greer, and then what happens? I suggest
7 Greer scrambles from the driver's seat through the passenger
8 seat out the passenger door, which would be consistent with
9 why now that door is open. He may have tried to open the
10 driver's door, maybe even while the shot was happening.
11 That is possible. Or right after the shot but tries to
12 retreat that way (pointing).

13 And why does that make sense? It makes sense, ladies
14 and gentlemen, because that would explain why money is on
15 the floor board because coming across that center, and it
16 would explain why money has fallen out of the car onto the
17 grass by the tree.

18 The reason I am suggesting Mr. Greer fled that way is I
19 think that is a \$50 bill. How long do you think a \$50 bill
20 is going to stay on the grass at a mobile home park if it
21 just happened to be flying around outside? It ain't.

22 I think it is safe to say that 50 came from outside of
23 that car. And the logical explanation for that 50 to fall
24 out of the car is that he is trying to flee from his
25 assailant.

1 And when he gets out of the car we know Mr. Greer is
2 able to stand. Because what? Ms. Higgs sees him standing.
3 We know he is able to have his nine millimeter because a
4 nine millimeter is found outside. It is not still in the
5 car.

6 But we know there's two problems facing Mr. Greer.
7 One, his nine millimeter isn't chambered so it won't
8 immediately fire. Remember you heard Officer Disbrow tell
9 you there is 15 in a clip but not in the chamber. That
10 means until that gun was chambered you can't fire it.

11 But here is the second problem. Remember the medical
12 examiner told you after taking that shot he had about one to
13 two minutes.

14 One to two minutes is enough to get yourself out of the
15 car. I would suggest as he was fleeing his life was
16 fleeting. Being able to keep control of himself, be able to
17 chamber and shoot back, it is probably unfortunately not
18 going to be able to happen for him. Enough to get on his
19 feet, but eventually he was going to collapse.

20 Now I think we have talked about these. I just talked
21 about the injury he received gave him about one to two
22 minutes.

23 Now as he gets out of the car so Mr. Greer has now been
24 able to exit the vehicle, coming this way (pointing). If he
25 gets out of the passenger seat and is coming this way

1 (pointing), Polite now sees he has a gun.

2 And what would Polite do? He started retreating this
3 way (pointing) and shot. And if he is -- if he is over here
4 (pointing) and shoots at Mr. Greer coming this way
5 (pointing), that creates the trajectory of this bullet hole
6 (pointing), why he would have been shooting in the direction
7 where Mr. Greer is. And he is somewhere over here
8 (pointing).

9 So again, the forensic evidence suggests to you Greer
10 flees through the car, gets up. He does have his gun.
11 Which Polite then shoots a second and third shot.

12 We know it is from the same gun because what? Mr.
13 Roche said it sounds the same. But does that not also
14 explain the hesitation of one to two seconds? It all fits.

15 Now Polite runs and gets in the car. You know that
16 from Ms. Higgs. She saw it. So that means Ms. Higgs is
17 watching all of this unfold.

18 When she comes in, based on what she says, it is safe
19 to assume Mr. Greer has already made it out of the car, has
20 stood up and that is when Ms. Higgs comes into focus.
21 Because that is what she said she sees, the one guy here
22 going one direction (pointing) and the suspect running.

23 But if that is true, unless you are going to say Ms.
24 Higgs is a liar, Ms. Higgs is wrong, she is blind, doesn't
25 know, she has some bias, if Mr. Tucker came running out of

1 that trailer in shorts he would have been absolutely visible
2 to her.

3 Because what is the State suggesting to you? That
4 after that hesitation that Mr. Tucker comes running out of
5 the trailer shooting. That is what they are trying to
6 convince you.

7 That isn't the truth. That is what they want the truth
8 to be, and that is what stretching is. That is a stretch.
9 It is just not the truth.

10 And what else do we know? Let me back it up the other
11 way. Let's prove the other part of that.

12 Well, if he didn't come out the front and was never
13 seen by Higgs, if Mr. Tucker was in the camper -- or the
14 trailer, which he was -- and I told you you were going to
15 get the truth. I didn't say, you know, only some of it.
16 You know that because of the Lipton bottle. You know he was
17 there because of the phone calls.

18 No one is trying to -- you know, there is nothing up my
19 sleeve. He was in the trailer. He was present, merely
20 present. And we will talk about that more.

21 But if he was never seen coming out the front then how
22 did he get out of the trailer? The same way Brewer and
23 Power did it. They all went out the back door. Which makes
24 sense because if Brewer or Power had come out of the front
25 who do you think would have seen them? Ms. Higgs.

1 So there is no reason to doubt that Brewer and Power
2 all ran out the back. But for the same reason it is clear
3 Mr. Tucker ran out the back door.

4 And I wrote this down: Higgs never saw Brewer or
5 Power. She never said that. And Higgs never saw Tucker.
6 Because certainly she would have described someone running
7 out the front door in shorts.

8 And again, I just -- again she had an absolute view of
9 everything that is going on. By the State's own
10 presentation, by their own presentation to you, Tucker would
11 have had to be seen after the first shot running out of that
12 door in shorts. It never happened.

13 There is no forensic evidence that more than one gun
14 was fired. None. We know the nine millimeter wasn't
15 filed (sic). That is undisputed.

16 And we know that there's at least one gun being fired
17 but three shots that all sound the same. There's no shell
18 casings, so there is no evidence well here is a 40 shell
19 casing or here is a Gloc nine millimeter. No, there is no
20 shell casings. So you can't assume it.

21 Well, then so -- well, maybe they were all revolvers.
22 Well, I guess possibly; but you can't decide cases like this
23 on speculation, on possibllys.

24 There is just no evidence of anything but one gun. One
25 shooter, one gun. No shell casings. And again, they

1 sounded the same.

2 You -- there is no evidence of more than one suspect
3 outside firing. That's it. There is no DNA outside of the
4 trailer. No fingerprints on the car, anything of that
5 nature, that said Mr. Tucker was ever by Mr. Greer, ever
6 touching that car, ever firing a weapon or anything outside.

7 There's sort of two areas in this case that you may
8 want to focus. There is the inside of the trailer and there
9 is the outside of the trailer.

10 Outside of the trailer is where this killing happens or
11 this shooting happens. Mr. Tucker has nothing to do with
12 that. And inside of the trailer you have Mr. Brewer, Mr.
13 Tucker, and Ms. Power. That is undisputed. Those three are
14 in the trailer.

15 And as for the injury I think you already know this but
16 there is no evidence that anything but one bullet entered
17 and killed Mr. Greer. Just one. And you get that from the
18 medical examiner.

19 So let's talk about Jessica Power. And remember in
20 opening I said this entire case against Mr. Tucker
21 everything has to come and does come from a State
22 presentation from Jessica Power.

23 Well, first let's talk about prior to the shooting.
24 Prior to the shooting she tells you well I met him and I
25 know him as Oouwee, at a gas station. We exchanged numbers.

1 I would suggest even the way she characterized that is
2 boy meets girl. She didn't say I met him and immediately
3 said oh we can sell weed together. That was a boy meet girl
4 meeting.

5 Because what else do you find out from Detective Gobel?
6 Jessica Powers didn't always look like she looked to you now
7 with the glasses. You know, she came in. Almost looks like
8 a librarian now. Back then she was in dreads. Back then
9 she was selling. She was in the street.

10 Now they exchange a number and then she goes to his
11 hotel room. About 2:30 in the morning. She says we are
12 alone, after 2:30 she stays a couple of hours and all we did
13 was just smoke weed.

14 When you serve as a juror you bring your life
15 experiences, your common sense with you. When a girl goes
16 to a guy's hotel room at 2:30 in the morning for a couple of
17 hours to smoke weed and hang out I can't tell you that -- I
18 just have heard -- you know, you ever hear of booty call?
19 That is booty call time. She swears up and down oh we just
20 smoked weed. But that is what it is; it is booty call time.
21 And she does it a second time.

22 Now why does that matter? Because if you believe that
23 they were doing more than just smoking, that there was a
24 little more intimacy -- because you know she ain't going to
25 admit that to you now. She ain't going to say well yeah we

1 were kicking it.

2 And as you hear me talk a little bit more you will
3 probably understand why. But yeah we were kicking it. But
4 she did it again 2:30 until 4:00 something in the morning.

5 You know, I can't imagine whether you are smoking weed
6 or a cigarette that all you are going to do is sit down and
7 just smoke for two hours.

8 How many joints do you go through? How many cigarettes
9 do you go through just sitting there smoking? I would
10 suggest that their interactions were far more intimate than
11 she wants to admit.

12 Now here is the other clue to that. If she has got a
13 boyfriend but she is being more intimate with someone that
14 is not her boyfriend and wants to save that number in the
15 phone do you think she was going to say it in the phone as
16 Walter Tucker or Oouwee? No, she saved it as what? DP.
17 She saved it as a secondary number or something under a
18 different -- and what does she say? Oh, that was a mistake.

19 So that is the first mistake you heard her talk about,
20 it was a mistake to save his number in my phone under
21 someone else's initials. I would suggest to you that was no
22 mistake, that was purposeful. She knows how to deal with
23 this phone. We are going to talk about this phone.

24 And you know from her questions that she in fact saved
25 that number. She acted like she didn't; but when it was

1 shown to her she said, oh.

2 Now let's talk about her written statement. And I have
3 got this color-coded too. In her written statement, meet at
4 Taylor's, pulled in, Greer asked for a better price, Oouwee
5 went inside. Oouwee went inside. Chucktown, Mr. Greer,
6 handed me the money; I went inside and then right away
7 locked the door and thrown to the floor.

8 I figured, you know, it is in evidence now; just show
9 it to you so you can see. No one is making this up on her.
10 She didn't say the same thing she told you two years later
11 in her initial statement when it was at its most important
12 time to get the police all of the accurate information, she
13 didn't say it.

14 Plus what else is different? She says in her statement
15 as soon as they locked the door: He locked -- Oouwee locks
16 the door behind her, she is thrown to the floor, they took
17 the money.

18 She didn't say I told them no, they took my purse, they
19 couldn't find it. She said they took the money and asked
20 where is the rest.

21 Other guy said give me the gun, went outside, I got off
22 of the ground and ran, kept hearing shots. Nowhere did she
23 say anything about Mr. Tucker running outside of that front
24 door.

25 So you heard me talk about it in my questions. You

1 heard Detective Gobel respond and say no she never told me
2 that. You heard her.

3 Let's talk about Ms. Powers. She cried a lot, but
4 y'all have watched shows; y'all have lived life. Do you
5 notice when she wanted to get her point across she could
6 turn it on and off.

7 Remember when she got mad at me about asking me about
8 the phone. She was mad when I was trying to point out a
9 text message. It turned right off.

10 When she talked about the cussing and swearing how she
11 was swore at, when she said the curse words hopefully you
12 heard it. She said them very naturally, very smoothly.
13 There was no -- you know, someone who doesn't curse doesn't
14 exactly just curse real quick like a pro. She was -- you
15 observed her. Maybe you saw something.

16 I suggest if you watched her and you paid close
17 attention, get beyond just the crime. Because again, every
18 time she kept saying Mr. Greer is my friend you should have
19 been thinking then why didn't you call 911. Why didn't you
20 call 911. You are doing everything else. Why did you erase
21 your phone records? I would suggest to you she is saying
22 what she needs to say to cover up who she is and what she
23 did.

24 Now bottom line, Mr. Greer -- oh, and I'm sorry; and in
25 her statement she never said Mr. Greer got out of the car.

1 She wants you to completely discount her statement saying
2 well I was traumatized, I, you know, I couldn't think of
3 everything.

4 Well, think about it. At the same time she is saying
5 she is traumatized what else has she done? She has erased
6 all of her phone records already. You have the presence of
7 mind to start getting rid of all of the phone records but
8 when you are talking to the police you don't tell them
9 accurate information? That is simply not true.

10 Now you say well would she lie under oath. Do you
11 remember I asked about testimony she did under oath back in
12 October of 2014. And I said didn't you say under oath you
13 weren't a drug dealer. And she said -- she had to admit it.
14 She said she wasn't a drug dealer under oath. Related to
15 this stuff.

16 Two things I want you to just get from that. She
17 doesn't have any problem getting in this stand any lying.
18 Being in court is not going to make her tell the truth.

19 Secondly, no one corrected her. Did Detective Gobel
20 jump up from the table? Remember I asked him? Well, you
21 heard her say that. Detective Gobel didn't jump up and say
22 I can't let you say that.

23 MR. THORNTON: Objection, Your Honor. May we approach?

24 THE COURT: All right, sir.

25 (WHEREUPON, bench conference was had.)

1 THE COURT: Let me make one statement to the jury.
2 Ladies and gentlemen, as you have already heard, statements
3 of the attorneys to you is not evidence. And as you have
4 already heard, if your memory is different than argument
5 made by attorneys, either attorney, during their closing
6 argument, your memory of course is what controls.

7 Now go ahead. I'm sorry.

8 MR. WRIGHT: Okay. Now it was pointed out, so let me
9 clear something up. Detective Gobel I guess can't just jump
10 up in the middle of a trial and say stop or anything of that
11 nature. That is true. But Detective Gobel certainly knew
12 what she had told him. We will just leave it at that, and
13 we will focus just on Ms. Power lying under oath.

14 Now let's get to her trial testimony. And I want to
15 put something out there. I caught it the TT. I am going to
16 call it Thornton Theory. We will just say TT.

17 And what is always relates to is if someone -- but I am
18 creating this theory. If someone says something for the
19 first time two years later, okay.

20 Well, we talked about the things you can observe from
21 her. But all of a sudden when she starts talking about what
22 happened, she says now well we pulled in, Chucktown gave me
23 the money, it was too much to fit in his pocket.

24 Remember I grabbed a bunch of napkins and I said just
25 how thick. A big old wad of money. And she now says well

1 Chucktown got out of the car with me and Oouwee was standing
2 outside of the trailer holding the door open. That is
3 completely different than everything she put in her
4 statement and what she was telling Detective Gobel.

5 Then she said they slammed the door behind me. Well, I
6 know someone had it figured. But that would have been
7 slamming it in Chucktown's face.

8 If Chucktown was right behind you, that means you are
9 slam- -- the doors are getting slammed and locked right in
10 his face. And his money is with her.

11 To continue that, that means what? Chucktown just said
12 oh I guess I am not invited, let me go sit in my car, turn
13 it back on, listen to the radio and just wait? That makes
14 no sense whatsoever. You just gave your money to someone
15 and all of a sudden that door slams in your face; you ain't
16 going to just sit down.

17 But that is the problem with this story. Now she says
18 gun is put in her face, they demand the money and I say no.
19 All right, your common sense; you know, that little button
20 back there your common sense intelligence should be burning
21 to say you are saying no to someone that has a gun in your
22 face, no it is not my money, I ain't going to give it to
23 you. That doesn't make sense at all. But it is also what?
24 Inconsistent with what she said two years ago.

25 They look in her purse and can't find it. Well, two

1 years ago she said they took the money from her purse. Now
2 all of a sudden she is saying they couldn't find it, that
3 big old wad of cash. Now she tried to say oh it was in the
4 outside pocket instead of the inside pocket. Come on,
5 folks.

6 If you didn't already say last time, two years ago,
7 that they immediately took it and asked where is the rest,
8 maybe someone might believe that.

9 Now she then says then they threw her on the ground.
10 Two years ago she was on the ground immediately. But now it
11 is after she has protested, you shall not take the money,
12 too bad you can't find it, now she is thrown on the ground.

13 There is no DNA on the purse, so I think you sort of
14 can surmise from forensic evidence no one was handling that
15 purse. Now she then says that Polite asked for a gun and
16 leaves out the front. Well, she did say that before. But
17 she never said anything about Oouwee pulling a second gun
18 out. That is new two years later.

19 So you have to surmise that he had two guns, one in his
20 pants, one in a pocket, something; but that is all new.
21 That is the TT stuff.

22 And that Oouwee hears the shot, jumps up and goes out
23 the front. And you know that just didn't happen from all of
24 the other independent evidence you have.

25 I wanted to point out that the other problem is Oouwee

1 is wearing shorts. He would stand out. But there is one of
2 those moments sometimes in a trial where everyone in the
3 courtroom might say oh did she just say that.

4 Remember when all of a sudden she said there were at
5 least six shots. At least six shots. The only evidence you
6 have is of three, not six.

7 Detective Gobel tried to make mention well another
8 witness, but that is not in evidence. Another witness
9 ain't in evidence. Whatever he was referring to, whoever
10 that was, don't know. I mean certainly I am sure they
11 interviewed a host of different people, but she is the only
12 one that sits there talking about six shots. That ain't --
13 that is not accurate. And it just tells you that she is
14 saying whatever she needs to say to convince you.

