

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KEVIN TYRONE BRYANT,

APPELLANT

APPELLATE CASE NO 2016-002490

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS #24 AND #26 (DVDS OF SECURITY CAMERA FOOTAGE)

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MELINDA SUE SHADOAN - DIRECT BY HOLFORD

501

- 1 A: There are.
- 2 Q: Whose are those?
- 3 A: I believe that would be -- it's DBB which I believe is
- 4 Crime Scene Officer David Bailey.
- 5 Q: And who collected it?
- 6 A: Bailey.
- 7 Q: Okay. So, so, a Crime Scene officer would put his
- 8 initials over the tape?
- 9 A: Correct.
- 10 Q: Is this cut?
- 11 A: No.
- 12 Q: So has this been opened; have these been opened?
- 13 A: No and you can tell because if they tried to open it up
- 14 and the tape actually rips out part of the envelope or part of
- 15 the box, while it's a tamper-free tape.
- 16 Q: Okay. So as long as the tape's intact, it hasn't been
- 17 opened?
- 18 A: Correct.
- 19 Q: And then all the evidence comes to Property and Evidence?
- 20 A: Correct.
- 21 Q: You secure it?
- 22 A: I do.
- 23 Q: And in this case, did you drive certain items up to SLED?
- 24 A: I did.
- 25 Q: Would SLED have a note of that?

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MELINDA SUE SHADOAN - DIRECT BY HOLFORD

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1 A: They would, uh-huh, (affirmative response).

2 Q: And then did you drive up and retrieve items from SLED?

3 A: I did when they were done with the analysis portion of
4 it.

5 Q: Would this box have been something that you received back
6 from SLED?

7 A: Yes, it has that yellow seal and that's the SLED seal.

8 Q: And then white all around it, what does that indicate for
9 you?

10 A: That would be our labels that we initially processed it,
11 and because they're inside the box now, I had to put it from
12 the outside as best they could.

13 Q: So, you were able to say what's inside that box and put
14 the, at least by the group number and item number?

15 A: Correct, we get return receipts about everything that's
16 inside that box. It's the same box that they processed when
17 they logged it in with me. So, I watched them put everything
18 inside.

19 Q: Okay. Same thing. Was State's Ninety-five and Ninety-
20 seven -- they're not in evidence yet, but can you tell -- have
21 you been inside that box since it came back from SLED?

22 A: Not since it came back, no, sir.

23 Q: And there are initials on the SLED?

24 A: There's initials of mine back in looks like January 28th
25 of this year stating that I had sealed it in front of them for

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MELINDA SUE SHADOAN - DIRECT BY HOLFORD

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1 them to log it in and they have an additional, looks like
2 tape, that then they initialed it once after they opened it
3 and analyzed it and then put the seal back on.

4 Q: What's the date on the SLED seal?

5 A: That I can't see. There's one that says March 9th of
6 2015.

7 Q: And was their initials by that?

8 A: Yeah, it's hard to see the other one.

9 Q: Same with Ninety-five?

10 A: Yes, 03/09/2015.

11 Q: And so when you got these back from SLED, you left them
12 as is; what did you do with them?

13 A: Yeah, we house them back where it initially was, but we
14 do not open it up whatsoever.

15 Q: And then how did all this stuff get to court today?

16 A: Some of it I took or we had another officer who was
17 involved with the case take it.

18 Q: I know this is a long process. Did anyone tamper with
19 any of this evidence?

20 A: Absolutely not.

21 Q: Would you be able to tell if it had been tampered with?

22 A: Yes.

23 Q: Is that what the tape is for ---

24 A: Yes.

25 Q: --- signatures?

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MELINDA SUE SHADOAN - DIRECT BY HOLFORD

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1 A: Correct, I don't accept anything in my room unless it has
2 tape on it.

3 Q: So, we know that by the detective's initials, by him
4 sealing it, you making a log, it going to SLED, then making a
5 log, that it is what was picked up at the scene?

6 A: Correct.

7 Q: Same thing that we're seeing here today?

8 A: Yes, sir.

9 Q: This bag of evidence is, is sealed on there with
10 initials?

11 A: It is.

12 Q: So, has that been opened since it was sealed?

13 A: No, it has not. And like I said, that tape is very
14 strong and if you try to open it, it would rip the entire bag.

15 Q: So, you didn't open any of that?

16 A: No.

17 Q: So the detective wrote on there what it was, sealed it
18 up, gave it to you, that's how it is?

19 A: Yeah, we correlate it for what they write on the outside
20 of the box to what they voucher up and then I go ahead and
21 match it up to put the sticker on it.

22 MR. HOLFORD: No further questions.

23 THE COURT: Cross examination?

24 MS. WILSON: Thank you, Your Honor.

25 CROSS EXAMINATION OF MELINDA SUE SHADOAN BY MS. WILSON:

State v. Bryant - 2015-GS-26-01708
MELINDA SUE SHADOAN - CROSS BY WILSON

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1 Q: Ms. Shadoan, Officer Shadoan?

2 A: Close enough.

3 Q: All right. Just very briefly. You were not on scene at
4 all at Club Levels, correct?

5 A: No.

6 Q: So your only contact with anything or any information in
7 this case came to you through other officers?

8 A: I don't know anything about the case other than the
9 evidence that's brought to me.

10 Q: And so you have no firsthand knowledge about what
11 happened, who did anything ---

12 A: None whatsoever.

13 Q: --- you're not a witness to anything?

14 A: No. No, ma'am.

15 Q: You can't identify Mr. Bryant as the shooter in this
16 case, can you?

17 A: No.

18 Q: Thank you. No further questions.

19 THE COURT: Any redirect?

20 MR. HOLFORD: Briefly, Your Honor.

21 REDIRECT EXAMINATION OF MELINDA SUE SHADOAN BY MR. HOLFORD:

22 Q: Ms. Shadoan, were you on the Property and Evidence
23 Technician to process evidence in this case?

24 A: Yes, we do have another female in the office although I'm
25 the only one that looks that had processed things into the

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MELINDA SUE SHADOAN - REDIRECT BY HOLFORD

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1 room, yes.