15 Now we get to these phone records. Bottom line the
16 phone records I think you can just look at them and say that
17 is it, I have heard enough. She didn't call 911. She calls
18 Chip and hides herself and the money under the trailer.

19 Now mind you, I think Detective Gobel said maybe 45
20 minutes to an hour-and-a-half or so before he meets with
21 her. But by then she has already deleted her calls.
22 Because he told you at that point she and her phone were
23 both what? Near police.

24 So I guess the suggestion -- maybe she was doing it
25 while she was with the police. I don't know if they secured

1 it or not. Let's assume they did. That means at the same
2 time she is saying she is so distraught, she is deleting
3 stuff.

4 Now this is the same person that said I saved the
5 number by accident and I pocket-called by accident but I
6 know how to delete everything off of my phone so they can't
7 get it.

8 She knows how to use phone. She knew what she was
9 doing. And I'm sorry, if you are a victim you call 911. If
10 you are a victim you don't have to delete stuff out of your
11 phone.

12 Now her problem was she couldn't delete Mr. Tucker's
13 records, the other side of it. That is how the evidence you
14 have is that her phone -- his phone called her plenty of
15 times after the shooting. But her phone called him three
16 times. Two those calls were 365 seconds, 366 seconds; about
17 six minutes each. In other words the long calls weren't him
18 calling her - and I get to hear her say it, threatening
19 her - it was her calling him.

20 Now think about that. If a person just put a gun in
21 your face, they armed robbed you, they kidnapped you, are
22 you going to call them? For any reason are you going to
23 call them?

24 And you are saying they are threatening you in the
25 trailer and threatening you on phone calls. You are going

1 to call them? That is so absolutely unbelievable.
2 Unbelievable. That right there should tell you that it
3 could not have been any armed robbery or kidnapping in the
4 trailer if she's calling them.

5 And okay, let's say we give the first one a pocket
6 dial. That one -- let's just say it. Two pocket dials?
7 Two pocket dials in the same timeframe? That doesn't
8 happen, folks. That is not believable. It is not credible.

9 And again I just reference the DP. And these aren't
10 mistakes. These aren't accidents. This is her not telling
11 you the truth. And when she is altering and deleting her
12 records that is why she is telling you she is not trying to
13 be truthful.

14 She in 2012 was a drug dealer with braids, dreads, no
15 glasses, cursing like a pro. It was all about the money for
16 her. Don't fall for the theatrics of her up here crying,
17 claiming oh Mr. Greer is my friend. That is not justified.

18 So then you heard from Detective Gobel. Now in between
19 this you heard cell phone records, ping information of cell
20 phone towers. And that is all just to say that Mr. Tucker
21 is there. No one is contesting that. That is why I am not
22 covering it because it is not an issue. But there was
23 evidence of that.

24 But what does he tell you? Now one thing I want you --
25 I suggest you think about, Detective Gobel has many years of

1 experience. Remember he told you that.

2 On 9/6/12 he gets there. He tells you he interviews
3 Mr. Brewer and Ms. Power. He records Mr. Brewer, the other
4 person that is in the trailer. He does not record Ms.
5 Power. There is no, no justification for that. He has
6 arrived at a shooting in which a person has died. Two
7 people in the trailer somehow involved in this; and he is
8 only going to record one, not both? That is unacceptable.
9 It should be unacceptable to you. Unacceptable to you. And
10 there is no justification for it.

11 So in this first interview remember we went through his
12 supplemental report. Well, that Greer was sending the money
13 in with Power, that he had money and a gun in the center
14 console, Greer gives the money to Power, Power puts it in
15 her purse and goes into the trailer. Nothing about Mr.
16 Greer getting out of the car and going with her. So when
17 she says well I didn't put it in my statement but I told the
18 police, that is untruthful.

19 As soon as I walked in Oouwee comes behind me, locks
20 the door. Oouwee pulls a gun. The other guy throws her to
21 the floor. She tells them money is in the purse. They grab
22 the purse, took the money. None of this oh they can't find
23 the money stuff.

24 The other guy goes out the front door. Now mind you --
25 and I suggest to you this is sort of important. What he

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1 wrote down, what he wrote down from what she told him from
2 the first interview, there is something missing there.
3 There's nothing in here that says he gave a gun to Mr.
4 Polite, and Tucker never went out the front.

5 Second interview, remember he interviews some more
6 people. Now let's say he forgot the first time to record
7 it. Now he is coming back for a second interview, same
8 night, still doesn't record it.

9 Now he searches her purse, surrenders her cell phone.
10 But remember she has already deleted stuff from it. And
11 finds marijuana. She is not under arrest for anything.

12 The third interview happens the next morning at 10
13 o'clock. Does some photo lineups and now he seizes the
14 purse. Do you think he records this conversation? No.

15 If you say well he is so experienced he is not going to
16 forget to record these interviews, remember he told you he
17 made several recorded interviews of Mr. Brewer, recorded
18 Singleton, Polite, this girl Jones, recorded everybody else
19 but not Power.

20 Now yet again 9:12 at the station. Doesn't even just
21 have to be an audio. It now can be a videotaped interview.
22 Goes through everything again with her. Still not
23 recorded. Still not recorded.

24 There is a difference between negligence and
25 willfulness. Negligence, willfulness. When you haven't

1 recorded all this time, folks, that is willful. That is
2 willful. There is reason in that.

3 And now this time, what, she has said again she goes
4 into the trailer; not Mr. Greer coming. This time says the
5 other black guy goes out the front. And you know what, I
6 may have it reversed. Maybe in the first one she may have
7 said something about giving the gun to the guy and then
8 maybe in this one he didn't. But you remember.

9 But in one of these interviews he clearly says -- she
10 says nothing about Mr. Tucker handing a gun. But in the
11 other one she says nothing about Mr. Tucker going out the
12 front. So it is strange. In fact I want to say the first
13 one gives the guy his gun but he doesn't go out the front.
14 In the second one he doesn't give the guy a gun but he does
15 go out the front after the first shot. So it is like either
16 way it is not the same.

17 But, you know, just as it can be a little confusing, it
18 sure would have helped to have a recording. You can listen
19 to it. You can listen to it.

20 Detective admits that one of the other witnesses he did
21 confront the phone records because he went and got phone
22 records and he used it in his investigation.

23 Well, he says he ordered her records. But remember he
24 said he made a mistake, thought they came in. Well, you
25 can't let him off the hook that easily.

1 If you thought they came in -- and this is a primary
2 witness. You would have reviewed them to see what
3 evidentiary value you think they have. And as soon as you
4 looked at them he would have what? Discovered oh this is
5 the wrong number; this is the other number and then got the
6 right records.

7 He didn't do that. Which means he never looked at them
8 until much much later. And by the time he did, I suggest as
9 he told you there weren't -- are no longer available because
10 of the phone company.

11 So I can't tell you -- I am not saying that the
12 detective destroyed records. That is absolutely not what I
13 am saying. But because he did not actively pursue it,
14 records are now not available; so you don't have them.

15 Now sure you could argue well maybe we should have
16 gotten them, somehow we should have anticipated any of this
17 and done it. Okay, let's say I even say sure. Who has the
18 burden of proof in this courtroom? The State. It is not
19 the defendant's burden. It never shifts to a defendant.
20 Those records should have been something you would have had
21 as evidence in this case.

22 And again, never recorded it. I asked him questions
23 like well did you confront her with Mr. Tucker's records.
24 And go on your memory, but it sounds like it was some time
25 later that he was -- he was told something about well it was

1 a mistake, a pocket dial. I don't know. That I don't think
2 we really cleared up just when that conversation. But that
3 is more of that TT, you know, two years later.

4 And you probably know this. I say a lot about --
5 hopefully you observed the witness. When he said that she
6 told him the same thing about it being a mistake and pocket
7 dial did you see his face when he said it? Hopefully you
8 watched it.

9 Sometimes if you do that you can see what someone is
10 really thinking about something. His facial expressions
11 said a lot. I would suggest it said that he wasn't
12 convinced of that. But it is based on what you think.

13 Chip Jabar, that is the significant witness in the case
14 in chief. And I am going to talk about a couple of other
15 witnesses, but I need to explain how they are slightly
16 different than everyone else.

17 Chip Jabar, everyone has known about him. He was that
18 911 caller talking about his homegirl. He told you I
19 answered the questions they asked. And then he stayed quiet
20 about other stuff.

21 And then the detective said I would have expected that
22 he would have turned his homegirl in and said well she has
23 got a bunch of money under the trailer. It that reasonable
24 to you? Do you think he was going to do that?

25 I would suggest in the big scheme of things for the

1 morally certain person well yeah he would volunteer it and
2 say wait, wait, wait, now if you are asking me just a big
3 global question you should look under the trailer. But he
4 didn't do that. I suggest it wasn't unreasonable. He was
5 looking out for Jessica who went to his house.

6 And you know she was under his trailer because she told
7 you she was hiding under the trailer. So it is not like he
8 is putting her there. She was there.

9 And he said she had a bag full of cash up under the
10 trailer. I suggest that is why he was a defense witness.
11 That is inconsistent with the State's case. He doesn't tell
12 you how much. He just says it was a lot.

13 And remember before the State tries to argue -- because
14 I am anticipating they are going to say he is untruthful, he
15 is somehow connected to the other side.

16 He told you he don't know Walter Tucker. He was trying
17 to say I am not connected to Brandon Singleton. Someone
18 reached out to me at one point. But what did he do? He
19 didn't say he went to Brandon. He didn't say he went to any
20 person. He went to an attorney that he knew to say hey let
21 me tell you something, I need some advice.

22 Now that is where I came up with the Thornton Theory,
23 the TT. Because remember on cross Mr. Thornton was very
24 adimated (ph) at Chip Jabbar. Very animated. And he talked
25 about two years later, two years later. That is where I get

1 that whole two years. Because if you are going to hold one
2 witness to a standard you should hold them all, right?

3 If you hold Chip Jabbar and say well you didn't say
4 this until two years later, well Jessica Powers is the same.
5 You can't have your cake and eat it too.

6 Now Chip Jabar said something that I hope you heard.
7 He said I needed to get something off my chest. I needed to
8 get it off of my chest.

9 I suggest to you that knowledge of knowing that Jessica
10 had this money under the trailer and he had stayed quiet
11 about it, he had sat on it while people were going to trial
12 about this stuff it became heavier and heavier a burden to
13 bear.

14 And even though Jessica is his homegirl, Jessica the
15 one he cares for, he came and it is just this simple, he
16 told you the truth. He didn't want to in terms of, you
17 know, it was difficult. But he told you the truth.

18 It doesn't matter if he didn't say it immediately.
19 What matters is it was true. And if it is true, if it is
20 true, folks, there is no armed robbery; there is no
21 kidnapping.

22 Jessica kept the money. She has the money. Everything
23 she told you is false. It is false. You can go when you
24 deliberate and immediately say there is no armed robbery.

25 Chip Jabar was credible. I hope you found him credible

1 because that is for you to do.

2 Now I am calling this 404(b) witness. Sometimes the
3 law says hey other things can happen sometimes and that may
4 be indicative of something that you should consider in this
5 case. Well, remember Keamber Bigelow. She had two
6 components. And I am going to break them up into both.

7 The first component the State is going to contend is
8 admissions by Mr. Tucker that he was involved in this. So
9 that is just -- we will just call that regular evidence.

10 The other stuff she says is I expect the State is going
11 to say is consciousness of his guilt and that is why he
12 wants to do in his codefendant.

13 Now first, observations. Hopefully you saw Ms. Bigelow
14 when she was here. If you look in your memory I bet you --
15 hope you -- I mean she looked mad. She was not happy about
16 being here. GW wasn't happy at Mr. Tucker. I suggest she
17 had an ax to grind. Now if you say, well, ax to grind,
18 is there any evidence we have today? Well, she stole his
19 jewelry. She admits to you she stole his jewelry. She
20 disputes whether it was worth 15,000, but she stole his
21 jewelry.

22 It is not unreasonable to infer at this point there
23 ain't no love lost between the two of them. Okay, so
24 putting that in context what did she say? Well, she claims
25 that Mr. Tucker said he was involved in the robbery and

1 maybe the murder and that he was running and shooting back.

2 The State is going to jump up and down and say there
3 you have it, that is it, convict. But there is one problem.
4 If her claim was true and if it was true that Mr. Tucker was
5 out there shooting a gun, wouldn't Ms. Higgs have seen it?
6 See, that is the problem when you want to make something
7 true when it is not.

8 Oh, you can get someone to come in here and say he
9 admitted this to me. But you had an eyewitness on the scene
10 that says he was never seen coming out that front door, he
11 was never seen shooting, no suspect in shorts was ever seen
12 shooting. That is how you know this is not true.

13 The forensic evidence reveals that Ms. Bigelow is not
14 being truthful. Now you say well wait a second well how did
15 she even know about any of this.

16 Remember I asked was there any evidence filed with him
17 when you were with him. Well, yeah. And what did she say?
18 But I never read it. I never read it. Okay. She might be
19 telling the truth on that.

20 But then remember my follow-up: But weren't you
21 present when his attorney was with him talking about the
22 case?

23 And she said what? Yes.

24 So if you wonder how does she have any bids or pieces
25 or anything about any knowledge of this case, she is present

1 when he is talking to his attorney. Certainly she was
2 exposed to the information.

3 So she could come here and tell you a little. But then
4 again, don't fall for it. Because you say well wait a
5 second, Ms. Higgs would have seen it. There is -- it
6 doesn't make sense.

7 Plus if you are going to say -- oh, here is another
8 theory maybe the State might suggest to you that Polite does
9 the first shot, the second and third, but then at some point
10 Walter Tucker goes running out shooting more. But there is
11 no evidence of more than three shots. So don't give that
12 any traction.

13 Now she then says well Tucker was going to have Travis
14 Polite murdered. Now let me backtrack. One, there is no
15 reason to believe it; but she says so, okay. Two, after she
16 says it, on cross remember what I said: But you said Savage
17 is not a guy and a guy that would ever do a murder or
18 anything; but you are saying Savage is supposed to murder
19 him but you are also saying Savage would never murder
20 anybody? Okay. Well, that doesn't make sense.

21 Savage wasn't in route to do the murder. He -- what
22 did she say? He was pulled over for what? Speeding. It
23 didn't have anything to do with anything.

24 Was she familiar with the car? Yeah. Because she
25 said when she was driving it, it was in an accident. And

1 there were two girls, three guys all in the car and she is
2 driving. Okay, it wasn't -- that is not evidence of
3 anything.

4 And she says there is a gun hidden way down in the
5 gearshift. Okay. There is no evidence as to whose gun that
6 is. It doesn't become Walter Tucker's because she says so.
7 I am not even sure she even did it. And, again, it is your
8 memory, not mine. But I don't recall whether she even said
9 Walter put that in there. She just said it was in there.

10 But there is no evidence that says that is Walter's
11 gun. There is no evidence that says it is Savage's gun.
12 There is no evidence that says it is some other guy's gun or
13 either of the females. It is just there. But even if it is
14 there, so what.

15 Dillon Hightower is the one that comes in and shows you
16 the pictures of it. It is not relevant of anything you need
17 to make a determination of guilt or innocence in this case.

18 Do you know what it is there for? To try to convince
19 you he is a bad guy, he is the bad guy so convict him of
20 this. That is not the evidence you should be paying
21 attention to. That is not consciousness of guilt.

22 And what else did she tell you? Remember when I
23 started asking her questions. I think it may have took her
24 a little bit by surprise. Said he talks a good game, don't
25 he; he talks a lot, he promises things and then never

1 delivers; all talk and nothing happens. She said, yeah.

2 So even if you think he said any of this how does that
3 make him guilty of anything in this case? Because, again,
4 the evidence is what it is. Forensically your independent
5 witnesses make it clear he is not guilty.

6 Now the last thing I am going to say about all of this
7 stuff, that there was evidence that he was trying to kill
8 Travis Polite, there was evidence that that gun was his,
9 there was evidence that he is up to no good and any of this
10 stuff is true trying to influence a witness, Mr. Tucker has
11 never been arrested for any of that more or less facing
12 trial or anything. Nothing. No one has.

13 So this idea of a murder plot, a weapon to use in a
14 murder, trying to get rid of a potential witness; that is
15 stretching it. That is trying to stretch. It is trying to
16 get your focus off of the hard, undisputed facts in this
17 case.

18 All right. I have sort of covered the facts now. I
19 have covered the witnesses. I have covered the evidence. I
20 want to go over a few different things of law with you. It
21 might be easier if I sort of read some things to you.