2 Q: Okay. So the detectives took the evidence and you
3 processed it from there?

4 A: Brought it into my room to house it, correct.

5 MR. HOLFORD: No further questions.

6 THE COURT: Anything in those questions?

7 MS. WILSON: Nothing, Your Honor.

8 THE COURT: Do you wish the witness to be excused?

9 MR. HOLFORD: Yes, Your Honor.

10 THE COURT: Any objection?

11 MS. WILSON: No objection. Thank you.

12 THE COURT: All right, ma'am, you are released from your
13 subpoena; you may go back to your regular duties.

14 A: Thank you.

15 THE COURT: Yes, ma'am.

16 MR. HOLFORD: The State calls Jamie Green.

17 CLERK: Raise your right hand and place your left hand on
18 the Bible.

19 JAMES GREEN, HAVING BEEN SWORN

20 TESTIFIES AS FOLLOWS:

21 CLERK: Please state your full name and spell your last
22 name for the Court.

23 MR. GREEN: My name is James Green, G-R-E-E-N.

24 THE COURT: Go ahead, Solicitor.

25 MR. HOLFORD: Thank you.

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JAMES GREEN - DIRECT BY HOLFORD

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1 DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLFORD:

2 Q: Mr. Green, where are you currently employed?

3 A: I'm employed by the South Carolina Law Enforcement
4 Division commonly referred to as SLED.

5 Q: And how long have you been employed with SLED?

6 A: Since June of 2005.

7 Q: Okay. What kind of training -- well, what do you
8 specifically do at SLED?

9 A: I'm a Firearms Examiner in the Forensic Services
10 Laboratory.

11 Q: Okay. Tell me what that entails?

12 A: Firearms Examiner, what we do is we examine firearms and
13 firearm related evidence and try to determine if a particular
14 bullet or cartridge case was fired by a particular firearm.

15 Q: Okay. What kind of training have you done to work there?

16 A: Well, when I was hired at SLED, I began the SLED Firearm
17 and Tool-Mark course of instruction. It's about a three to
18 three-and-a-half year course of instruction studying in
19 apprentice-type fashion, studying under Court Qualified
20 Firearms Examiners to do what I do now. At the end of that
21 training, I was given a comprehensive final based on
22 everything I'd done as well as working practical cases. And
23 once I passed those, I was deemed competent and able to work
24 cases on my own.

25 Q: What kind of things can you tell us based on firearms?

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JAMES GREEN - DIRECT BY HOLFORD

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1 A: If a firearm is submitted, I can tell you if a cartridge
2 case or a bullet was fired by that firearm or if there's not a
3 firearm submitted and a bullet is just submitted, based on
4 their characteristics of the bullet, sometimes we're able to
5 give the investigating agency or the submitting agency a list
6 of possible firearms that could've fired that bullet so they
7 can get some leads for cases.

8 Q: And did you do an analysis like that in this case?

9 A: Yes, sir, in this case I had fired bullets, fired
10 cartridge cases and some fired, excuse me, some firearms.

11 Q: How did -- how did you come in possession of those
12 bullets or firearms?

13 A: When cases are submitted to the laboratory, particularly
14 in the Firearms Department, one of our examiners gives out
15 assignments. So, if 15 cases come in the door during the day,
16 she divvies up through each of the examiners. Once we get our
17 -- the cases assigned to us, we contact Evidence Control
18 Department, which is downstairs first floor in the laboratory
19 and make an appointment to pick up our evidence. When
20 evidence is submitted to them, it's in a sealed container and
21 all they do is take it from the submitting agency and put it
22 on a secure shelf until one of the examiners comes to get it.
23 So in this case, I notified Evidence Control that I needed to
24 pick up some evidence, I went downstairs and picked up the
25 containers. They were all sealed; I checked them when I got

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JAMES GREEN - VOIR DIRE BY WILSON

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1 them. They were in my custody in the evidence tracking system
2 we have and I put them in my secure evidence locker until the
3 time I had to work the case.

4 Q: Do you notice something, if you had returned -- would you
5 notice something if you'd worked on it?

6 A: Yes, sir.

7 Q: Let me back up for one second.

8 MR. HOLFORD: Your Honor, I would tender -- do you have a
9 professional title? I'm sorry.

10 A: Agent works usually.

11 MR. HOLFORD: --- Agent James Green as an expert in
12 firearms and ballistics.

13 THE COURT: Any -- do you wish to voir dire the witness
14 as to his qualifications or expertise or challenge the State's
15 offer in any way?

16 MS. WILSON: Your Honor, I would like to question.

17 THE COURT: You may do so.

18 MS. WILSON: Thank you. If I could have the Court's
19 indulgence for one second, please?

20 THE COURT: Yes, ma'am.

21 VOIR DIRE EXAMINATION OF JAMES GREEN BY MS. WILSON:

22 Q: Good afternoon.

23 A: Hi.

24 Q: I'm Kia Wilson. I believe we spoke briefly previously?

25 A: Yes, ma'am.

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JAMES GREEN - VOIR DIRE BY WILSON

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1 Q: Just a few things. Could you -- and I understand that
2 you are a specialist in firearms. What kind of educational
3 background is required for that?

4 A: It's a degree in like a Biological Science or an advanced
5 degree. I have a Bachelor's of Arts and a Master's in Science
6 in Criminal Justice.

7 Q: Okay. And is there any specialty classes or courses that
8 you're required to take?

9 A: There are some offered by the Bureau of Alcohol, Tobacco
10 and Firearms. They have the National Firearm Examiner
11 Academy, but they only give classes to students for really
12 small laboratories and when I was hired at SLED, we had eight
13 examiners so I didn't qualify, but as part of my training, I
14 do attend like continuing education classes, numerous courses
15 and workshops put on by the ATF, FBI and things like that.

16 Q: And how many years -- I'm sorry, I think I might have
17 missed it before -- you were practicing for how long, how ---

18 A: Since June of 2005 and I've testified in State and
19 Federal Court 53 times.

20 Q: Fifty-three times?

21 A: Yes, ma'am.

22 Q: Thank you.

23 No further questions, Your Honor.

24 THE COURT: All right. So regarding that then, do you
25 wish to challenge the State's offer of Mr. Green as an expert

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JAMES GREEN - DIRECT BY HOLFORD

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1 in the area of firearms and ballistics?

2 MS. WILSON: I do not. Thank you.

3 THE COURT: He is so qualified then to give his opinion.

4 You may proceed, sir.

5 BY MR. HOLFORD:

6 Q: Just does South Carolina Law Enforcement Division have a
7 chain of custody?

8 A: Yes, sir.

9 Q: Explain to us what is the chain of custody?

10 A: Chain of custody is an electronic document almost like a
11 business record of transactions. So like I explained a second
12 ago, when I go down to Evidence Control and get evidence in my
13 custody, if there is 17 items of evidence I'm taking custody
14 of, there will be a chain of custody for each one of those
15 items so it can track it if it comes from -- in this case it
16 was from Jennifer Aycock. She took the evidence in and she
17 also gave it to me, so there's a transaction where she took it
18 in from the submitting agency and a transaction where she
19 transferred it into her custody and then into my custody.
20 When I'm done with it, I seal it back up, take it back
21 downstairs and whoever I give the evidence to in Evidence
22 Control, there's a transaction of that, excuse me, a record of
23 that transaction as well.

24 Q: Do we have a chain of custody in this case?

25 A: Yes, sir. Every bit of evidence that comes into the

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JAMES GREEN - DIRECT BY HOLFORD

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1 laboratory that's submitted as evidence has a chain of custody
2 that follows it.

3 Q: And would you recognize it if I showed it to you?

4 A: Yes, sir.

5 Q: Is that the chain of custody?

6 A: Yes, sir, this would be a chain of custody for SLED
7 Laboratory L15-02603.

8 Q: And what does that SLED number correlate with?

9 A: That is a laboratory case number for evidence that I've
10 worked in this case. Whenever a submitting agency logs
11 evidence in, it's assigned to some unique lab number.

12 Q: Okay. Now, how is the chain of custody broken down?

13 A: It's broken down by item number and by time stamps of who
14 had it when.

15 Q: And who, who decides the item number?

16 A: Whenever an agency pre-logs something into our I-Lab
17 System, they'll say they have 17 items and it's automatically
18 generate it from there from my understanding.

19 Q: And then is there a description of the items along with
20 the item numbers?

21 A: Yes, sir. When they enter an item number, it'd be like
22 Item 1, one fired bullet or one gray shirt or something along
23 those lines.

24 Q: Okay. And so do you do a report at the end?

25 A: Yes, sir. Every bit of evidence is analyzed and the

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JAMES GREEN - DIRECT BY HOLFORD

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1 laboratory has a report that accompanies the lab number.

2 Q: And would your report refer to -- refer to these as the
3 item numbers that you receive or would it refer to it as the
4 detective viewed it on the scene?

5 A: It would be the item number, like if they called Item 1
6 a fired bullet; it would be Item 1, a fired bullet. If it's a
7 firearm or something along those lines, they may just call it
8 a pistol. We will get in depth in the Firearms Department and
9 explain exactly what it is and give them the correct make,
10 model, caliber, serial number, that kind of information.

11 Q: Okay. And can you tell the jury what all -- what
12 evidence was submitted to you that dealt with in this case?

13 A: May I refer to my report? Because there is a bit.

14 Q: Yes, sir,

15 A: Some cases we're submitted had one bullet; some cases
16 have multiple items. In this case, I was submitted 19 pieces
17 of fired ammunition and then three firearms.

18 Q: Now who submitted those 19 pieces of ammunition and three
19 firearms to SLED?

20 A: The Myrtle Beach Police Department.

21 Q: Okay. And does the -- does the chain of custody say
22 specifically who or are you able to tell?

23 A: Looks like Melinda -- I hack last names, I'm sorry --
24 Shadoan.

25 Q: Okay. And did she give it to you physically or who did

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JAMES GREEN - DIRECT BY HOLFORD

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1 she give it to?

2 A: It would have went to Jennifer Aycock, who was a Forensic
3 Technician in the Evidence Control Department.

4 Q: Okay. Explain, what does Jennifer Aycock do?

5 A: She is a -- or she was, she no longer works at SLED --
6 but she was a Forensic Technician in the Evidence Control
7 Department, and all they do is sit in there and take evidence
8 in from the submitting agency, whoever that may be. It's
9 given to her in a sealed envelope, a sealed, heat sealed pouch
10 or a sealed box. She physically just takes custody of it,
11 makes sure if she has three boxes; she has three boxes and
12 then she puts it into her the evidence storage vault.

13 Q: Does she -- does she open at all, does she view the
14 evidence, does she make sure it is what it is?

15 A: No, sir. Evidence Control Department operates on a said-
16 to-contain policy. So, if somebody gives her an envelope
17 that's said to contain seven bullets, that's all she knows.
18 It's sealed when she gets it, it's sealed when she puts it up,
19 and then when she hands it to whatever examiner it is
20 throughout the lab, it's sealed when she gives it to them.

21 Q: Okay. So can you tell me who received at SLED -- I know
22 this might take a second, but each of those bullets that you
23 examined and the gun, who they came from and who they went to
24 at SLED?

25 A: Yes, sir, hang on for me. All the evidence that was

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1 examined in this case, it was submitted to the SLED Laboratory
2 by Melinda Shadoan of Myrtle Beach Police Department.

3 Jennifer Aycock took it from her, put in her evidence locker,
4 excuse me, the evidence vault and then when I pick up the
5 evidence, Jennifer Aycock retrieved it and then transferred it
6 to my custody.

7 Q: Okay. So from Melinda to Jennifer to you, was anyone
8 else in the middle of that?

9 A: No, sir.

10 Q: And when Jennifer receives an item of evidence, where
11 does she put it?

12 A: We have a secure evidence vault in the back of the
13 Evidence Control Department. Only the Chief and his designee
14 or the Evidence Technicians are allowed to go in there.