22 The judge is going to tell you what the law is. The
23 judge will do that. So I am not telling you what the law
24 is. I am suggesting to you certain aspects of what I
25 anticipate the judge may tell you. But you listen to the

1 judge.

2 Now one of the things that the State is going to jump
3 up and down about is what is called the hand of one idea.
4 And the hand of one basically is suggesting that well if two
5 people are doing something and something happens you can
6 hold them both accountable even if the other one didn't
7 necessarily do every -- every feature of it.

8 Well, the part I want to really point out to you is
9 prior knowledge of a crime that is going to be committed
10 without more is sufficient -- is not sufficient to make a
11 person guilty of that crime.

12 What is that saying? That is saying even if you know
13 someone is about to go do some dirt out in the trailer park
14 just because you know it that doesn't make you guilty of
15 anything. Whether it is at the end of the park, whether it
16 is outside of your door, it doesn't make you guilty of
17 anything.

18 Mere knowledge that another person is going to commit a
19 crime even if the defendant is present when it is committed
20 is not sufficient to convict the defendant as a principal.

21 Now it goes on. A principal as in a crime is one who
22 either actually commits the crime or who is -- who is
23 present aiding, abetting, assisting in committing the crime.

24 There is no evidence whatsoever that my client had
25 anything to do with Travis Polite, that he had anything to

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1 do with outside that trailer.

2 Now I will give you a little bit more on aiding and
3 abetting. A common plan aided or abetted or assisted in the
4 commission of that crime through some overt act is guilty as
5 an accomplice.

6 The defendant must have knowledge of the principal's
7 criminal conduct. Merely being present at the scene of the
8 crime is not sufficient to establish guilt as an accomplice.

9 Again, in other words, Mr. Tucker would have had to do
10 something. So you say well why is the State trying to
11 convince us that he gave Travis Polite the gun. Because
12 they are trying to create some act, some overt act that he
13 somehow has done something with it.

14 Why are they trying to have him come out the front door
15 shooting? The same thing, they are trying to create some
16 overt act because the evidence only establishes mere
17 presence inside the trailer.

18 Now they are trying to prove their case through
19 witnesses. And especially as it relates to Jessica Power,
20 credibility of any witness is for you to determine. Not me,
21 not Mr. Thornton. You.

22 You may believe the testimony of a witness in its
23 entirety or reject the testimony of a witness in its
24 entirety. You may consider whether any witnesses has
25 exhibited to you any interest, bias, prejudice or other

1 motive in the case.

2 I think you can clearly see where I'm going with that
3 with Jessica Power. You know what she has told you doesn't
4 jive with the independent witnesses. It doesn't jive with
5 the physical evidence. And she clearly has motive. She is
6 not telling the truth. She's making herself a victim. She
7 is the one that got the money.

8 Now you know the general sort of stuff that we always
9 hear about. And when you hear about it at home or on TV it
10 is one thing, but now that you are on a jury I ask you to
11 really think about presumption of innocence.

12 No matter what the seriousness of a charge may be, will
13 always -- an accused will always be presumed to be innocent
14 of the crime for which the indictment was issued unless
15 guilt has been proven by evidence satisfying you of that
16 guilt beyond a reasonable doubt.

17 That presumption of innocence is like a robe of
18 righteousness placed about the shoulders of the defendant
19 which remain with the defendant until it has been stripped
20 from the defendant by evidence satisfying you of the
21 defendant's guilt beyond a reasonable doubt.

22 That is when you have heard me talk about that the
23 burden is right here (pointing). The burden never shifts.
24 When Mr. Tucker when you first saw him the law says you
25 must presume him innocent and he remains that way until the

1 State can prove by evidence, competent evidence, that
2 satisfies you that they have proved guilty beyond a
3 reasonable doubt.

4 So that begs the question. What is reasonable doubt?
5 We hear that on TV all the time. Part of what it is I would
6 suggest is this: A reasonable doubt, a kind of doubt that
7 would cause a reasonable person to hesitate to act. Proof
8 beyond a reasonable doubt leaves you firmly convinced of the
9 defendant's guilt.

10 Now that is not a mathematical certainty. I can't tell
11 you 95 percent certain or this. But what it says, if you
12 have doubt for which reason can be given that causes you to
13 hesitate, something to say I'm -- yeah, I think there is
14 more and maybe I think something about Tucker but you know
15 what, I, huh-uh, I am not, huh-uh. That is right -- that is
16 a hesitation.

17 When you say I can't, I just don't believe Jessica
18 Power, you know, for one reason or another. You see because
19 if you don't believe her for one reason or another, think
20 about it; there is no evidence in this case other than her
21 that says he is guilty of anything.

22 Cell records say what? He is merely present. The
23 Lipton tea bottle says he is merely present. The only
24 evidence that says Mr. Tucker has done anything more than
25 mere presence is Jessica Power. And you have a host of

1 reasons to say Jessica Power is not credible.

2 And in fact, talking about mere presence; a defendant's
3 presence where a crime is being committed or mere
4 association with a person who commits a crime does not make
5 a defendant an accomplice or an aider and abettor of the
6 person committing the crime. The burden is on the State to
7 prove every element of the crime. If all they have done is
8 prove that he is merely present, that is not enough.

9 And on the heels of that I want to talk to you about
10 when it is circumstantial. Circumstantial evidence
11 sometimes is explained it this way: You go to bed at night
12 and you see green grass. You wake up in the morning and
13 your lawn is covered in snow. Circumstantial evidence is
14 what? It snowed last night.

15 Okay. It means it is not a direct thing because you
16 didn't get up in the middle of the night and look and see it
17 snowing; but there is evidence there so now you can
18 circumstantially say it must have snowed.

19 Well, circumstantial evidence is evidence in the law.
20 But when you think it is circumstantial -- because even
21 Jessica Power said what? She never saw Walter Tucker shoot.
22 She never saw outside the front.

23 So even if somehow you believe he went out the front -
24 and he didn't - but if you do, she never saw nothing. So
25 that makes the entirety of this case circumstantial.

1 And when it is a circumstantial evidence case I suggest
2 it is even easier for you. When the State relies on
3 circumstantial evidence you may not convict a defendant
4 unless every circumstance relied on by the State is proven
5 beyond a reasonable doubt and all of the circumstances so
6 proven are consistent with each other and taken together
7 point conclusively to the guilt of the accused to the
8 exclusion of every other reasonable hypothesis. To the
9 exclusion of every other reasonable hypothesis.

10 It is not sufficient that the circumstances create a
11 probability even if it is a strong one. If assuming the
12 circumstances are true there is a reasonable hypothesis
13 which does not include the guilt of the accused, the proof
14 has failed.

15 So it is not just they have got to convince you of
16 their belief or what they think the case is. They have got
17 to be able to show you there is no other hypothesis, no
18 other explanation such as Mr. Tucker went out the door, that
19 nothing happened inside that trailer, that Greer and Polite
20 got into it outside of the trailer unbeknownst to everybody.
21 They got into it.

22 How it happened? Who knows. But everyone in the
23 trailer went out the back. Everyone in the trailer wasn't a
24 part of this shooting.

25 Think about this: If Ms. Power is in the trailer and

1 Mr. Tucker is in the trailer and if you believe she still
2 has the money so you know there is no armed robbery, there
3 is no kidnapping, all of that stuff is phony, they are
4 similarly situated; right? Because both are merely present.
5 Yet he stands here charged. She doesn't. Remember in
6 evidence she wasn't even arrested.

7 Now on the heels of that law I want to talk to you
8 about a concept, a concept called spoliation of evidence.
9 Sometimes spoliation of evidence is when you feel there is
10 evidence and someone just either destroyed it or did some
11 willful act so that it is not going to be available.

12 You have heard me talk about Detective Gobel. The
13 State I would assume might argue that he was negligent in
14 some form or fashion. Maybe he made a mistake. Maybe he
15 just didn't follow-up. Maybe, maybe, maybe.

16 If it was just one thing maybe you could believe that.
17 But not only do we -- you are not going to have all of the
18 records for Jessica Power but the first interview doesn't
19 get recorded. The second interview doesn't get recorded.
20 The third interview doesn't get recorded. The fourth
21 interview a week later at the police station doesn't get
22 recorded. He finds weed in her bag and she is not arrested.

23 Notwithstanding this case, that is willful. That is
24 willful. That is him wanting to shield her, keep her above
25 reproach. Because he had already formed a conclusion just

1 based on what she said oh those guys are guilty and now
2 let's let the evidence shaped towards that conclusion. Not
3 let's get all the evidence, confront Ms. Powers with all of
4 the evidence, get the truth so that a jury can get it all;
5 but let's shape it. Which means at some point someone can
6 lose their way and think that it is about winning as opposed
7 to being about the truth.

8 And when you examine this case, the things that weren't
9 done that should have been done, you start to realize this
10 has been about wanting to be right, win; not the truth.

11 We, the defense, brought you Mr. Jabar because the
12 defense felt you need to know the truth and have the benefit
13 of his testimony.

14 Hopefully you have seen what I have questioned.
15 Witnesses I have tried to at all times keep the same
16 demeanor to each and everyone regardless of whether they are
17 saying things that are helpful or things that are against
18 the defense.

19 It is not my place nor Mr. Thornton's place to comment
20 on what we believe, who we think are credible, in our
21 arguments or conduct. It is your job.

22 This really isn't a tough case. It is not. Because as
23 you listened to everything -- and I am sorry to take so much
24 time, but I wanted to thoroughly cover everything with you.

25 It should be very clear to you that based on the

1 independent witnesses Mr. Tucker had nothing to do with
2 anything outside of that trailer.

3 It should be clear to you that Ms. Powers has not told
4 the truth about anything and that you absolutely cannot rely
5 on her for anything.

6 And if that is the case, nothing inside of the trailer
7 can you determine is true and therefore Mr. Tucker is guilty
8 of something.

9 He is not guilty of armed robbery. He is not guilty of
10 kidnapping, period. It is quick and easy. He is not guilty
11 of murder. Regardless of what the State tells you, it is
12 about what the evidence is, what the truth is.

13 Folks, I on behalf of Mr. Tucker I am asking you to
14 return a verdict of not guilty on all counts. Before you
15 you are going to be able to not guilty of murder, not guilty
16 on armed robbery, not guilty on attempted armed robbery.

17 Because the State will argue well maybe the cash wasn't
18 taken, maybe it was just an attempt. No, not guilty. There
19 was no attempt or armed robbery. Jessica Powers got that
20 money.

21 Something happened between Polite and Greer, and when
22 everyone ran she saw an opportunity. And to cover her
23 tracks she erased her phone messages. She hid the money
24 under the trailer. And she has kept that lie going. She
25 hasn't got it off of her chest like Mr. Jabar finally did.

1 Not guilty of kidnapping.

2 It is a terrible thing that has happened to Mr. Greer.
3 I told you that before. But these cases there is no winner.
4 It is a lose lose no matter what happens. It is always
5 going to be that way.

6 But your decision now affects whether there is a loss
7 of one life or the likelihood of another is now going to
8 also be lost. I would suggest that it's terrible to see
9 anyone lose their life. It is also terrible to see someone
10 wrongly convicted for taking the life of another when they
11 did not do it.

12 He didn't do it directly. He didn't do it as an
13 accomplice, an aider or abettor. His hand was not in on the
14 demise of Mr. Greer, period.

15 Don't create a tragedy of wrongly convicting Mr.
16 Tucker. Maybe there is evidence where you say he don't seem
17 like a nice guy, a jerk, a loud mouth. You can believe that
18 all day.

19 That doesn't make him guilty of what they are saying he
20 is guilty of. Not guilty. Not guilty. Not guilty on all
21 counts. Thank you very much

22 THE COURT: Thank you, Mr. Wright.

23 Ladies and gentlemen, do you need to have a break before we
24 hear from Mr. Thornton --

25 (WHEREUPON, indication from juror requesting a break.)

1 THE COURT: I thought you might. Let's take a short
2 recess. Ladies and gentlemen I will remind you though it is
3 too early to begin discussing the case in the jury room.
4 (WHEREUPON, break was had.)

5 THE COURT: Mr. Thornton and Mr. Wright, let me tell
6 you something about the charge I am going to give on direct
7 and circumstantial evidence. It is going to be different
8 than your charge.

9 I thought you had gotten yours, at least from our
10 conversation yesterday, from the Judicial website. I think
11 what you have is an old charge. I don't know where it came
12 from.

13 But the last two sentences I am going to say I am not
14 going to charge where I believe you said that when the State
15 relies on circumstantial evidence you may not convict the
16 defendant unless every circumstance relied on by the State
17 is proven beyond a reasonable doubt and all of the
18 circumstances so proven are consistent with each other and
19 taken together point conclusively to the guilt of the
20 accused to the exclusion of every other reasonable
21 hypothesis.

22 And then there is another follow-up sentence behind
23 that.

24 I am not going to charge that to the jury.

25 MR. WRIGHT: Okay. And, Judge, the only reason I read

1 that was I thought that was one of the charges that the
2 court said it seemed like it was included in the pattern.
3 So I didn't know that that was in any way different.

4 THE COURT: The best I can tell, that charge was no
5 longer appropriate after State versus Cherry in 2004, that
6 portion of the charge. I think the remaining portion of it
7 is the same. At any rate, I wanted to let you know that.

8 MR. WRIGHT: Yes, Judge, ---

9 THE COURT: And wanted to let ---

10 MR. WRIGHT: --- and hopefully the court knows I did
11 before I read any of the charges tell the jury it is not
12 what I say ---

13 THE COURT: You did.

14 MR. WRIGHT: --- it is what the court ultimately
15 charges.

16 THE COURT: All right. I believe we are ready whenever
17 the jury is ready.

18 (WHEREUPON, break awaiting jury.)

19 THE COURT: Welcome back, ladies and gentlemen. I
20 believe we are now ready to have closing from the State.

21 MR. THORNTON: Thank you, Your Honor. May it please
22 the court, Mr. Wright.

23 MR. THORNTON: Forgive me, ladies and gentlemen, as I
24 get this podium turned around in just a second.

25 **CLOSING BY MR. THORNTON:**

1 After hearing the closing argument by Mr. Wright I will
2 tell you that there are very few things that the two of us
3 agree on.

4 One of them is that the State has the burden of proof.
5 And that is true in every case. We have to prove our case
6 beyond a reasonable doubt and the burden never shifts to the
7 defense. That we absolutely agree on, and that is true in
8 every case. That is the burden the State always has.

9 The first thing I want to do for you is play this first
10 911 call for two reasons.

11 (WHEREUPON, a portion of the first 911 call was published.)

12 Now one of the things I want to stress to you before I
13 get started - and you have heard this before, but I want to
14 stress it to you again - nothing I tell you is evidence.
15 Nothing Mr. Wright tells you is evidence.

16 Now the reason I played that tape is Mr. Wright told
17 you that the first 911 call is Kalin Higgs. If you remember
18 Kalin Higgs identified herself and I believe it was the
19 third 911 call. That is actually not Kalin Higgs.

20 The other thing that is important is did you hear what
21 they just said? Can you tell me about the suspects and they
22 hand the phone to somebody else. What do they say? They
23 were in a car.

24 Because let me ask you something. If you have got one
25 guy who is Travis Polite, Kalin Higgs does identify Travis

1 Polite. She says dark washed jeans. And I am telling you
2 it is Travis Polite because the State is conceding that.
3 And I will tell you it is one of the other few things that I
4 agree with Mr. Wright on. I am going to tell you about Mr.
5 Polite.

6 But Kalin Higgs identifies a black male who has got
7 something white, remember, wrapped around his head. She
8 says it is a bandanna and he has got a gun in one hand and
9 he is taking his -- and forgive me. I am left-handed. But
10 I believe she said she was taken it off with his left-hand,
11 he had a gun in his right hand, hand on jean. That was
12 Kalin Higgs testimony.

13 All right, at least that is what I remember. You can
14 have any testimony you want played back.

15 What Mr. Wright left out that was that part just there
16 was there was also a car leaving. Well, let me ask you a
17 question. If you have got one guy running to the woods and
18 a car leaving, got to be at least two people unless the laws
19 of physics have ceased to apply here in Beaufort County. So
20 there has got to be at least two suspects.

21 You know the truth is like water. And accuracy and
22 being accurate with what the evidence actually is the filter
23 that will take all of the impurities out of that water and
24 show you what the truth is. But let's be accurate. Let's
25 be accurate as to what was actually testified to.

1 You know, there was a lot of, well, Polite likely did
2 this; he probably did that; you know, he was sitting in the
3 chair and it might have been like this; it could have been
4 something like that; possibly like.

5 We don't deal with possibly. We don't deal with
6 probably. We don't deal with likely. We deal with beyond a
7 reasonable doubt because that is the burden that the State
8 has. So let's talk about the evidence.

9 There is also something interesting, before we get to
10 that, about the law. It reminded me a lot of the defense's
11 presentation you noticed when he put all that stuff up there
12 there was were just little sections highlighted. Well, what
13 about the rest of it?

14 One of the things I asked you to do when you sat down
15 in that chair and I got up in front of you on my opening and
16 what did I tell you? What did I ask you to do? Don't make
17 any decision until you have looked at everything.

18 The State doesn't want you to not look at stuff. We
19 are not trying to hide anything from you. I want you to
20 look at all of it, not just the little pieces and parts that
21 are highlighted.

22 For instance, just to go over this -- and the judge is
23 going to give you the law. And if anything I say or Mr.
24 Wright say differs from what the judge says, the judge is
25 the one that gives you the law.

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1 Just like you are the finders of fact, he is going to
2 tell you he is the finder of the law. And it is his job to
3 give it to you.

4 I believe one of the things he is going to tell you
5 about the hand of one is the hand of all, I will just read
6 you the first sentence which was left out of the
7 presentation earlier.

8 If two or more combine together to commit an unlawful
9 act and in the execution of that criminal act a homicide is
10 committed by one of the actors as a probable or natural
11 consequence of the acts done in pursuance of the common
12 design, all present participating in the unlawful
13 undertaking are as guilty as the one who committed the fatal
14 act.

15 Now in layperson's terms it doesn't mean if you fired
16 the gun that killed the guy or not. What it means is did
17 two or more people get together to do an unlawful act. Like
18 say a drug deal. Like say an armed robbery. Like say a
19 kidnapping.

20 And let's talk about kidnapping for a second. What I
21 believe His Honor is going to charge you is kidnapping talks
22 about if you seize, carry away, confine.

23 So if you believe that Walter Tucker snapped that door
24 lock and pulled a gun, that is kidnapping right there by
25 itself. If you believe it, that is kidnapping. There is no

1 need to do a carrying away. And that's what a lot of people
2 get confused about.

3 But again, listen to what the judge gives you the law,
4 not what I say and not what Mr. Wright says.

5 One of the other things I found interesting, defense
6 talked about, you know, you have to look beyond what is
7 right there. How about look at what is right in front of
8 you.

9 How about look at all of it instead of just let's not
10 look at the evidence that is there and let's try to dig
11 behind and see if we can figure out where the problem is.
12 What if there is no problem. Look at all of it, not just
13 the pieces and parts.

14 Mr. Wright's supposition is that because David Roche
15 said the sounds were the same that means that there is only
16 one gun, right? How many of you, how many people in general
17 have heard guns being fired?

18 Remember what John Gobel said? And here is what Mr.
19 Wright said. Mr. Wright said there is no evidence that
20 there was anything other than three shots.

21 Sure, there is. Jessica says there were six shots.
22 And John Gobel testified it. Do you remember what I told
23 you? What Mr. Wright says isn't evidence and what I say
24 isn't evidence.

25 John Gobel testified that other witnesses he

1 interviewed said there were multiple shots. Is that
2 relevant? Does it matter whether there was three shots or
3 six shots? Not in this case. Only one shot was fatal.
4 There was only one bullet found in the victim, Quantez
5 Greer, who is the victim of the murder in this case, one of
6 three charges. Only one.

7 And I am going to tell you that you as the jury should
8 assume that Travis Polite fired that bullet. And we talked
9 about that in opening. I haven't hid that from you. You
10 should assume that.

11 What I am telling you is that as a matter of law and
12 the law of South Carolina that doesn't matter in this case.
13 It doesn't matter that Walter Tucker didn't fire the bullet.
14 Because I am telling you you should assume he didn't.

15 Because what the evidence shows is that Travis Polite
16 went out the door first and there was a shot. Because the
17 only eyewitness that the State has as to these events as
18 they unfolded is Jessica Powers as far as the eye witnesses.

19 Then Walter Tucker goes out and she hears more shots.
20 Now she didn't get up there and tell you she watched anybody
21 get shot, did she?

22 She said she heard a shot. Walter Tucker goes out and
23 she hears more shots.

24 And because I don't have a gun to give to you to
25 compare the bullets to as far as who fired the fatal shot I

1 am telling you you assume that he did it. You assume that
2 Travis Polite is the one who fired the fatal bullet.

3 But it doesn't matter. Because under the law of South
4 Carolina the hand of one is the hand of all. Because you
5 are responsible for your actions and the actions of the
6 people that you are associating with when you are
7 undertaking a criminal act. And the other thing is talks
8 about is if it is foreseeable. And that is something you
9 have to decide. So ask yourself if you go to a drug deal
10 and you don't have any drugs and your plan is to rob the
11 person when they come in and you are armed is it foreseeable
12 that somebody might get shot.

13 Now after that presentation John Gobel, a veteran of 30
14 some odd years both military and civilian, is either
15 completely inept or he is crooked because he either was
16 negligent or he willfully disregarded it order so we could
17 frame Walter Tucker because we care more about winning than
18 we do the truth. And if you believe that, frankly, you
19 should give him a not guilty.

20 If you believe that the State and the Sheriff's Office
21 have conspired in some way to ignore evidence so we can
22 frame Walter Tucker, I'm telling you please give him a not
23 guilty if that is what you believe.

24 I am not going to come up here with any cutesy theory
25 and write up TT on the board because there is nothing funny

1 about this case. There's nothing amusing about murder and
2 armed robbery.

3 I will talk about Chip Jabar in a little while.

4 Let's talk about crime. What is the evidence? What
5 does the evidence tell you?

6 On September the 6th, 2012, at Taylor's Mobile Home
7 Park you know that several 911 calls - we just played part
8 of the first one - several 911 calls go out. Dispatch gets
9 them. They dispatch folks out there.

10 What do they find when they get there? As the police
11 are going you heard the 911 calls. There is a black car
12 leaving. There is another guy on foot, right. I

13 And one of the 911 calls -- and again, you listen to
14 them if you need to. Go on your recollection, but one of
15 them I believe also says I see my neighbor running out the
16 back.

17 Remember it is Antonio Brewer's house - and he is now
18 deceased and he couldn't come testify - but do you remember
19 one of the phone calls said I see my neighbor running out of
20 the back, don't know if he's okay or not or something to
21 that effect.

22 So you have got the black car and you have got a
23 suspect, which I'm telling you is Travis Polite, on foot.

24 Who is driving the car? When police and EMS get there
25 what do you have?

1 You have a body on the ground. That body was later
2 identified as Quantez Greer. He has got a gunshot wound
3 that was noted by EMS and confirmed by the pathologist; side
4 of the chest, almost horizontal. One gunshot wound that
5 killed him. And, again, assume that Travis Polite fired
6 that bullet.

7 You find his unfired gun nearby. How do you know he
8 didn't fire it? How do you know he didn't shoot?

9 The gun wasn't in shooting conditions. All right,
10 there was not one in the chamber, full clip. He couldn't
11 have shot if he wanted to, not without racking a bullet
12 back. Also remember, no GSR. Had no gunshot residue on his
13 hands.

14 David Roche hears three gunshots. What else does he
15 see? He sees a midsize black sedan tearing out. Remember?

16 So in addition to the 911 call now which says you have
17 got the car, you have got a guy on foot running, you also
18 have David Roche who sees a black car.

19 Kalin Higgs. Now here is what is interesting. Mr.
20 Wright talked to you about well she had a clear view of this
21 and she never saw my client coming out so the State's case
22 doesn't hold water.

23 Did she ever testify that she saw anybody come out of
24 the trailer? What did she say? And again, if you need it
25 played back, play it back.

1 But what she said was I saw a guy, black male, white
2 thing on his head, running; he had a gun and he was taking
3 it off with the other hand and by the way the victim is here
4 on the ground.

5 She never said I saw the shooting, I see the blue car
6 it has got a bullet hole in it, I saw the guy as he came out
7 of the trailer. She didn't say she saw any of that.

8 It is not what Mr. Wright says the evidence is. It is
9 what the testimony actually is.

10 What else do they have? They have what has been
11 described by Detective Gobel they have a distraught woman
12 who that is his word was distraught -- at least I think that
13 is what he said. Jessica Powers who is at the trailer, Chip
14 Jebar's. I think it was Lot 42. It might have been Trailer
15 42 Lot 32. I get them mixed up sometimes.

16 So is there any question that you have a crime at
17 Taylor's Mobile Home Park? I mean there can't be any
18 question.

19 What does the distraught woman say? I had a gun put in
20 my face; you know, there was money robbed from me. And
21 obviously she wouldn't say I was kidnapped, but once that
22 door is locked if you are forced on the ground point under
23 the law it is kidnapping.

24 There is -- so there is clearly a crime. It is
25 undisputed there is a crime.

1 What has Jessica said? Jessica Powers says that she
2 called and talked to Walter Tucker. She also expected
3 Brandon Singleton to be there, who has already been told to
4 y'all was a codefendant in this case.

5 So Walter Tucker and Brandon Singleton are supposed to
6 be there. And when -- and she goes over to Quantez' house
7 and they ride over to the trailer. All right. It is
8 supposed to be at another location. She said she got phone
9 calls from Walter Tucker back and forth.

10 She goes over and they get to the trailer and she says
11 they were negotiating price, they being Walter Tucker and
12 her friend Quantez Greer. And at some point they decide
13 there is not going to be any change in the price.

14 She says out of the console she -- he gives her the
15 money, counts it out and gives her the money because he
16 can't carry it, it is too thick. She puts it in her purse.

17 She goes in and -- forgive me, but that is when all
18 hell breaks loose. And she told you on the stand that he
19 was behind her as she went up. Defense has pointed out,
20 well, you don't say that in their; right?

21 Well, ask yourself whether that is a relevant detail or
22 not. Is that something about deception or is that somebody
23 who is doing a written statement who may have left out
24 details. And we will talk about the written statement in
25 just a second.

1 What she testified and what she tells you is she goes
2 in and as soon as she hits the door the door is locked.
3 Let's talk about this a little bit.

4 And forgive me, just like Mr. Wright has to sometimes
5 we have to pick stuff up; and one of the things they teach
6 you when you are learning to try cases is do not turn your
7 back to the jury. But in practice it is very difficult, so
8 forgive me for that.

9 I went inside. Right away he locked the door. And he
10 being Oouwee. I was thrown on the floor and they - and that
11 is of course the other guy that -- and by the way, in this
12 first statement she doesn't give the detail about the white
13 shirt on his head. All of that came later. Do you remember
14 when we were asking about that? That actually that detail
15 came out later. It wasn't in the written statement.

16 Here is what is interesting. Mr. Wright tells you you
17 shouldn't believe anything Jessica Powers says, right?
18 Didn't he say that two or three times, you shouldn't believe
19 a thing she says?

20 Well, he wants you to believe everything she said about
21 Travis Polite; right? I mean he wants you to believe that
22 she is right, he went out first, he had the gun, there was a
23 shot. Well that must be the shot they killed the victim.
24 And I am telling you again, assume that it was.

25 So the only part he doesn't want you to believe is

1 anything that has to do with Walter Tucker. He wants you to
2 believe what she said about Travis Polite.

3 But what she says is she is thrown on the ground -- or
4 floor, there is a gun to her head; the man that we have now
5 identified as Travis Polite gets up, comes over; they are
6 getting the money; they take the money from her. And again,
7 I am paraphrasing. Go with what the testimony is. Go with
8 what the statement is, what the evidence is in this case.

9 Travis Polite goes out first. She hears a shot. And
10 I'm sorry, I left something out. Travis Polite goes out and
11 says give me -- give me the gun or give me a gun. Out he
12 goes with a gun. Correct, that is what she testified to?

13 By the way, in a written statement that she did that
14 Mr. Wright keeps referring to, that is when the other guy
15 who we know as Travis Polite said give me the gun and went
16 outside. It sounds pretty consistent to me.

17 He goes outside. She says Oouwee has an additional
18 gun. That is not in there. She did say that on the stand.
19 If you remember John Gobel said in all of his discussions
20 with her he said he didn't specifically notate it.

21 What did he say? He said that was my understanding,
22 that certainly was the inference. I believe is what his
23 testimony was on cross-examination that there were two guns,
24 that that was the inference he got. Because she hears two
25 sets of shots. And the first guy if he needed to get a gun

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1 where did he get the gun from?

2 Even in her written statement she says Walter Tucker
3 gave him the gun. Okay. He goes out. There is a shot.
4 Tucker jumps up, runs out.

5 They hear -- she hears additional shots. She gets up
6 and takes off.

7 As she is going through the house what did she say
8 she sees? A man she doesn't know who is not these men who
9 looks - what did she say - just as scared as I did and he
10 tears out the back door and then she goes behind him and
11 they go different ways.

12 Do you remember what the 911 call said, right? I see
13 my neighbor taking off.

14 Well, it is Antonio Brewer's house. What makes sense
15 to you as to who that is?

16 Now the fact that - and I'm going to talk a lot more
17 about this in a minute - when you are looking at credibility
18 of witnesses, demeanor on the stand is important. Did she
19 appear as if she was telling the truth or did she appear not
20 to?

21 And whether her hair is different two years ago or not
22 and whether she has gained weight or not is not relevant to
23 this case.

24 It bears no -- whether she is heavier now or lighter
25 now or taller now - which would be hard if you are a grown

1 up - or different hair or longer hair or shorter hair or has
2 to wear glasses or wears contacts, what possible difference
3 does that make except just an attack on her character.

4 Credibility of witnesses. One of things you can look
5 at is demeanor. The other thing you can look at is what
6 does the other evidence show you in relation to her
7 testimony? In other words does the other evidence make her
8 more believable or less believable. Well, let's go through
9 the evidence.

10 Jessica Powers says that she is calling the defendant
11 to buy marijuana. What did the phone records say? Do you
12 remember when the question was asked? Back and forth phone
13 calls from the prior to the incident, right? So phone calls
14 would appear to agree with what she testified to.

15 She goes there with Quantez Greer. That is what she
16 said, right? Is that what she testified to? Who is found
17 dead at the scene? Quantez Greer.

18 What else does she say? She says that money came from
19 the car. And I think that might have even come out on
20 cross-examination. I don't remember. But it came out of
21 the console.

22 Well, forgive me for just a second. It was right in
23 front of me the whole time. Do you remember where the money
24 was found? In and out of the car. Do you remember the
25 photograph we had of the cone on top of the money right

1 outside of the car? Does that more -- or make her testimony
2 more or less believable?

3 She says Walter Tucker is there. I understand they
4 have conceded that.

5 Now what do the cell phone records tell you? I had
6 Verizon come down and tell you immediately prior to and
7 during that two o'clock -- remember this happened right --
8 right about two o'clock or slightly after, the first phone
9 calls were shortly after two o'clock to 911. So right in
10 that window both before it, during it, and for a short time
11 after -- remember I asked her where was Walter Tucker's cell
12 phone pinging. She said it was Tower 213.

13 And I promise I won't make you turn around very much.
14 There is a picture of it. Tower 213 is less than a quarter
15 of a mile away from the trailer park.

16 Does the fact that she said Walter Tucker is there is
17 that made more or less believable by the phone records that
18 show he was there?

19 The Lipton tea bottle, one-point-six-million to one
20 chance it is a random person. That just by itself is beyond
21 a reasonable doubt that he was there. And again, I realize
22 that now he has conceded that he was there.

23 Here is something that is interesting too. I think the
24 statement was made that other than Jessica Powers there is
25 no evidence of any kind that my client did anything while he

1 was there; he was just merely there, he was merely present;
2 right?

3 But let's talk about -- finish the presence. What
4 other evidence is there? Well, he tells Keamber, a person
5 who doesn't know Jessica Power who is not from here, doesn't
6 live here, tells her he was there; doesn't he?

7 And he tells her a lot more too which we will get to in
8 a second. Is all of that -- does that make her testimony
9 more or less believable?

10 Because what they tell you to do is you have to ignore
11 everything Jessica Power says because she is a liar; nothing
12 she says is sure. Well, she says he is there; and they even
13 admit that, so that is true.

14 She said Travis Polite -- of course she didn't know who
15 Travis Polite was at the time. She said there is a guy, who
16 we know to be Travis Polite, who is wearing these jeans. He
17 has got the thing on his head, and he is the guy that went
18 out first. We know that is true. And they want you to
19 believe that part. So all of it can't be untrue even by the
20 defense standards.

21 She sees the other man on the couch with a white shirt
22 and something -- or white shirt on his head. So does Kalin
23 Higgs.