15 Q: And why is that?

16 A: For preserving the chain of custody for the integrity of
17 the evidence.

18 Q: And tell us why I'm going through all this -- why is it
19 important to have a chain of custody?

20 A: The more people handle evidence, the more chance there is
21 of cross contamination and if you're looking for trace or
22 touch DNA, but if the evidence is sealed like it is at the
23 SLED Laboratory -- like if I were to get a box that was
24 unsealed, it would immediately set off alarm bells that, one,
25 either somebody's opened it or, two, it wasn't sealed when

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JAMES GREEN - DIRECT BY HOLFORD

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1 they had it. So then we have to backtrack and see where it
2 came from, see who has had custody of it and why it was
3 opened, if anything was taken to and/or removed from it.

4 Q: Any of the items that you tested in this case, were they
5 unsealed?

6 A: No, sir. Every container I got in this case was -- the
7 evidence was sealed.

8 Q: Would you have noted it if it wasn't sealed?

9 A: Yes, sir, I would have made phone calls trying to figure
10 out why.

11 STATE'S EXHIBIT NUMBER NINETY-EIGHT

12 MARKED FOR IDENTIFICATION

13 Q: Okay. I'm gonna show you what's been marked as State's
14 Ninety-eight. Can you tell me what that is?

15 A: State's Exhibit Ninety-eight is a cardboard box. It has
16 a SLED barcode label of L15-02603, Container Number A, and
17 this is the container that the fired evidence came into me in
18 this case.

19 Q: Okay. And is it sealed right now?

20 A: Yes, sir.

21 Q: Who sealed it like that?

22 A: The last evidence tape across the top -- I can't tell if
23 that's on top or bottom. The initials of M.S. sealed it on
24 1/28/16.

25 Q: From SLED?

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JAMES GREEN - DIRECT BY HOLFORD

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1 A: Well, my initials and seal is 3/19/15, but it's 11/28/16
2 -- I can't read the writing on it, but it is sealed now.
3 Q: Can you see has your seal been broken?
4 A: No, sir.
5 Q: So someone put a seal over the top of yours?
6 A: Correct.
7 Q: But did they -- but did they open it after you sealed it?
8 A: No, sir, my, my evidence tape seal underneath it's not
9 broken. The tape we use, if it's opened, you can readily
10 tell. It's a yellow tape; you can tell if it's been cut or
11 opened.
12 Q: Okay. So someone might have put one over it, but they
13 did not open yours and then reseal it?
14 A: Correct. Yes, sir.
15 Q: Okay. So how long has that been sealed, that box?
16 A: I sealed it on March 9th, 2015.
17 Q: And where did it go after March 9th, 2015?
18 A: I'm sorry. I said March 9th, yeah. On June 2nd, 2015, I
19 took it down to the Evidence Control Department to be returned
20 to the agency.
21 Q: Okay. And did anyone else handle it in between then?
22 A: It went from me to Jackie Davis, who is another Evidence
23 Technician at the Evidence Control Department, and then within
24 seven minutes of her taking custody of it, she put it on a
25 shelf in the evidence vault.

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JAMES GREEN - DIRECT BY HOLFORD

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1 Q: Would she have opened that box?

2 A: She would have no reason to and my seal has not been
3 broken; no, sir.

4 Q: All right. Who handled it after her?

5 A: Then Amy Stephens took it off the shelf. Amy Stephens is
6 another Evidence Technician. And she gave it to Melinda
7 Shadoan from Myrtle Beach Police Department on June 9th of
8 '15.

9 Q: And what does Amy Stephens do?

10 A: She is also Evidence Control Technician.

11 Q: And did she open that box?

12 A: No, sir.

13 Q: So is that box in the same -- the same way since you
14 examined it?

15 A: Other than that seal across the top, yes, sir.

16 Q: And then it was transferred to Melinda Shadoan?

17 A: Yes, sir.

18 Q: And at that point, you don't know what happened to it?

19 A: No, sir, I do not.

20 Q: But it appears here in court today the same way, other
21 than a seal on top of yours, unchanged from when you saw it?

22 A: Yes, sir.

23 MR. HOLFORD: Your Honor, may I approach?

24 BY MR. HOLFORD:

25 Q: I might need you to open that up for us now.

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JAMES GREEN - DIRECT BY HOLFORD

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1 A: You'll have to give me a second. I do a really good job
2 of sealing them up.

3 (REPORTER'S NOTE: State's Exhibit Ninety-eight is opened by
4 witness.)

5 BY MR. HOLFORD:

6 Q: All right. What's inside the box?

7 A: Inside the box are separate heat-sealed ziplock bags. I
8 call this my court packaging so when we get to court I can
9 hold it up and see. Basically, when I got this bag
10 originally, excuse me, this box originally, inside the box
11 would've been these pasteboard boxes with labels on them with
12 an individual piece of evidence inside them. When I seal it
13 back up for return, I put them in a ziplock bag so I don't
14 have to open a whole bunch of packaging in court. So I can
15 hold it up and say this would have been SLED Item Number
16 Twenty-one and it's a fired cartridge case.

17 Q: Okay. And are you also able to tell on that box what the
18 detective labeled it?

19 A: Yes, sir. It's got the outside of the box has a label
20 from the submitting agency and also writing as to what their
21 description is.

22 Q: Okay. And the red tape on that box, is it cut -- sorry,
23 inside there?

24 A: Yes, the red tape is cut. I had to cut it to open it.

25 Q: Okay. So, so now the detective seals it, you cut it,

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1 open it, and then you give it an item number or it's given an
2 item number?

3 A: It was given an item number and what I do is I look on
4 their sheet where they log it in and I make sure that the
5 markings or the writing on the outside of the envelope
6 corresponds with the item number.

7 Q: Can you find Item 1 in that box?

8 A: You'll have to pardon me. There's a bunch of evidence in
9 this case.

10 MR. HOLFORD: Your Honor, can we approach for a second?

11 THE COURT: Yes, sir.

12 (REPORTER'S NOTE: A bench conference was held off the record
13 in the presence of but out of hearing of the jury.)