24 What else does she say? Jessica also says he goes out
25 with a gun. Right, see says Walter Tucker gave it to him.

1 But clearly she says he goes out with a gun.

2 What does Kalin Higgs say? The guy in the white --
3 with a white bandanna thing on his head he has a gun. Is
4 her testimony more or less believable based on the evidence
5 of the other witnesses?

6 It says the defendant has the money and a gun, Walter
7 Tucker, and runs out and she hears more shooting. All
8 witnesses, every single witness, says there were multiple
9 shots. Most say three. Some say more. All of them say
10 multiple. Jessica says multiple.

11 Do you have any other evidence that he had a gun and
12 was shooting? Anything else? Because they said there was
13 nothing except Jessica. Right, everybody heard that? No
14 evidence but Jessica.

15 Except Keamber's testimony. So what other evidence do
16 you have that he had a gun and was shooting? Because it
17 came out of his own mouth to Keamber Bigelow.

18 He admits that he had a gun and he was shooting.
19 Says -- what I believe her testimony was is I didn't do the
20 murder but the way he explained it was I'm not sure because
21 I was running and shooting and the adrenaline was pumping.

22 And then later we asked did he say anything about the
23 armed robbery. Do you remember what the response was? I
24 had -- he had something in his left hand and he was shooting
25 with the right hand and he was running.

1 Well, what do you think he might have had in that left
2 hand? Maybe a stack of money. But he had something in his
3 hand. How do you know that? Because it is what he said.
4 It is what he told Keamber.

5 Jessica then says she after Walter Tucker leaves she
6 jumps up and runs out the back. She sees someone who she
7 doesn't recognize who looks just as scared as her that runs
8 out the back.

9 That is matched by one of the 911 calls who says I saw
10 my neighbor running away down the back toward the woods.
11 And I am not sure if it was toward the woods; I think it
12 said toward the back of the trailer park. But listen to the
13 911 call if you need to hear it again. That is backed up
14 that Jessica said.

15 What else does she say about the back door? What else
16 is out the back door? Does anybody remember? A black car.
17 Right, she said I saw the brake lights?

18 Do you remember Officer Whitney from the Beaufort
19 Police Department? Just had a couple of questions for her.
20 She got up. What did she tell you? Two days before the
21 murder that Walter Tucker is in the driver side of what?
22 Does anybody remember? A black -- I think she said Chevy
23 Impala. But it was a black car. David Roche says that it
24 was a black car. The other 911 caller says it is a black
25 car that is leaving the scene.

1 What else do you have? And it is hard to see in the
2 picture, ladies and gentlemen. That is why I was pointing
3 it out to you on the bigger screen. Acceleration marks from
4 a car parked out back.

5 Well, when do you typically leave skid marks? When you
6 are in a hurry. Does that evidence make her testimony more
7 or less believable?

8 She said she goes to what turns out to be Chip Jabar
9 trailer and hides. Where is she when the police get on the
10 scene and they start talking to her? Right where she said
11 she was.

12 She said after that there were phone calls to her. And
13 she told you she can't explain why there is a phone call
14 from her -- or two phone calls from her phone to his phone.
15 She says it was a pocket dial. What did she testified to?
16 I heard screaming. I didn't even realize my phone was on.

17 She picks it up. She says she hears Oouwee and he
18 threatens her and says I am going to hurt your family.

19 Well, is there any other evidence that could possibly
20 back that up? What did Keamber say that the defendant --
21 came out of the defendant's own mouth? I am not worried
22 about the white girl testifying. Do you remember that? Why
23 not? Because he threatened her. Now does that make her
24 testimony more believable or less?

25 GSR kits. She was negative. Quantez Greer was

1 negative. Antonio Brewer was negative. Now it would have
2 been nice to be able to test Walter Tucker; but of course he
3 wasn't there, which we will talk about in a minute.

4 She was with law enforcement constantly. And Chip
5 Jabar got up there and he said -- and I did get animated.
6 He said she had a big thing full of money.

7 Let me ask you a question. Do you remember when he
8 said that there was sewage or something underneath the
9 trailer. Well, if there was a bunch of sewage under the
10 trailer how come nobody noticed that or bothered to mention
11 that when they were talking to her?

12 So if she is crawling around hiding a big purse full of
13 money -- I mean she has another purse. So she must have
14 been carrying two purses or two bags. Because the purse she
15 had was searched by John Gobel. And even when he left her
16 he left her in the company of other people, other -- another
17 officer.

18 Because Mr. Jabar didn't get up and say she hid money
19 under there. He said she hid it in a purse. Do you
20 remember what he said: I lived there by myself. I am
21 single. I don't have a purse.

22 So apparently she is carrying two purses. Because she
23 has got one with her, and that is the one that they
24 searched. And by the way, she is such a criminal mastermind
25 that she thought enough that she is going to take this money

1 out and hide it but she left the marijuana she had in her --
2 and handed it to the cops.

3 Clearly that is somebody that is thinking very clearly
4 as they are, you know, working out how to frame Oouwee and
5 lie about this crime.

6 So why didn't she had sewage on her? Why didn't she
7 have anything that any of the officers took note of or
8 mentioned if she is crawling around under there hiding
9 things. And why didn't he ever say this?

10 And one thing I agree with Mr. Wright on one of the
11 other few things is, you should hold all of the witnesses to
12 the same standard. And I did get very animated with Mr.
13 Jabar.

14 And he claims that, well, then you shouldn't believe
15 Jessica because her -- she left out details too. He didn't
16 leave out details. He left out the whole story.

17 On the night he is interviewed he is talked to by John
18 Gobel. He is talked to by I believe he said Campbell. He
19 has talked to multiple officers and he never says anything
20 about the money.

21 My investigator, Roger Heaton, I asked him didn't you
22 talk to him on more than one occasion. Never said anything
23 to him. And although he -- it is hard to get him to admit
24 to anything he did admit that he was reached out to.

25 He wouldn't admit who it was. He denied telling me

1 just the day before the story for the first time that it was
2 by Brandon Singleton, the codefendant in this case. But he
3 did admit that after being reached out to he went and saw
4 not just a lawyer but Brandon Singleton's lawyer.
5 Coincidence I'm sure. Part of the mass plot to frame Mr.
6 Tucker.

7 You know, ladies and gentlemen, one of the other things
8 that you can judge credibility by and when you are looking
9 at this case, what was the behavior afterwards? Who was the
10 there when the police got there?

11 Jessica Powers was there, right? She was still there
12 at the trailer. Where was Walter Tucker? You as the jury
13 can consider flight as an evidence of guilt. Now Mr. Tucker
14 didn't just go away -- the thought is he ran away just to
15 get away from the shooting. He was found as a result of his
16 arrest warrant in North Carolina hiding under a sink
17 covering himself with bags after his brother lied to the
18 police about him even being in the house. Is that
19 consistent with someone who is innocent? Or is that
20 evidence of their guilt?

21 Because if you believe that that is true, unless you
22 think that we have got any North Carolina authorities in on
23 this conspiracy as well, if he fled you may consider that as
24 evidence of guilt. And flight is one thing, but hiding
25 under a sink and covering yourself with plastic bags is

1 quite another.

2 The plot to kill his codefendant. Mr. Wright would
3 have you believe that Keamber got all of this information
4 from listening to him talk to his lawyer.

5 Do any of you believe that it is reasonable that he was
6 discussing a murder plot to kill his codefendant with his
7 lawyer? He is going to kill a codefendant. His name was --
8 it started with a TR, and I learned it was Travis, Travy.

9 Well, Travis Polite, remember the guy we have been
10 talking about is one of his codefendants. That is probably
11 just a coincidence.

12 Here's what she also says, that he had brought in a guy
13 and he wanted a guy named Cedric to do it. She did say
14 Cedric is not that kind of guy, he wouldn't do it.

15 But that is not what is important. What is important
16 is who did he bring in that he wanted to do it? Cedric,
17 also called Savage. Said that he would be in a car. It was
18 a Camry. He had gone into South Carolina and she found out
19 he had been pulled over for speeding.

20 But do you remember what she said? I think he got
21 pulled over for speeding because he didn't want to do it.
22 But he will be in this car. The car has rear-end damage and
23 there is a gun.

24 And it is not just any gun. It is a gun put underneath
25 the gearshift. And it is a black gun with a silver top.

1 Now why is any of that relevant other than the fact
2 that he is hatching a plot to kill a codefendant? Now why
3 on earth would you need to kill a codefendant if you were
4 innocent, if you didn't have anything to do with it?

5 But what is important about that? What does it show
6 about Keamber's testimony? She told you other things as
7 well, right? She said he admitted being there, he admitted
8 shooting, he admitted running while he was shooting, he has
9 something in his left hand, a gun in his right hand -- or he
10 was shooting with his right hand. And he admitted
11 threatening a witness, Jessica Powers. Well, he called it a
12 white girl.

13 Is her testimony made more or less believable by the
14 fact that Dylan Hightower with our office checked in South
15 Carolina and low and behold right next door in Hampton
16 County there is a guy named Cedric. What did she say his
17 nickname was? Savage. He has a tattoo across his chest
18 that says Savage. There is a gun and it is so well hidden -
19 - I don't know if -- I know when Ms. Swanson from our office
20 put that up on the board I don't know if you guys could even
21 see where the gun was where she had to outline it. It was
22 so well hidden even after they had to take the gearshift off
23 and pull the plate up you could hardly see it.

24 But she said it would be there, and it was. And she
25 said it is a black gun with a silver top. And what was

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1 pulled out of there? It was a black gun with a silver top.
2 Does that make her testimony more or less believable?

3 So at the end of the day, ladies and gentlemen, you
4 have eyewitness testimony from Jessica Power. You have
5 forensics that put him there. You have cell phone records
6 that put him there. You have admissions that he made that
7 not only put him there but put him as an actor in this plot.

8 And here is what I want you to remember. Because in
9 his opening Mr. Wright one of the things he said was the
10 State, you know, you will hear something about Travis Polite
11 or -- and that may have been me that brought his name up,
12 but that my client didn't fire the fatal bullet.

13 And I am telling you, assume he didn't; okay. But
14 under the theory of the hand of one is the hand of all. And
15 that is the law in South Carolina. It is not just what I am
16 telling you it is. The judge is going to charge you on what
17 it is.

18 But under that law if two or more people combine
19 together to do an illegal act and as a result of that act in
20 concert that is a probable or natural consequence I think is
21 the language, both of them are responsible.

22 You know, the classic case I always told people is
23 let's say that two people are going to do a bank robbery and
24 I'm driving and someone else actually goes in and I know
25 they are armed and they are going to go an armed robbery in

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1 the bank and the bank robber goes in and the other person
2 goes in and they rob the bank and as a result a security
3 guard is shot.

4 I didn't have a gun. I didn't shoot a gun. I am just
5 as guilty for that murder as the person who pulled the
6 trigger.

7 Why is that? Because having someone get shot during an
8 armed robbery is a probable or natural consequence and I
9 combined with them for the unlawful act. That is what is
10 important in this case to remember.

11 And again, the judge is going to tell you what the law
12 is. And he is not just going to tell you a little
13 highlighted portion. He is actually going to read the whole
14 thing so that you understand all of the law, the total
15 picture and not just a piece or a part.

16 Mr. Wright has made a huge deal about her initial
17 statement. You didn't say this, you didn't say that. I put
18 it into evidence for a reason. I want you to look at it. I
19 want you to see all of it.

20 But even based on her original written statement which
21 was done, which she said didn't put as many of the details
22 in, just based on this with the other evidence Walter Tucker
23 is guilty.

24 It's talking about Walter Tucker. He told me to meet -
25 - so he told me to meet at Taylor's, that we would be --

1 that he would be standing outside. We pulled in and
2 Chucktown, who is Quantez Greer, asked him if he could do a
3 better price. He said no. Oouwee went inside. Chucktown
4 handed me the money and I went inside. Right away he locked
5 the door. I was thrown on the floor.

6 And then there is a little star mark that says
7 second -- see second page. And then it talks about the
8 other guy.

9 And they asked me where the money was. They took it
10 and asked me where more money was. I told them it wasn't
11 mine. That is when the other guy said give me the gun and
12 went outside. And then it goes on from there. And you can
13 read it.

14 Even if Walter Tucker didn't fire the bullet -- and I
15 am telling you assume he did not. Even if he didn't fire a
16 shot, even if he didn't give him the gun, if you find that
17 he went there with Travis Polite in order to do a robbery on
18 a drug deal even if he didn't have a gun he is still guilty
19 of the murder. He is every bit as guilty as the one who
20 pulls the trigger. That is the law in South Carolina.

21 The only way he is not guilty of the murder is if he
22 sat there at the kitchen table and drank his Lipton tea
23 bottle and watched all of this happen and then left.

24 Because anything else, any aiding, any abetting, any
25 encouraging - and all of that is going to be given to you by

1 the judge - he is just as guilty as a principal as the one
2 who pulls the trigger.

3 And if you believe any of this statement by Jessica
4 Powers or what Keamber said he admitted to, he is guilty of
5 all of them.

6 And ask yourself this question: If Jessica Powers is
7 lying about just Walter Tucker -- you know, the first thing
8 he asked about and made kind of a snide comment about about
9 booty call; you know, that is not -- this is a murder case.
10 There is nothing funny about this.

11 Well, if she is intimate with Mr. Tucker and she
12 doesn't know who Travis Polite is, because remember she
13 couldn't ID him, she didn't know who he was, then why would
14 she include Walter Tucker as being one of the ones who
15 robbed her? Why not just blame Travis Polite?

16 So if the theory is that she is intimate in some way
17 with Walter Tucker and she is spending time with him in a
18 hotel room and doing something other than what she came up
19 and testified to then why implicate Walter Tucker? Does
20 that make any sense to you?

21 Meaning if all of this occurred because of the
22 probable, could have, likely, maybe possibly scenario is
23 established by Mr. Wright is that all of this happened when
24 Travis Polite went outside and they had a problem when he
25 and Quantez had a problem and that is it then why bring

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1 Oouwee into it? If that is the guy you are intimate with,
2 that is the guy that you are talking to, why just make that
3 up?

4 And then why would Keamber then come and talk about all
5 of these admissions he made? They have never met. So ask
6 yourself when you look at all of the evidence, not just the
7 bits and pieces, what does the evidence tell you.

8 Remember in my opening I told y'all one thing I wanted
9 you -- I wanted to bring back and remind you of about a drug
10 deal gone bad and I have never seen a drug deal gone good,
11 okay. But this case is not about a drug deal gone bad. It
12 is about robbery and kidnapping; and it is about murder.

13 Sometimes as a prosecutor you worry about juries
14 thinking well why should I care; these people are buying and
15 selling drugs; you know, if somebody get killed so be it;
16 you know, why should I worry about that; why should I focus
17 on this case and care about any of the folks in this case?
18 And I am going to tell you why.

19 That is why (showing photograph). Because there is a
20 bullet hole in a trailer that has nothing to do with this.
21 Because Kalin Higgs and her brother-in-law and her sister
22 and their kids and their three-month-old baby are close
23 enough to see a man drop to his death.

24 That is why you should care about this case. Because
25 it is not about a drug deal gone bad. It is about whether a

1 society condones shootouts in broad daylight, whether you
2 approve of an execution of a man at two o'clock in the
3 afternoon in Beaufort County. That is what this case is
4 about.

5 Because there is a reason that when you see these
6 cases, unlike civil court, it doesn't say Jessica Power
7 versus Walter Tucker. And the reason is is because it is
8 not just about her. It is about her, she is one of the
9 victims.

10 It also doesn't say Quantez Greer versus Walter Tucker.
11 Because while it is about what happens to the victim it is
12 about breaking the laws of the society that we all live in,
13 which is why it is the State of South Carolina versus Walter
14 Tucker.

15 And when you look at all the evidence and you look at
16 the flight and the plot and the admissions and the testimony
17 of Jessica Power not in isolation but in global scale with
18 all of the evidence what we want is the truth.

19 You have heard about Travis Polite. That is part of
20 the truth. We want the rest of the truth, the whole truth,
21 the truth as it applies to Walter Oouwee Tucker.

22 And the truth is that he is a robber, he is a
23 kidnapper, and he is every bit the murderer as the person
24 that pulled the trigger.

25 Thank you.

1 THE COURT: Thank you, Mr. Thornton. Ladies and
2 gentlemen, as you -- it is time to put up the evidence.
3 That is right.

4 As you know, both attorneys have told you about what
5 they think the facts have shown you. Both have told you I
6 think what they think the law is.

7 If your recollection of the facts is different than
8 what the attorneys say, you disregard what the attorneys
9 have said about the facts of the case. Once again, you
10 decide the facts. I decide the law.