14 A: Here's Item 1.

15 BY MR. HOLFORD:

16 Q: Now, has anyone opened that?

17 A: No, sir. My seal is still intact on the ziplock bag.

18 Q: All right. Item 1 is now listed as State's Exhibit 107.
19 Can you describe for me what Item 1 is?

20 A: Item 1 is a fired bullet.

21 Q: And is that a fired bullet that you processed?

22 A: Yes, sir.

23 Q: And we know that it's still intact because it's in your
24 heat-sealed bag?

25 A: Yes, sir.

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1 Q: And it hasn't been tampered with?

2 A: Correct.

3 Q: And you put it back in that box, sealed it up, returned
4 it back to Myrtle Beach Police Department?

5 A: Yes, sir.

6 Q: And that box had not been opened until today in court?

7 A: Correct.

8 Q: And that bag has still not been opened?

9 A: Correct.

10 MR. HOLFORD: The State would seek to introduce Item --
11 or State's Exhibit 107 into evidence?

12 THE COURT: Any objection?

13 MS. WILSON: Your Honor, could we approach for a second?

14 THE COURT: Absolutely.

15 (REPORTER'S NOTE: A bench conference was held off the record
16 in the presence of but out of hearing of the jury.)

17 THE COURT: Is there any objection to State's 107?

18 MS. WILSON: No objection, Your Honor.

19 THE COURT: All right. It's into evidence without
20 objection.

21 STATE'S EXHIBIT NUMBER ONE HUNDRED SEVEN

22 ADMITTED INTO EVIDENCE

23 THE COURT: You may proceed.

24 BY MR. HOLFORD:

25 Q: In State's 107, what did you examine?

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1 A: Rephrase that for me?

2 Q: I'm sorry. What is that; is there a box in there?

3 A: Yes, sir. There's a pasteboard box that was labeled and
4 evidence tape sealed. When I got it, I opened it up and
5 looked and found the bullet inside.

6 Q: Okay. And, and what does the box say that that bullet is
7 from?

8 A: It just actually does not give a location where it's from
9 on the box.

10 Q: Okay. Does it give any identifying characteristic?

11 A: It says there's a case number, it says the date, 2/15/15,
12 collected by Bailey, and the description .40 caliber deformed
13 bullet, B.

14 Q: B? So, if the detective had used markers, would you know
15 that?

16 A: Unless it's -- I would have no direct knowledge of it,
17 but all I -- all we can go by is what it says on the box or
18 what it says on the evidence submission forms.

19 Q: Because you just process it as Item 1?

20 A: Correct.

21 Q: But Myrtle Beach Police Department might have a different
22 way of identifying the individual item?

23 A: Correct.

24 Q: Like A, B, C, D?

25 A: Or from this from there, yes, sir.

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1 Q: Okay. On the chain of custody on Item 1, can you tell
2 what Item One is? I know we've said it's a bullet fragment.

3 A: Right it says, on the chain of custody it says Item 1 --
4 1, in parentheses has one behind it -- sealed box containing
5 fired bullet described as .40 caliber hollow point bullet,
6 which has what appears to be blood on it, fell out of suspects
7 upper arm.

8 Q: Okay. Did you test that bullet to anything else that was
9 submitted?

10 A: Yes, sir.

11 Q: And what would you have tested that to?

12 A: I would have looked at that bullet microscopically with
13 other fired bullets and then if any firearms were submitted, I
14 would look at the test fires from those firearms with that
15 fired bullet.

16 Q: I'm gonna approach you with what's been, just for ID at
17 this point, State's Exhibit Ninety-five. Do you recognize
18 that box?

19 A: Yes, sir. State's Exhibit Ninety-five, the outer box is,
20 you can see right here I have written on it, my writing, L15-
21 02603#24JG that means this is Item 24 for SLED.

22 Q: Okay. And is that box still sealed?

23 A: Yes, sir.

24 Q: Is it SLED sealing?

25 A: Yes, sir. There's my seals right here and those seals on

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1 top that I can see a seal date of 3/9/15 and it's unbroken.

2 Q: Okay. And let's go back through, I know this is tedious,
3 but the chain of custody for 24 even though it's a gun, it has
4 a serial number, right?

5 A: Yes, sir.

6 Q: Who did that gun go to; can you tell?

7 A: When? When it was done with me?

8 Q: Yes.

9 A: When I was completed with 24 on June 2nd, 2015, I took it
10 down to Evidence Control Department and Jackie Davis took it
11 into her custody.

12 Q: And then who did it go from Jackie?

13 A: It went to the shelf in the evidence vault, Bin 1, Shelf
14 F, and then after that on 6/9 of '15 it went to Amy Stephens,
15 who returned it to the submitting agency.

16 Q: Okay. But your seal is still intact?

17 A: Yes, sir.

18 Q: And so no one after that point up until now has even
19 opened it?

20 A: Correct.

21 Q: How about before the gun got to you for testing?

22 A: No, sir. When I received -- the, the only person that
23 examined this evidence was me and, when I received it, the box
24 was sealed.

25 Q: Okay. Can you open that box?

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1 A: Yes, sir.

2 Q: As soon as you get it open, before you actually touch ---

3 A: Yes, sir.

4 (REPORTER'S NOTE: State's Exhibit Ninety-five is opened by
5 witness.)

6 THE COURT: Just so you know, ladies and gentlemen,
7 what's happening is the Deputy from the Horry County Sheriff's
8 Office is putting a lock or seal on the weapon so it cannot be
9 used. Thank you.

10 DEPUTY: Yes, sir.

11 BY MR. HOLFORD:

12 Q: Okay. For State's Ninety-five, what is inside now that
13 we opened it up?

14 A: Inside State's Exhibit Ninety-five or SLED Item 24, is a
15 pistol, a magazine and some unfired cartridges.

16 Q: Okay. And that's all Item Number 24?

17 A: Yes, sir.

18 Q: What's the serial number on that pistol?

19 A: WPH644.

20 Q: Okay. And so if we wanted to know who that pistol
21 belonged to, we could go back and track the serial number to
22 who collected it and who they collected it from?

23 A: Yes, sir.

24 Q: Now how does that Item 24 related to Item 1?

25 A: When I examined the evidence in this case, remember I was

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1 talking about how I get a fired bullet and I'd shoot the gun
2 submitted and compare those microscopically with tests from
3 the gun. When I did all that, my conclusions were that
4 State's Exhibit 107, the Item 1, fired bullet by SLED, was
5 fired by State's Exhibit 95.

6 Q: So Item 1 that was packaged by Bailey and sent to SLED,
7 State's Exhibit 107, .40 caliber deformed bullet B, was fired
8 by that gun?

9 A: Yes, sir.

10 Q: Was that by you?

11 A: I'm sorry?

12 Q: This is a silly question I know. You did not fire this
13 bullet?

14 A: No, sir. I fired test bullets out of this gun which I
15 microscopically compared with that fired bullet.

16 Q: So this bullet that was collected by Bailey had been
17 fired by that gun with that serial number?

18 A: Yes, sir.

19 Q: I'm gonna get you now, since we've opened State's Ninety-
20 eight, it's not in evidence, to identify each one of these
21 boxes that came from that large box.

22 A: Okay.

23 MR. HOLFORD: Your Honor, the State would seek to
24 introduce at this time State's Ninety-five into evidence?

25 THE COURT: Is there any objection Ninety-five coming

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1 into evidence at this time?

2 MS. WILSON: No objection, Your Honor.

3 THE COURT: All right. So State's Ninety-five is in
4 evidence at this time. So Ninety-five being the box
5 containing the weapon, the magazine and some unfired
6 cartridges; is that correct?

7 A: Yes, sir.

8 THE COURT: All right.

9 STATE'S EXHIBIT NUMBER NINETY-FIVE

10 ADMITTED INTO EVIDENCE

11 A: Okay. All right. You'll have to bear with me because
12 there's a bunch of stuff. We have Item, SLED Item 5, all this
13 came out of State's Exhibit Ninety-eight. We have Item 5,
14 which is a fired .40 Smith & Wesson caliber cartridge case.
15 SLED Item 6, which was a fired bullet. SLED Item 7, which was
16 a .40 caliber cartridge case. SLED Item 8, which was also a
17 .40 caliber cartridge case. Item 9 is also a .40 caliber
18 cartridge case. Items 10, 11 and 12 were also fired .40
19 caliber cartridge cases. 13, 14 and 15 ---

20 THE COURT: All right. I didn't hear you.

21 A: I'm sorry?

22 THE COURT: You were ---

23 A: 13, 14 and 15 are also fired .40 caliber cartridge cases.
24 16 is a fired bullet jacket. 17 is a fired bullet. 18, 19,
25 20 are fired 9mm Luger caliber cartridge cases. Item 21 is a

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1 fired .40 caliber cartridge case. Item 22 was also a fired
2 .40 caliber cartridge case.

3 BY MR. HOLFORD:

4 Q: Now on each of these boxes there's black and blue
5 writing. What's the -- what's the blue writing indicate?

6 A: The blue writing is my writing from where I was doing an
7 inventory of the containers as I opened it. As I was marking
8 off, you know, they said this is supposed to be Item 1, I was
9 checking information on it and then I was writing in blue
10 marker with my Lab Number, Item Number and my initials.

11 Q: Okay. So you have an Item Number on here which
12 corresponds to the box that it came in from the detective?

13 A: Correct.

14 Q: I know this is a long process, but we know the box was
15 sealed until today to preserve the chain, right?

16 A: Correct.

17 Q: To make sure no one tampers with it?

18 A: Yes, sir.

19 Q: It wasn't until today that we got to actually open all
20 this up?

21 A: Correct.

22 Q: I'm gonna hand you what's been marked ---

23 COURT REPORTER: Did we finish marking these?

24 MR. HOLFORD: No, ma'am. See if we can get a chain going
25 here.

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1 BY MR. HOLFORD:

2 Q: State's 108 ---

3 COURT REPORTER: Excuse me just a moment.

4 THE COURT: Give her time to catch up.

5 MR. HOLFORD: Your Honor, maybe we can take a five-minute
6 break to mark all of these?

7 THE COURT: Certainly, we can do that.

8 Ladies and gentlemen of the jury, go to your jury room
9 for just a short period of time, okay. We'll call you right
10 back out. Thank you.

11 (REPORTER'S NOTE: Jury exits courtroom.)

12 COURT REPORTER: 108 through 115.

13 (RECESS.)

14 *****OFF THE RECORD*****

15 (On the Record.)

16 THE COURT: You ready for the jury to come in?

17 MR. HOLFORD: Yes, Your Honor.

18 THE COURT: All right. And, Ms. Wilson?

19 MS. WILSON: Yes, sir. Thank you.

20 THE COURT: All right. Very good.

21 (REPORTER'S NOTE: Jury enters courtroom.)

22 THE COURT: All right, Solicitor, you may continue.

23 BY MR. HOLFORD:

24 Q: Mr. Green, I'm gonna hand these to you four at a time.

25 We all have our appropriate marks on there now. Mine are 108,

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1 109, 110, and 111. For each one of these can you say the
2 State's Exhibit 108, what item number it is to you and what it
3 is?

4 A: Yes, sir. All right. State's Exhibit 108 is SLED Item 5
5 and it's a fired .40 S&W caliber cartridge case. Item 9,
6 excuse me. State's Exhibit 109 is SLED Item 6, which was a
7 fired bullet. State's Exhibit 110 is SLED Item 10, which was
8 a fired .40 S&W caliber cartridge case. And State's Exhibit
9 111 is SLED Item 9 and it was a fired .40 S&W caliber
10 cartridge case.

11 Q: Okay. Now I'm gonna hand you State's 112, 113, 114, 115
12 and these all came from this brown box?

13 A: Correct. State's Exhibit 112 is SLED Item 112 and it's a
14 fired .40 S&W caliber cartridge case. State's Exhibit 113
15 was SLED Item 8 and is a fired .40 S&W caliber cartridge case.
16 State's Exhibit 114 was SLED Item 7 and it's also a fired .40
17 S&W caliber cartridge case. And State's Exhibit 115 was SLED
18 Item 11 and it was also a fired .40 S&W caliber cartridge
19 case.