11 I am getting ready to tell you about the only law that
12 applies in this case. And if the attorneys have stated
13 something about the law that is different than I tell you,
14 disregard what they told you about the law because I am
15 going to tell you about the law.

16 You must accept the law as I give it to you even if you
17 might disagree with it, even if you think the law should be
18 different or is different; you must accept the law as I tell
19 you it is.

20 Now the fact that the defendant was indicted in this
21 case, was arrested, was charged, is not evidence. It
22 cannot be considered by you as evidence. It is just simply,
23 as I told you earlier, these indictments are simply the
24 documents that bring the case into the court system.

25 I told you the defendant has pled not guilty to these

1 indictments. And that plea puts the burden upon the State
2 to prove the defendant guilty.

3 A person in South Carolina who is charged with
4 committing a criminal offense is never required to prove
5 himself innocent. And I tell you that it is an important
6 rule of law, that no matter what the seriousness of a charge
7 may be that the defendant is always presumed to be innocent
8 of the crime for which an indictment was issued unless guilt
9 has been proven by evidence that satisfies you of that guilt
10 beyond a reasonable doubt.

11 The presumption of innocence does not end when you
12 begin your deliberations, but it accompanies the defendant
13 throughout the trial until you reach a verdict of guilt
14 based on the evidence that satisfies you of that guilt
15 beyond any reasonable doubt.

16 As you heard, presumption of innocence is like a robe
17 of righteousness placed about the shoulders of the defendant
18 which remains with the defendant until it has been stripped
19 from the defendant by evidence that satisfies you of that
20 guilt beyond a reasonable doubt.

21 The presumption of innocence is not mere legal theory.
22 It is not just a legal phrase. It is a substantial right to
23 which every defendant is entitled unless you the jury are
24 satisfied from the evidence of the defendant's guilt beyond
25 a reasonable doubt.

1 A reasonable doubt is the kind of doubt that would
2 cause a reasonable person to hesitate to act. Some of you
3 may have served on juries in civil cases where you were told
4 that it was only necessary to prove that a fact is more
5 likely true than not by the greater weight or the
6 preponderance of the evidence. But in criminal cases the
7 State's proof must be more powerful than that. It must be
8 beyond a reasonable doubt.

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

14 If based on your consideration of the evidence you are
15 firmly convinced that the defendant is guilty of the crime
16 charged, you must find the defendant guilty.

17 If on the other hand you think that there is a real
18 possibility that the defendant is not guilty you must give
19 the defendant the benefit of the doubt and find him not
20 guilty.

21 As I have told you, ladies and gentlemen, in every case
22 tried before this court by a jury the jury becomes the sole
23 and exclusive judges of the facts in the case.

24 And if I have done anything to cause to believe that I
25 have an opinion about the facts in the case you must

1 disregard it. And I have told you before, I am prohibited
2 from expressing an opinion about the facts in the case in
3 your presence.

4 I know you have heard this a hundred times before, but
5 you are the sole judges of the facts of the case.

6 Typically speaking there are two types of evidence
7 generally presented during a trial, direct evidence and
8 circumstantial evidence.

9 Direct evidence is testimony of a person who claims to
10 have actual knowledge of a fact such as an eyewitness. It
11 is evidence which immediately establishes the main fact to
12 be proved. Circumstantial evidence is proof of a chain of
13 facts and circumstances indicating the existence of a fact.
14 It is evidence which immediately establishes collateral
15 facts from which the main fact may be inferred.

16 Circumstantial evidence is based on inference and not
17 on personal knowledge or observation.

18 The law makes no distinction between the weight or the
19 value to be given to either direct or to circumstantial
20 evidence nor is a greater degree of certainty required of
21 circumstantial evidence than of direct evidence.

22 You should weigh all the evidence in this case and
23 after weighing all of the evidence in this case if you are
24 not convinced of the guilt of the defendant beyond a
25 reasonable doubt you must find the defendant not guilty.

1 And necessarily, ladies and gentlemen, you must
2 determine the credibility of the witnesses who have
3 testified in this case. And this simply means the
4 believability. It becomes your duty to analyze, to evaluate
5 the evidence and determine which evidence convinces you of
6 its truth.

7 In determining the believability of the witnesses who
8 have testified in this case you may believe one witness over
9 several witnesses or several witnesses over one witness.

10 You may believe part of the testimony of a witness and
11 reject the remaining testimony of the very same witness.

12 You may believe the testimony of a witness in its
13 entirety or reject the testimony of a witness in its
14 entirety.

15 And you may consider whether the witness has exhibited
16 to you any interest, any bias, any prejudice or any motive
17 in the case.

18 And you may also consider the appearance and manner of
19 a witness while on the witness stand.

20 Now I instruct and emphasize to you the fact that the
21 defendant in this case did not testify is not a factor to be
22 considered by you in any way in your deliberation and in
23 your consideration on the question of guilt or innocence of
24 the defendant. It must not be considered by you in any
25 manner whatsoever.

1 I will repeat, under your oath you can draw no
2 conclusions whatsoever from the fact that the defendant in
3 this case did not testify. The fact that the defendant did
4 not testify should not even be discussed in the jury room.

5 The burden of proof, as I have stated to you before, is
6 upon the State. The defendant is he is not required to
7 prove his innocence. The burden of proof remains upon the
8 State to prove that guilt beyond a reasonable doubt.

9 There has been evidence presented that witnesses have
10 made prior statements which may not be consistent with the
11 witnesses present testimony. You may use this evidence to
12 decide whether to believe the witness. You may also use
13 evidence of the earlier contradictory statements to
14 determine the truth of those statements. It is up to you to
15 determine whether the earlier statements or the testimony
16 given at trial.

17 If a witness has shown to have had knowingly testified
18 untruthfully concerning any material matter you may consider
19 this in determining whether to trust the witness's testimony
20 as to other matters. You may reject the testimony of that
21 witness or give all or part of the testimony the weight that
22 you think it deserves.

23 I tell you that if two or more combine together to
24 commit an unlawful act and in the execution of that criminal
25 act a homicide is committed by one of the actors as a

1 probable or natural consequence of the acts done in pursuant
2 of the common design, all present participating in the
3 unlawful undertaking are as guilty as the one who committed
4 the fatal act.

5 The common purpose may not have been to kill and
6 murder, but if it was unlawful as for instance to break in
7 and steal and in the execution of this common purpose a
8 homicide is committed by one or as a probable or natural
9 consequence of the acts done in pursuance with the common
10 design, then all participate in the unlawful common design
11 are as guilty as the slayer. As it is said, the hand of one
12 is the hand of all.

13 Prior knowledge that the crime is going to be committed
14 without more is not sufficient to make a person guilty of
15 that crime. Mere knowledge that another person is going to
16 commit a crime even if a defendant is present when the crime
17 is committed is not sufficient to convict the defendant as a
18 principal.

19 Guilt as a principal is shown by actual or constructive
20 presence at the scene as a result of a prior arrangement;
21 therefore, a finding of a prior arranged plan or common
22 scheme is necessary for finding of guilt as a principal.

23 The State must also prove beyond a reasonable doubt by
24 competent evidence the theory of the hand of one is the hand
25 of all.

1 A principal in a crime is one who either actually
2 committed the crime or who is present, aiding, abetting or
3 assisting in the committing of the crime.

4 When a person does an act in the presence of and with
5 the assistance of another, the act is done by both. Where
6 two or more are acting with a common plan or intent are
7 present at the commission of a crime it does not actually
8 matter who commits the crime; all are guilty. The hand of
9 one is the hand of all.

10 Present at the commission of a crime means to be
11 sufficiently near to aid and abet and assist in the
12 commission of the crime. However, mere presence at the
13 scene of a crime is not sufficient to convict one as a
14 principal on the theory of aiding and abetting.

15 Intent is also a necessary element. For there must
16 have been a common design or intent to commit the crime.
17 And the crime must have been committed pursuant thereto with
18 a person aiding and abetting by some overt act.

19 Intent means intending the result which actually
20 occurs. Not accidentally or involuntarily. Intent must be
21 shown by acts and conduct of the defendant and other
22 circumstances from which you may naturally and reasonably
23 infer intent. The State must prove these elements beyond a
24 reasonable doubt.

25 As you know, the defendant in this case is charged with

1 murder. The State must prove beyond a reasonable doubt that
2 the defendant acted -- excuse me, that the defendant killed
3 another person with malice of forethought.

4 Malice is hatred, ill will or hostility towards another
5 person. It is the intentional doing of a wrongful act
6 without just cause or excuse and with the intent to inflict
7 an injury or in circumstances that the law will infer an
8 evil intent.

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

15 Malice of forethought may be expressed or inferred.
16 And these terms don't mean different kinds but merely the
17 manner in which malice may be shown to exist. That is
18 either by direct evidence or by inference from the facts and
19 circumstances which are proved.

20 Express malice is shown when a person speaks words with
21 express hatred or ill will for one another or when the
22 person prepared beforehand to do the act which was later
23 accomplished.

24 Malice may be inferred from conduct showing a total
25 disregard for human life. Inferred malice also may be

1 done -- may arise when the deed is done with a deadly
2 weapon.

3 The defendant is charged with armed robbery. In order
4 to prove this offense the State must first prove beyond a
5 reasonable doubt that the defendant took personal property
6 from the person or the presence of another person.

7 Property is in the presence of a person if it is within
8 the person's reach or their inspection or their observation
9 or their control so that the person could if they were not
10 overcome with violence or prevented by fear keep possession
11 of the property.

12 The State must also prove beyond a reasonable doubt
13 that the defendant carried the property away intending to
14 permanently deprive the owner of the property and to keep
15 the property for the defendant's own use.

16 The slightest removal of the property or the complete
17 possession of the property even for an instant by the
18 defendant is sufficient to show the taking and carrying away
19 of the property.

20 The taking and carrying away of the property must have
21 been done with violence or by putting the owner of the
22 property in fear of violence.

23 And finally, the State must prove beyond a reasonable
24 doubt that the defendant was armed with a deadly weapon
25 during the robbery.

1 On the verdict form that you will be given in a few
2 minutes dealing with the issue of armed robbery, you will be
3 asked to first of all determine whether or not you believe
4 the State has proved armed robbery to your satisfaction
5 beyond a reasonable doubt.

6 If you find that the State has failed to prove that
7 armed robbery you will next be -- you will next consider
8 whether or not the State has proved beyond a reasonable
9 doubt that the defendant is guilty of attempted armed
10 robbery. And I would tell you about -- more about that in
11 just a moment.

12 I need to tell you thought about an attempt. An
13 attempt is an effort to accomplish a crime which does not
14 succeed. An attempt includes a specific intent to a
15 particular criminal act along with an act falling short of
16 the act intended.

17 The State must show more than mere preparation and
18 intent. There must be some overt act committed in the
19 effort to commit the crime.

20 Intent means intending the result which actually
21 occurred, not accidentally or involuntarily.

22 The defendant is also charged with kidnapping. The
23 State must prove beyond a reasonable doubt the defendant
24 knowingly and unlawfully seized or confined, inveigled, or
25 decoyed or kidnapped or abducted or carried away another

1 person without the authority of law.

2 And to do a thing unlawfully is to do it willfully and
3 against the law. I

4 And knowingly means with knowledge, consciously, and
5 not accidentally.

6 Seize means to take hold of suddenly or forcibly.

7 Confine means to limit, restrict, or enclose within
8 bounds, imprisonment, or shut in, or keep in.

9 Inveigle means to lure, entice, or lead astray by false
10 representations, promises or other deceitful means.

11 Decoy means to lure by or as if by a decoy. It is
12 something designed to entice a person into a trap.

13 Kidnap is to remove a person against their will by
14 unlawful force.

15 And abduct means to carry off secretly or by force for
16 an illegal purpose.

17 And carry away means to remove.

18 The State does not have to prove that the defendant did
19 all of these things. Instead, if you find beyond a
20 reasonable doubt that the defendant did any of these things
21 you may find the defendant guilty of kidnapping.

22 Kidnapping actually does not have to be done for any
23 personal or monetary gain or for any illegal purpose. It
24 can be done for any reason whatsoever.

25 Ladies and gentlemen, as you know there are several

1 indictments in this case. Each indictment charges a
2 separate and distinct offense. You must decide each
3 indictment separately on the evidence and the law applicable
4 to it uninfluenced by your decision as to any other
5 indictment.

6 The defendant may be convicted or acquitted on any or
7 all of the offenses charged, and you will be given a -- and
8 asked to write a separate verdict of guilty or not guilty
9 for each indictment.

10 One more time, going back. Excuse me, going back to
11 the verdict forms, there are three pieces of paper that deal
12 with each of these indictments.

13 Once you reach a verdict as to each of these
14 indictments I am going to ask our foreperson if he would
15 check or mark either guilty or not guilty as to each of
16 these verdict forms that will be handed out.

17 One more time, on the armed robbery charge the
18 defendant cannot be found guilty of armed robbery and
19 attempted armed robbery, both. If he is found -- if you --
20 if you find beyond a reasonable doubt that the defendant is
21 guilty of armed robbery then you do not consider the issue
22 of whether attempted armed robbery has been proven.

23 If you find the defendant not guilty of armed robbery
24 then you can consider whether the defendant is guilty of
25 attempted armed robbery.

1 For there to be a verdict in this case the verdict must
2 be unanimous. And of course by that I mean all of you must
3 agree before there can be any verdict.

4 Ladies and gentlemen, I am now going to ask you, all of
5 you including our alternate juror, to step in the jury room
6 or go to the jury room. Do not begin deliberations until I
7 sent word to the jury room. And when I sent word I will
8 send the verdict forms as well as the exhibits.

9 It may not -- it may be necessary for me to call you
10 back in and say something else to you, but perhaps not. And
11 so I think lunch is in the process of being ordered for you.
12 When the exhibits and verdict form are delivered to the jury
13 room that will be the cue for our alternate juror to step
14 back into the courtroom and leave the jury room.

15 So, ladies and gentlemen, if you would please retire to
16 the jury room. And one more time, don't yet begin
17 deliberating.

18 THE BAILIFF: The jury is clear, Your Honor.
19 (WHEREUPON, jury exits courtroom 4/17/15, approximately
20 12:32 p.m.)

21 THE COURT: From the State any exceptions?

22 MR. THORNTON: No exceptions or additions, Your Honor.

23 THE COURT: From the defense?

24 MR. WRIGHT: I have no exceptions, Your Honor.

25 THE COURT: Do we have everything ready to go? Do

1 y'all want to look at the exhibits. Is there anything we
2 have agreed not to send back?

3 (WHEREUPON, break to review exhibits.)

4 MS. SWANSON: Judge the only items I think that would
5 not go back are the Miranda form and the letter that were
6 marked as exhibits. But they were not -- these were from
7 pretrial hearings so.

8 THE COURT: Those weren't admitted in this case?

9 THE COURT REPORTER: Number one was admitted (pre-
10 trial). The letter was not admitted.

11 MS. SWANSON: Not in the case in chief. This (State's
12 Exhibit 1) was admitted for pre-trial purposes. And then
13 Your Honor ruled against the inmate letter (State's Exhibit
14 2) that was intercepted.

15 THE COURT: Okay. Do you agree to that?

16 MR. WRIGHT: Yes, Judge. So just to make sure I am
17 clear they are not going?

18 THE COURT REPORTER: Not going back.

19 MR. WRIGHT: They are just in the record but not going
20 back?

21 MS. SWANSON: Right. Right.

22 (WHEREUPON, resume 4/16/15 approximately 2:06 p.m.)

23 (WHEREUPON, Court's Exhibit Number 1, note from jury, marked
24 for identification.)

25 THE COURT: All right. In State versus Tucker I have a

1 note from the jury. I will be glad to show it to the
2 attorneys. It is very simple. Legal charge of kidnapping.
3 Which I take it to mean they want me to explain -- give them
4 a legal definition and recharge kidnapping.

5 Does the State have any thoughts different than that?

6 MR. THORNTON: No, sir. I mean that is certainly what
7 it would appear to me based on what you said.

8 MR. WRIGHT: Your Honor, if the court is going to
9 recharge on kidnapping we would ask that they also be
10 recharged on reasonable doubt in relation to it.

11 MR. THORNTON: And obviously, Judge, I would then also
12 ask for, you know, hand of one is hand of all.

13 MR. WRIGHT: And, Judge, we would object to that. I
14 think that is going a little bit beyond the request of the
15 jury.

16 THE COURT: All right. I am going to give them the
17 charge on presumption of innocence, reasonable doubt, and
18 kidnapping. Let's bring the jury in.

19 (WHEREUPON, a additional note from the jury was presented to
20 the court.)

21 (WHEREUPON, Court's Exhibit Number 2, note from jury, was
22 marked for identification.)

23 THE COURT: We have another note from the jury. They
24 want the charge -- the legal charge on murder.

25 MR. THORNTON: I think you ought to recharge them in

1 total, Judge.

2 MR. WRIGHT: Judge, I would just ask the requested
3 murder, kidnapping and then the presumption of innocence,
4 reasonable doubt. I don't think they have yet articulated
5 enough nor have they requested the entirety of the charge.

6 THE COURT: All right. I am going to recharge in
7 total.

8 MR. WRIGHT: Your Honor, just out of an abundance of
9 caution. I understand your ruling. I just wanted to object
10 to make sure I preserved the record. But ---

11 THE COURT: Right, I understood that there was an
12 objection to that.

13 (WHEREUPON, the jury enters courtroom 4/16/15 approximately
14 2:16 p.m.)

15 THE COURT: Welcome back, ladies and gentlemen. I have
16 two notes from the jury, one relating to a request that I
17 have taken that you wish for me to recharge you on
18 kidnapping and murder. And I am going to do that. I may do
19 more than that, so bear with me, ladies and gentlemen.

20 As I told you earlier, the defendant has pled not
21 guilty to all of his indictments, all of these charges. And
22 that plea put the burden upon the State to prove the
23 defendant guilty.

24 And a person charged with committing a criminal offense
25 in South Carolina is never required to prove himself

1 innocent. And I tell you that it is an important rule of
2 law, that the criminal -- that the defendant in a criminal
3 trial no matter what the seriousness of the charge may be
4 will always be presumed to be innocent of the crime for
5 which the indictment was issued unless guilt has been proven
6 by evidence that satisfies you of that guilt beyond a
7 reasonable doubt.

8 The presumption of innocence does not end when you
9 begin your deliberations, but it accompanies the defendant
10 throughout the trial until you reach a verdict of guilt
11 based on the evidence that satisfying you of that guilt
12 beyond a reasonable doubt.

13 As I told you before, the presumption of innocence is
14 said to be like a robe of righteousness placed about the
15 shoulders of a defendant which remains with the defendant
16 until it has been stripped from the defendant by evidence
17 that satisfies you of the defendant's guilt beyond a
18 reasonable doubt.

19 That presumption of innocence is not mere legal theory.
20 It is not just a legal phrase. It is a substantial right to
21 which every defendant is entitled unless you the jury are
22 satisfied from the evidence of the defendant's guilt beyond
23 a reasonable doubt.

24 A reasonable doubt is said to be the kind of doubt that
25 would cause a reasonable person to hesitate to act.

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

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

12 If based on your consideration of the evidence you are
13 firmly convinced that the defendant is guilty of the crime
14 charged, you must find the defendant guilty.

15 If on the other hand you think that there is a real
16 possibility that the defendant is not guilty you must give
17 the defendant the benefit of the doubt.

18 As I have told you earlier, I am responsible for
19 telling you about the law that applies in this case. I am
20 the sole judge of the law. If I have done anything to cause
21 to believe that I have an opinion about the facts of the
22 case you must disregard them, because as I have told you,
23 you are the sole judges of the facts of this case.

24 Generally there are two types of evidence submitted
25 during a trial, direct and circumstantial evidence.

1 Direct evidence is testimony of a person who claims to
2 have actual knowledge of a fact such as an eyewitness. It
3 is evidence which immediately establishes the main fact to
4 be proved. Circumstantial evidence is proof of a chain of
5 facts and circumstances indicating the existence of a fact.
6 It is evidence which immediately establishes collateral
7 facts from which the main fact may be inferred.

8 Circumstantial evidence is based on inference and not
9 on personal knowledge or observation.

10 The law makes no distinction between the weight or the
11 value to be given to either direct or circumstantial
12 evidence nor is a greater degree of certainty required of
13 circumstantial evidence than of direct evidence.

14 You should weigh all of the evidence in this case.
15 After weighing all of the evidence if you are not convinced
16 of the guilt of the defendant beyond a reasonable doubt you
17 must find the defendant not guilty.

18 Necessarily, ladies and gentlemen, you must determine
19 the credibility of the witnesses who have testified. And
20 this simply means the believability. It becomes your duty
21 as jurors to analyze and to evaluate the evidence and
22 determine which evidence convinces you of its truth.

23 In determining the believability of witnesses who have
24 testified you may believe one witness over several witnesses
25 or several witnesses over one witness.

1 You may believe part of the testimony of a witness and
2 reject the remaining part of the testimony of the very same
3 witness.

4 You may believe the testimony of a witness in its
5 entirety or reject the testimony of a witness in its
6 entirety.

7 And you may consider whether the witness has exhibited
8 to you any interest, any bias, any prejudice or any other
9 motive in this case.

10 There has been evidence presented that witnesses may
11 have made prior statements that are not consistent with a
12 witness's testimony in this case, and you may use this
13 evidence to decide whether to believe the witness. You may
14 also use evidence of the earlier contradictory statement to
15 determine the truth of those statements. It is up to you to
16 decide whether to believe the earlier statements or the
17 testimony given at trial.

18 If a witness has shown to have had knowingly testified
19 untruthfully concerning any matter you may consider this in
20 determining whether to trust the witness's testimony as to
21 all other matters. You may reject all testimony of that
22 witness or give all or part of the testimony the witness you
23 think -- the weight that you think it deserves.

24 And I tell you that the fact that the defendant in this
25 case did not testify is not a factor to be considered by you

1 in any way in your deliberation and in your consideration on
2 the question of the guilt or innocence of the defendant. It
3 must not be considered by you in any manner whatsoever.

4 I will repeat, under your oath you are to draw no
5 conclusion whatsoever from the fact that the defendant did
6 not testify in this case. The fact that the defendant did
7 not testify should not even be discussed in the jury room.

8 The burden of proof, as I have stated before, is on the
9 State. The defendant is not required to prove his
10 innocence. The burden remains on the State to prove guilt
11 beyond a reasonable doubt.

12 As I told you earlier, if two or more combine together
13 to commit an unlawful act and in the execution of that
14 criminal act a homicide is committed by one of the actors as
15 a probable or natural consequence of the act done in
16 pursuant of the common design, all present participating in
17 the unlawful undertaking are as guilty as the one who
18 committed the fatal act.

19 The common purpose may not have been to kill and
20 murder, but if it was unlawful as for instance to break in
21 and steal and in the execution of the common purpose a
22 homicide is committed by one as a natural or probable
23 consequences of the act done in pursuance of the common
24 design, then all present and participate in the unlawful
25 common design are as guilty as the slayer. The act of one

1 is the act of all.

2 Prior knowledge that a crime is going to be committed
3 without more is not sufficient to make a person guilty of
4 that crime. Mere knowledge that another person is going to
5 commit a crime even if a defendant is present when the crime
6 is committed is not sufficient to convict the defendant as a
7 principal.

8 Guilt as a principal is shown by actual or constructive
9 presence at the scene as a result of a prior arrangement;
10 therefore, a finding of a prior arranged plan or a common
11 scheme is necessary for finding of guilt as a principal.

12 The State must also prove beyond a reasonable doubt by
13 competent evidence the theory of the hand of one is the hand
14 of all.

15 A principal in a crime is one who either actually
16 commits the crime or who is present, aiding, abetting or
17 assisting in the committing of the crime.

18 When a person does an act in the presence of and with
19 the assistance of another, the act is done by both. Where
20 two or more acting with a common plan or intent are present
21 at the commission of a crime it does not matter who actually
22 commits the crime; all are guilty. The hand of one is the
23 hand of all.

24 Present at the commission of a crime means to be
25 sufficiently near to aid and abet and assist in the

1 commission of the crime. However, mere presence at the
2 scene of a crime is not sufficient to convict one as a
3 principal on the theory of aiding and abetting.

4 Intent is also a necessary element. For there must
5 have been a common design or intent to commit the crime.
6 And the crime must have been committed pursuant thereto with
7 a person aiding and abetting by some overt act.

8 Intent means intending the result which actually
9 occurs. Not accidentally or involuntarily. Intent may be
10 shown by acts and conduct of a defendant and other
11 circumstances from which you may naturally and reasonably
12 infer intent. And of course the State must prove these
13 elements beyond a reasonable doubt.

14 As to the charge of murder the State must prove beyond
15 a reasonable doubt that the defendant killed another person
16 with malice of forethought.

17 Malice is hatred, ill will or hostility towards another
18 person. It is the intentional doing of a wrongful act
19 without just cause or excuse and with an intent to inflict
20 an injury or under circumstances that the law will infer an
21 evil intent.

22 Malice of forethought does not require that the malice
23 exist for any particular time before the act is committed.
24 But malice must exist in the mind of the defendant just
25 before and at the time the act is committed. Therefore,

1 there must be a combination of the previous evil intent and
2 the act.

3 Malice of forethought may be expressed or inferred.
4 And these terms don't mean different kinds but merely the
5 manner in which malice may be shown to exist. That is
6 either by direct evidence or by inference from the facts and
7 circumstances which are proved.

8 Express malice is shown when a person speaks words
9 which express hatred or ill will for one another or when the
10 person prepared beforehand to do the act which was later
11 accomplished.

12 Malice may be inferred from conduct showing a total
13 disregard for human life. Inferred malice may also arise
14 when the deed is done with a deadly weapon.

15 As to the charge of kidnapping the State must prove
16 beyond a reasonable doubt that the defendant knowingly and
17 unlawfully seized, confined, inveigled, decoyed, kidnapped
18 or abducted or carried away another person without the
19 authority of law.

20 To do a thing unlawfully is to do it willfully against
21 the law. But knowingly means with knowledge, consciously,
22 but not accidentally.

23 Seize means to take hold of suddenly or forcibly.

24 Confine means to limit, restrict or enclose within
25 bounds, imprison, or shut in, or kidnap.

1 Inveigle means to lure, entice, or lead astray by false
2 representations, promises or other deceitful means.

3 Decoy means to lure by or as if by decoy. A decoy is
4 something to entice a person into a trap.

5 And kidnap is to remove a person against their will by
6 unlawful force or by fraud.

7 Abduct means to carry off secretly or by force for an
8 illegal purpose.

9 Carry away means to remove.

10 The State does not have to prove that the defendant did
11 all of these things. Instead, if you find beyond a
12 reasonable doubt that the defendant did any of these things
13 you may find the defendant guilty of kidnapping.

14 Kidnapping does not have to be done for any personal or
15 monetary gain or for any illegal purpose. It can be done
16 for any reason whatsoever.

17 The defendant is charged with armed robbery. In order
18 to charge this offense the State must prove beyond a
19 reasonable doubt that the defendant --- I lost one of my
20 papers. Bear with me a moment, ladies and gentlemen.

21 Excuse me, the State must first prove beyond a
22 reasonable doubt that the defendant took personal property
23 from the person or presence of another person.

24 Property is in the presence of a person if it is within
25 the person's reach, inspection, observation, or control so

1 that the person could if they were not overcome with
2 violence or prevented by fear keep possession of the
3 property.

4 The State must also prove beyond a reasonable doubt
5 that the defendant carried the property away including --
6 intending to permanently deprive the owner of the property
7 and to keep the property for the defendant's own use.

8 The slightest removal of the property or the complete
9 possession of the property even for an instant by the
10 defendant is sufficient to show a taking and carrying away
11 of the property.

12 The taking and carrying away of the property must have
13 been done with violence or by putting the owner of the
14 property in fear of violence.

15 And finally, the State must prove beyond a reasonable
16 doubt that the defendant was armed with a deadly weapon
17 during the robbery.

18 And as I told you earlier the -- if you find that the
19 State has failed to prove by a preponderance of the evidence
20 that the defendant is guilty of armed robbery you may
21 consider whether the State has proved beyond a reasonable
22 doubt whether the defendant is guilty of attempted armed
23 robbery. And I tell you that to prove attempt to commit a
24 crime the State must prove beyond a reasonable doubt that
25 there was an effort to accomplish a crime which did not

1 succeed.

2 An attempt includes a specific intent to do a
3 particular criminal act along with an act falling short of
4 the act intended.

5 The State must show more than mere preparation and
6 intent. There must be some overt act committed in the
7 effort to commit the crime.

8 I know you didn't ask for all of that, but I hope what
9 I have done was answer the question you were interested in.
10 Ladies and gentlemen, I am going to ask you to retire again
11 to the jury again to begin your deliberations. And advise
12 us when you have reached a unanimous verdict on each of
13 these charges.

14 Thank you.

15 (WHEREUPON, jury exited the courtroom.)

16 THE BAILIFF: The jury is clear, Your Honor.

17 THE COURT: Exceptions?

18 MR. THORNTON: No, sir.

19 THE COURT: Additions or exceptions?

20 MR. WRIGHT: No, sir.

21 THE COURT: All right. Once again we will be at ease
22 in the case of the State versus Tucker awaiting word from
23 the jury.

24 MR. THORNTON: Thank you, Your Honor.

25 (WHEREUPON, break was had.)

1 (WHEREUPON, notification to the court of a verdict.)

2 THE COURT: Let's bring our jury.

3 (WHEREUPON, jury enters courtroom 4/17/15, approximately
4 3:04 p.m.)

5 THE COURT: Welcome back, ladies and gentlemen. Let me
6 ask our foreperson, Mr. Stewart. The bailiff indicates
7 the jury has reached a verdict in this case. Is that
8 correct?

9 THE FOREPERSON: Yes, we have.

10 THE COURT: Did you complete the verdict form?

11 THE FOREPERSON: Yes, we have.

12 THE COURT: Did you reach a verdict on each of the
13 charges?

14 THE FOREPERSON: Yes.

15 THE COURT: Was it a unanimous verdict?

16 THE FOREPERSON: Yes.

17 THE COURT: Do you have the verdict forms with you?

18 THE FOREPERSON: Yes.

19 THE COURT: Can you please pass them forward.

20 (WHEREUPON, the foreperson complied.)

21 THE COURT: Madam Clerk, would you please publish the
22 verdict form -- or the verdict. Excuse me.

23 THE CLERK: The State versus -- the State of
24 South Carolina versus Walter Tucker as indicted in
25 2012-GS-07-02246, on the charge of murder; we the jury

1 unanimously find the defendant Walter Tucker guilty.

2 Count Two is Indictment 2012-GS-07-02247, the charge of
3 armed robbery; we the jury unanimously find the defendant
4 Walter Tucker not guilty.

5 As to attempted murder we the jury unanimously find the
6 defendant Walter Tucker guilty.

7 As Indictment Number 2012-GS-07-02248, the charge of
8 kidnapping, we the jury unanimously find the defendant
9 Walter Tucker not guilty.

10 Mr. Foreman, ladies and gentlemen of the jury, is this
11 the decision of each and every one of you; please indicate
12 so by raising your right hand.

13 THE COURT: Let the record reflect all jurors raised
14 their hand.

15 Anything before the jury is discharged, Mr. Wright?

16 MR. WRIGHT: Judge, nothing further.

17 THE COURT: Nothing further.

18 Anything further?

19 MR. THORNTON: No, Judge. Thank you.

20 THE COURT: Ladies and gentlemen, I want to thank you
21 for your service and tell you a couple of things before we
22 let you go.

23 Previously I have told you you couldn't talk to anybody
24 about the case, even family. Now you are free to talk about
25 it or not. You can talk about what happened here. You can

1 talk about what happened in the jury room if that is what
2 you wish to do. But once again, you don't have to.

3 I don't have any reason to think anybody is going to
4 bother you or bug you about your verdict. I just wanted to
5 let you know that if anybody does and you tell them you
6 don't want to and they persist, tell them the judge has told
7 you you don't have to.

8 And if they further persist report them to the Clerk of
9 Court. I have no reason to think anybody is going to do
10 that. I just wanted to let you know you have that right.

11 One other thing, nobody is in a position I say to
12 criticize your verdict for this case. Only the twelve of
13 you sat through this entire process, heard the opening
14 statements, saw the witnesses, received all the evidence,
15 heard the attorneys make closing arguments, heard me tell
16 you about the law and went to the jury room and sat around
17 your table and listened to your fellow jurors discuss the
18 case.

19 We didn't tell you it was going to be an easy job. We
20 want to thank you for your service. Any questions? Do any
21 of you have any questions?

22 I am getting ready to let you go, but I want to tell
23 you this: If you wish to you can come back into the back of
24 the courtroom some jurors like to do this.

25 It is likely the court will go ahead and pose sentence

0 0674

1 in the case. But I don't want to make you sit there if you
2 don't want to. So I am going to let you leave.

3 And it is solely up to each individual. It is not a
4 group decision. If you wish to, the bailiffs will see that
5 you can come around the back side of the courtroom.