20 Q: All right. State's 116, 117, 118 and 119?

21 A: State's Exhibit 116 was SLED Item 17 and it was a fired
22 bullet. State's Exhibit 117 a SLED Item 18 and is a fired 9mm
23 Luger caliber cartridge case. State's Exhibit 118 was SLED
24 Item 19 and it was a fired 9mm Luger caliber cartridge case.
25 State's Exhibit 119 was SLED Item 14 and it was a fired .40

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1 S&W caliber cartridge case.

2 Q: All right. State's 120, 121, 122, and 123?

3 A: State's Exhibit 120 was SLED Item 13 and it was a fired
4 .40 S&W caliber cartridge case. State's Exhibit 121 was SLED
5 Item 16 and it was a fired bullet jacket. State's Exhibit 122
6 was SLED Item 20 and it's a fired 9mm Luger caliber cartridge
7 case. And State's Exhibit 123 was SLED Item 15 and it was a
8 fired .40 S&W caliber cartridge case.

9 Q: And State's 124 and 125?

10 A: State's Exhibit 124 was SLED Item 22 and it was fired .40
11 S&W caliber cartridge case. And State's 125 was SLED Item 21
12 and it was a fired .40 S&W caliber cartridge case.

13 Q: And those all came out of State's Ninety-eight?

14 A: Yes, sir.

15 Q: Are they all individually sealed?

16 A: Yes, sir.

17 Q: Were they all something that you tested in the lab
18 yourself?

19 A: Yes, sir. I neglected to say earlier, when we look at
20 the evidence and when we examine it and we mark each piece
21 with our lab number, our item number and our initials with
22 like an electric pencil or dremel tool, so when I was going
23 through the evidence, I looked and they all have my markings
24 on them. So, yes, this is the evidence I examined in this
25 case.

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1 Q: And each one of those bags also has a corresponding box
2 that the detective put the item into and submitted, that's how
3 it reached you?

4 A: Correct.

5 Q: And then you opened it?

6 A: Right, it was -- each item was in one of these boxes
7 inside that cardboard box and, when I repackaged it, that's
8 when I put it in a ziplock bag.

9 MR. HOLFORD: Okay. Your Honor, at this time, the State
10 would move to introduce State's 108 to 125 into evidence?

11 THE COURT: All right. Any objection to State's 108
12 through 125 coming into evidence?

13 MS. WILSON: Your Honor, I do not have an objection to
14 that. I would like to see 108 prior to it being admitted.

15 THE COURT: All right. Very good.

16 MS. WILSON: Thank you. No objection, Your Honor.

17 THE COURT: All right. So State's 108 through 125 are in
18 evidence without objection.

19 STATE'S EXHIBIT NUMBERS ONE HUNDRED EIGHT

20 THROUGH ONE HUNDRED TWENTY-FIVE

21 ADMITTED INTO EVIDENCE

22 BY MR. HOLFORD:

23 Q: Did you test another gun in this case?

24 A: Yes, sir.

25 Q: I'm handing you what's been marked as State's Ninety-

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1 seven. Do you recognize that?

2 A: Yes, sir. It's L15-02603#23, Number 23 and my initials.

3 This is a box that SLED Item 23 was submitted in.

4 Q: And did you examine that gun?

5 A: Yes, sir.

6 Q: Is there still tape on it?

7 A: Yes, sir.

8 Q: Does it have your initials?

9 A: It does with a seal date of 3/19 of '15.

10 Q: Has that box been opened since you sealed it?

11 A: No, sir.

12 Q: Okay. And the gun would have a serial number to identify
13 it anyway, right?

14 A: Correct.

15 Q: Can you please open that box?

16 MR. HOLFORD: Your Honor, at this time, the State would
17 move to Ninety-seven, State's Ninety-seven into evidence?

18 THE COURT: All right. State's Ninety-seven, any
19 objection to it?

20 MS. WILSON: No objection, Your Honor.

21 THE COURT: All right. So it's into evidence without
22 objection.

23 STATE'S EXHIBIT NUMBER NINETY-SEVEN

24 ADMITTED INTO EVIDENCE

25 THE COURT: And again, Agent, when you open the box, if

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1 you'll give it to the Horry County Deputy so he can secure it?

2 A: Yes, sir.

3 (REPORTER'S NOTE: State's Exhibit Ninety-seven opened by
4 witness.)

5 THE COURT: Thank you, sir.

6 BY MR. HOLFORD:

7 Q: Agent Green, what type of gun is that?

8 A: State's Exhibit Ninety-seven is a Glock Model 27 .40 S&W
9 caliber semi-automatic pistol.

10 Q: And what's the serial number on it?

11 A: The serial number is GTB326.

12 Q: And based on that box, can you tell where it was
13 collected from?

14 A: The box says location where found and, handwritten, is
15 center median in front of Level bar. Maybe there's something
16 after Level, but the tape across the top of it.

17 Q: Okay. And what item number is that?

18 A: It's SLED Item 23.

19 Q: Now, you tested the third gun, right; we've got two --
20 two .40 caliber Glocks right now, right?

21 A: Yes, sir.

22 Q: Did you test a third gun?

23 A: I did.

24 Q: And what caliber gun was that?

25 A: That was a 9mm Luger caliber.

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1 Q: Can you shoot .40 caliber bullets from a 9mm gun?

2 A: No, sir.

3 Q: Okay. So the casings you have in front of you, they're
4 .40 calibers?

5 A: No, they are .40's and 9's, yes, sir.

6 Q: Okay. Can you split up by gun -- can you tell us -- did
7 you do an examination, can you tell which gun fired which
8 bullet or which casing came from which gun?

9 A: For the cartridge cases, yes, sir. For the bullet, I was
10 able to match one of them and two of them I was not.

11 Q: Okay. Which casings were you -- which casings were you
12 able to identify that came from the gun you're holding?

13 A: State's Exhibit Ninety-seven fired State's Exhibits 108,
14 114, 113, 111, 110, 112, 120, 119, 125 and 124.

15 Q: Did you say 114?

16 A: Yes, sir, I did.

17 Q: So all of these casings were fired by that gun?

18 A: Yes, sir.

19 Q: Okay. And that was the gun that was found outside of
20 Levels?

21 A: I'm sorry?

22 Q: That was the gun that was found outside of Levels?

23 A: According to the packaging, yes, sir.

24 Q: Okay. Can you tell which ones were fired by SLED 24 or
25 State's Ninety-five?

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1 A: State's Ninety-five fired State's Exhibits 115 and 123.