6 Any questions, ladies and gentlemen?

7 Thank you for your service, and you are excused.

8 (WHEREUPON, jurors exit the courtroom approximately 3:11
9 p.m.)

10 THE COURT: Do we need a few minutes?

11 MR. THORNTON: We need a few minutes. I have got the
12 sentencing sheets coming up in probably the next three to
13 four minutes.

14 THE COURT: We will be at ease a few minutes. And I
15 told the other jurors they could come back in if they wished
16 to.

17 (WHEREUPON, court at ease awaiting sentencing sheets.)

18 THE COURT: You know, while we are waiting, the defense
19 might want to make some motions.

20 MR. THORNTON: Yes, sir.

21 (WHEREUPON, court at ease.)

22 MR. WRIGHT: Your Honor, may it please the court.

23 THE COURT: Yes, sir.

24 MR. WRIGHT: As the court has probably seen, I am very
25 conscious of always trying to perfect the record. At this

1 time I would renew my motion for a directed verdict which we
2 did at trial. If I can incorporate simply by reference all
3 of the prior argument without repeating the argument that
4 occurred.

5 The only difference now is -- and I guess just for the
6 record the court will recall I made various arguments, first
7 regarding the kidnapping that there was insufficient
8 evidence. Of course at this juncture we now see the jury
9 agreed that there was insufficient evidence and they made
10 their determination on it.

11 I also attacked the armed robbery very briefly and the
12 jury had agreed in part if I heard the verdict correctly
13 that they too have acquitted my client of the armed robbery
14 but saw fit to convict on the attempted armed robbery which
15 was not listed on the indictment but was proffered as a
16 lesser included.

17 I would suggest, Judge, that those two verdicts give
18 the court a good idea that they were unsatisfied with the
19 testimony of Jessica Power.

20 The court is aware those two counts -- or those two
21 indictments were predicated on Jessica Powers essentially
22 her status as a victim.

23 Bringing that then to count one, the murder case,
24 Jessica Powers is essentially is the sole witness in this
25 case, which creates complicity of my client in anything as

1 it relates to the death of Mr. Greer.

2 The State proceeded on a theory that this is a hand of
3 one case. So we don't have to deal with the fact that he
4 was not the direct person that shot and killed Mr. Greer,
5 but the evidence ultimately to make him complicit as an
6 aider or abettor still derived itself from Jessica Powers,
7 the same person that the jury found to lack credibility at
8 least enough as they expressed in their verdicts on the
9 other ten indictments.

10 So I would renew my directed verdict motion. If the
11 court denies that, I would just ask for ten days to file a
12 motion for a new trial to just otherwise reserve my client's
13 appellate rights in this case.

14 But at this juncture I would ask the court to consider
15 granting a verdict, essentially a directed verdict or some
16 may say a judgment notwithstanding the verdict the jury has
17 is tendered.

18 Because you have now heard the evidence. You have
19 heard the inconsistencies, what we would contend are
20 inconsistency in the testimony of Jessica Powers. You have
21 now seen the fact finding function of the jury find fault
22 and question with the testimony of Jessica Powers. Because
23 this jury charge is predicated on that we would ask you to
24 be visit that and grant it in favor of Mr. Tucker.

25 THE COURT: All right, sir. Thank you, Mr. Wright.

1 Mr. Thornton.

2 MR. THORNTON: Your Honor, not to belabor the point. I
3 would certainly take a much different tack on that. I think
4 that anytime you have multiple charges like this and you see
5 a jury find them guilty of some -- or guilty of one, not
6 guilty of one, and then guilty of a lesser, I think that
7 shows that the jury took very careful and paid very careful
8 attention, took all of the evidence into account and then
9 rendered just verdicts. And I think that is what is
10 evidenced by that.

11 The only other thing I will say, obviously a directed
12 verdict stage we are looking at any evidence. And clearly
13 there was evidence that if the jury chose to believe it that
14 would have been substantiated all of the charges.

15 So to say that you should have granted a directed
16 verdict because now the jury has come back and found not
17 guilty is two completely different standards. One is any
18 evidence at all, and of course with the jury it is beyond a
19 reasonable doubt.

20 Other than that, Judge, I would simply rely on my prior
21 arguments.

22 THE COURT: Now, Mr. Wright, I understand your motion.
23 I believe it was well within the province of the jury. I
24 agree with the statements of the solicitor and deny your
25 motion.

1 MR. WRIGHT: Yes, Your Honor.

2 MR. THORNTON: Your Honor, if I could have just a
3 moment. I want to let Mr. Wright see the sentencing sheets
4 and the items I plan to pass up to the court for sentencing
5 purposes.

6 (WHEREUPON, counselors confer.)

7 MR. THORNTON: Your Honor, I am going to pass up the
8 sentencing sheets with the court's permission. I have shown
9 them to defense counsel.

10 THE COURT: All right, sir.

11 (WHEREUPON, documents presented to the court.)

12 MR. THORNTON: I am ready whenever the court is, Your
13 Honor.

14 THE COURT: It looks like Mr. Wright is still talking
15 to his client.

16 MR. THORNTON: I apologize. Yes, sir.

17 (WHEREUPON, Court's Exhibit Number 3, five photographs, was
18 marked for identification.)

19 THE COURT: Are you ready, Mr. Wright?

20 MR. WRIGHT: Yes, Your Honor.

21 THE COURT: All right.

22 Mr. Thornton.

23 MR. THORNTON: Thank you, Your Honor.

24 Your Honor, I am not going to go into the facts of the
25 case. Obviously you were the trial judge at both the trial

1 of Travis Polite and now the trial of Walter Tucker.

2 I will take a few moments with the court's indulgence
3 and go over a few things that I normally haven't done in the
4 past, but it has been rare to come across a defendant like
5 Mr. Tucker.

6 I am going to -- I have shown these to defense counsel.
7 I am going to pass up to you five photographs that have been
8 marked as Courts Exhibit 3, Your Honor, I would like you to
9 take a look at.

10 THE COURT: All right.

11 MR. THORNTON: The first photograph is of Mr. Tucker
12 and a man named Big Meach (ph) who was the head of a gang
13 known as the Black Mafia Family out of Atlanta. Big Meach
14 is currently serving 25 to life in the federal penitentiary.

15 The next two photographs were taken I believe and
16 posted while Mr. Tucker was on bond for these charges. He
17 went to Washington DC and took a photograph in front of
18 our -- some of our buildings in our nation's capital with
19 BMF for life, free Big Meach -- or free Meach, the world is
20 BMF; things like that.

21 The next one is a picture of the back of Mr. Tucker
22 which has BMF for life had various other gang graffiti.

23 Finally is a picture that I came across very early on
24 in this which was posted on Mr. Oouwee's Facebook page which
25 has a picture of whom I believe to be his son. But it is a

1 picture of a young man with a BMF chain and a what appears
2 to be a Glock semiautomatic pistol in his waistband. And
3 the young man looks to be two to three years old.

4 So I would like to pass those up have the judge -- have
5 Your Honor take a look at them.

6 MR. WRIGHT: Judge ---

7 (WHEREUPON, documents presented to the court.)

8 MR. THORNTON: Next, Your Honor, on the table in front
9 of me is ---

10 I'm sorry, Mr. Wright, did you have something?

11 MR. WRIGHT: Your Honor, just for the record I would
12 like to object as I understand at this stage it is a
13 different -- or different things the court is going to
14 consider. I could see if this case had any allegation
15 whatsoever of gang activity or -- other than him simply
16 belonging to a quote, unquote, a gang that it was -- there
17 was something else we are talking about prior acts, prior
18 convictions, things of that nature.

19 But simply to say well because he is in a gang, he has
20 tattoos, he may take pictures of different things, I would
21 just object that that is not relevant or doesn't provide the
22 court with any information for aggravation or mitigation of
23 sentencing unless it is postured that if someone is in a
24 group or gang or take pictures at any location that the
25 State doesn't like then that means somehow he should get a

1 greater sentence. And I don't think that is the policy of
2 the court.

3 MR. THORNTON: Your Honor, my response to that would be
4 I think I am free to present the court with anything that I
5 think is relevant in sentencing.

6 Which Mr. Wright is free to argue and you as the
7 finder, at least at this stage the finder of fact and the
8 law as far as what his future dangerousness. And I think
9 that would be your prerogative whether to look at it, not
10 look at it, or accept it or no.

11 I simply passed it up because I think it is relevant if
12 you do belong to a gang or have purported ties to a gang as
13 to what your future dangerousness is.

14 So, you know, even if the court doesn't want to look at
15 them that is obviously the court's prerogative.

16 Your Honor, I would also point out that on the tape ---

17 MR. WRIGHT: Well, I didn't ---

18 THE COURT: I have looked at them, but I would give
19 them little weight.

20 MR. WRIGHT: Thank you, Judge.

21 MR. THORNTON: On the table in front of me, Your Honor,
22 is a shotgun, one of the guns. And I think we actually
23 mentioned this in chambers to you, Judge. Obviously I
24 didn't think it was appropriate to talk about in front of
25 the jury.

1 When Mr. Tucker was found hiding under a sink in North
2 Carolina there were three weapons found in the house where
3 he was. One of them was a shotgun. I have of two clips.
4 There were also two pistols found.

5 As for Mr. Tucker's prior record, from Georgia he has a
6 2005 pending - not a conviction - murder case out of Club
7 Miami in Atlanta with other Black Mafia family members, a
8 2007 pointing and presenting a firearm from Georgia which he
9 pled guilty to and received 12 months probation, a 2008
10 possession with intent to distribute ecstasy in Georgia
11 which he pled guilty to and got five years probation.

12 He had a 2008 attempted murder charge out of Florida
13 which I believe he pled down to to an aggravated assault.
14 Did it say attempted murder? I apologize, Judge, apparently
15 stayed attempted murder; and he did that in 2008 and was
16 sentenced to four years and one month in the Florida
17 Department of Corrections. He was released on February the
18 27th of 2012. And of course he got this charge in September
19 of 2012.

20 That is his record as I know it, Judge. And if there
21 is an argument to it I have I believe the certified
22 convictions with me if Mr. Wright needs to see them.

23 Your Honor, my position on this is that Mr. Tucker is a
24 very dangerous individual. He is obviously -- he has no
25 problem whatsoever exhibiting violence.

1 He has a prior attempted murder conviction. He has got
2 a prior drug conviction. He has a pointing and presenting a
3 firearm conviction.

4 Clearly the court knows what the circumstances are in
5 this case. I would ask the court to impose the maximum
6 sentence of life on the murder along with 20 years on the
7 attempted armed robbery.

8 Your Honor, I have talked to the family of Quantez
9 Greer who is here in the courtroom, and they indicate that
10 they are satisfied with my recitation of what the State
11 wants and they do not need to speak to the court. But they
12 are here in the courtroom. Thank you, Your Honor.

13 THE COURT: Thank you, Mr. Thornton.

14 Mr. Wright.

15 MR. WRIGHT: Your Honor, I will start where the State
16 finished regarding my client's criminal history.

17 Ultimately there are many many reasons why a person
18 will sometimes typically take responsibility for a charge.
19 The only, I would suggest, significant thing of a criminal
20 history recited by the State is the attempted murder plea
21 which was four years.

22 We are not able to look behind that. But just looking
23 on the face of it I think the court would agree that if he
24 only received four years there clearly must have been some
25 seriously mitigating circumstances which took it from a

1 murder case down to attempted murder and still just four
2 years of custody as part of that sentence.

3 So I don't think that in and of itself, his record,
4 indicates such propensity for violence that when he is
5 released that somehow more violence would occur.

6 As to a 2005 case, clearly as the court can see he has
7 not been in custody. And that case, albeit that it is
8 Fulton County, Atlanta, it will probably sit there until
9 everyone in this courtroom is six feet under. It will just
10 stay on the books. Which also means that is nothing to
11 weigh against him because he is still cloaked under the
12 presumption of innocence unless convicted or he takes
13 responsibility for it.

14 A drug case and pointing a firearm, again, are not of
15 such character that we would just designate this man as a
16 violent man and danger to society.

17 More importantly moving to this case, Judge, what you
18 clearly heard was he did not shoot and kill Mr. Greer. The
19 question is did he have some complicity by virtue of being
20 involved in the overall process.

21 And remember he is in the trailer. I would submit to
22 the court he is really in the same situation that Ms. Power
23 and Mr. Brewer were. They weren't even arrested or charged.

24 This jury might well have felt that if it is a drug
25 deal or some attempted robbery that somehow there was I

1 guess joint common plan between him and Mr. Polite and that
2 is how they decided to return a verdict on this murder
3 indictment. Yet clearly they had issues with Jessica Power,
4 and I think the point starts to be raised is did he truly
5 intend or have anything or any knowledge that there was
6 going to be a shooting or a murder outside of that trailer.

7 I think the court heard me argue vigorously that the
8 evidence doesn't indicate that he ever left that trailer.
9 So while, yes, as a technical or legal matter hand of one
10 conviction; but there is no gun that was ever put in his
11 hand. There was no him firing shots at that victim. In
12 fact, arguably there really is not evidence to put him
13 outside of that trailer doing the act itself.

14 While I understand as a legal matter that may still
15 hold him responsible, but for the court's analysis of
16 whether he in fact did violence to a person or is likely to
17 do violence of a person I would ask the court to consider
18 the facts in that context that he is clearly as the State
19 said over and over not the shooter and there is no gun that
20 was never truly placed in his hand.

21 Now for that reason, Judge, we would ask the minimum
22 which is 30 years. I understand that is the lowest this
23 court can go for murder, but I think that is satisfactory
24 especially since what he has been convicted on is not for
25 being the principal shooter but in fact for simply being

1 complicit with the person that did it.

2 I don't believe Mr. Polite received a life sentence. I
3 think he got 38, 39 years; something in that range. But the
4 point is 30 years is sufficient.

5 As to the attempted armed robbery I would ask that be
6 run concurrent with that same 30 years. So whether --
7 whatever -- essentially any timeframe run concurrent would
8 be eaten up in the 30 year sentence, as I believe it is a
9 zero- to 20-year range.

10 So I would defer to the court on the attempted robbery
11 sentence and simply ask that it be run concurrent whatever
12 the court decides to set that at. But 30 years is plenty.

13 This BMF stuff, if this was a gang related and they
14 presented evidence that somehow this was gang related or
15 somehow presented evidence that he is doing violent acts in
16 a gang-related way I think it would make some sense to try
17 to argue to the court that maybe that had something to do
18 with what sentence he should receive.

19 But as I think the court has said, little weight should
20 be given to it. Because that may be, at least alleged, a
21 membership he has; but there is no violent act that they
22 have presented evidence of to hold against him.

23 And again, I think 30 years is plenty for a man at his
24 age. And I think they took note of a child. And albeit
25 something that for the purpose of posing a picture may have

1 caused some to hesitate; but that is the point, he is a dad.

2 Thirty years from now he can still at some point get
3 out and have some semblance of a relationship with his
4 family. His mother is here. His father is here. Other
5 family members are here. This is not someone that doesn't
6 have family support.

7 So, Judge, we would ask for 30 years and run concurrent
8 the indictment for attempted armed robbery. Whatever
9 sentence would just run at concurrent.

10 THE COURT: Thank you. Mr. Tucker, is there anything
11 you want to say?

12 MR. TUCKER: No, sir.

13 THE COURT: And Solicitor, anything in response?

14 MR. THORNTON: No, sir.

15 THE COURT: I do have a question though. I realize I
16 was the trial and I assume sentencing judge, but what did
17 happen to Mr. Polite?

18 MR. THORNTON: Thirty-nine years, Your Honor.

19 THE COURT: Mr. Tucker, is this correct on the
20 sentencing sheet 29 years old?

21 MR. TUCKER: Yes, sir.

22 THE COURT: All right. Mr. Tucker, on the charge of
23 armed robbery -- or excuse me, attempted armed robbery, send
24 you to the Department of Corrections for a period of 20
25 years, concurrent, credit for time served.

1 On the sentence of murder I sentence you to the
2 Department of Corrections for a period of 39 years,
3 concurrent, credit for time served. Good luck to you.

4 MR. THORNTON: Thank you, Your Honor.

5 THE COURT: All right.

6 (WHEREUPON, the trial concluded April 16, 2015.)

(NOTE: A transcript which has been certified by the court reporter will bear an original signature on the below certification sheet. Please contact the court reporter for additional certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth 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 captioned case, relative to appeal, in the Court for Beaufort County, South Carolina, April 13 to April 16, 2015.

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

PHYLLIS NORTON, CVR
(Signature in blue ink.)

Date: December 31, 2015

Certified Transcript Provided For: _____

Certification Reference # _____