2 Q: Okay. And where did this gun from, State's Ninety-five?

3 A: According to the outside of the box, it says recovered
4 from Ronald T. Poston of -- a APS Security Guard weapon.

5 Q: Two of those shell casings that were collected at the
6 scene were fired by?

7 A: State's Exhibit Ninety-five, yes, sir.

8 Q: State's Exhibit Ninety-five, the .40 caliber turned in by
9 Poston?

10 A: Correct.

11 Q: And all these over here were fired by the weapon found in
12 the middle of the street at Levels?

13 A: Yes, sir.

14 Q: And then State's 107, that deformed .40 caliber, which
15 gun fired that?

16 A: I'm sorry. That would've been State's Exhibit, Ninety-
17 seven, I'm sorry.

18 Q: 107 is Item 1?

19 A: Right. State's Exhibit Ninety-five.

20 Q: All right. And tell me State's Exhibit Ninety-five,
21 which gun is that?

22 A: It's listed on the box as from Ronald T. Poston, Security
23 Guard.

24 Q: Okay. So this was a lot of information, but the jury
25 will be able to see that 107, the box which contains a bullet

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1 that was collected by Bailey, Marker B, also Item 1 for SLED,
2 was fired by Poston's gun?

3 A: Yes, sir, that was fired by this weapon, State's Exhibit
4 Ninety-five.

5 Q: Is there anything else in your report that you noted of
6 importance; anything I failed to ask you?

7 A: Not to make light, but everything in my report is
8 important, so I need you to be more specific.

9 Q: I apologize. You're right. Is there anything that I
10 failed to ask as it relates to these two Glock firearms?

11 A: There was an additional bullet which could've been fired
12 by one of these two, which would've been State's 121 or SLED
13 Item 16. When I did my microscopic comparisons of State's
14 Exhibit 121 or State's Exhibit 107 and tests from State's
15 Exhibit Ninety-five and Ninety-seven, my results were
16 inconclusive, which means I couldn't make a determination it
17 was fired by either one of these two pistols, State's Exhibit
18 Ninety-five and Ninety-seven or by another pistol with similar
19 rifling characteristics.

20 Q: Okay. That's an important point because when you have
21 the difference between inconclusive and conclusive, how
22 specific is this science that we're doing?

23 A: It's -- we can't really give a number to it, like DNA
24 will say it's one in 487 quadrillion; we can't do that because
25 there's no way to trace how many guns were ever made, but

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1 inconclusive is a fancy word for I don't know. It has the
2 same rifling characteristics as State's Exhibits Ninety-five
3 and Ninety-seven and there's enough markings on this bullet
4 jacket for me to say it could've been one of these two guns,
5 but there's not enough for me to say it was one of these two
6 guns.

7 Q: And in contrast, the bullet was recovered by Detective
8 Bailey as Item B and turned into SLED Item 1, you can
9 conclusively say was fired from a certain weapon?

10 A: Correct.

11 Q: And how certain are you?

12 A: If I didn't believe it was fired by that gun, I would not
13 have put it in my report.

14 Q: And that's -- this is based on science, right?

15 A: Correct.

16 Q: And you do training for this?

17 A: Yes, sir.

18 MR. HOLFORD: No further questions, Your Honor.

19 THE COURT: Cross examination?

20 MS. WILSON: Thank you, Your Honor.

21 CROSS EXAMINATION OF JAMES GREEN BY MS. WILSON:

22 Q: Mr. Green, again, and I certainly don't want to beat this
23 matter unnecessarily, but you reviewed all the evidence and
24 there's so much stuff. I mean all, of these pieces here -- if
25 I could approach, Your Honor?

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1 THE COURT: Yes, ma'am.

2 Q: So many exhibits, fragments, pieces, weapons, all of
3 this, you reviewed all of these pieces of information,
4 correct?

5 A: Yes, ma'am.

6 Q: And despite your review, you cannot say that Kevin Bryant
7 committed a murder, can you?

8 A: No, ma'am.

9 Q: And you did not witness him commit any crime, did you?

10 A: No, ma'am.

11 Q: And you were not present on the scene for anything that
12 occurred on that night, were you?

13 A: No, ma'am.

14 Q: Thank you. No further questions.

15 THE COURT: Redirect?

16 MR. HOLFORD: Nothing further, Your Honor.

17 THE COURT: Do you wish the witness to be excused?

18 MR. HOLFORD: Yes, Your Honor.

19 THE COURT: Any objection?

20 MS. WILSON: No objection, Your Honor. Thank you.

21 THE COURT: All right, Agent, you are released from your
22 subpoena and you may go back to your regular activities, sir.

23 A: Thank you. Have a great day.

24 THE COURT: Just leave the exhibits and we'll collect
25 them.

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BY THE COURT

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1 Solicitor, if you want get those to the Court Reporter
2 please?

3 MR. HOLFORD: Yes, sir.

4 THE COURT: All right then, Solicitor, your next witness
5 please?

6 MR. HOLFORD: The State calls Gerald McCray.

7 MS. WILSON: And, Your Honor, we might need to approach?

8 BY THE COURT:

9 THE COURT: All right. Very good. Y'all come around.
10 Mr. McCray, come all the way around up here and meet the
11 Clerk's representative up here, sir.

12 (REPORTER'S NOTE: A bench conference was held off the record
13 in the presence of but out of hearing of the jury.)

14 CLERK: Please raise your right hand and place your left
15 hand on the Bible.

16 GERALD LAMONT MCCRAY, HAVING BEEN
17 SWORN TESTIFIES AS FOLLOWS:

18 CLERK: Have a seat.

19 THE COURT: All right.

20 CLERK: Please state your full name and spell your last
21 name for the Court.

22 MR. MCCRAY: Gerald Lamont McCray, M-C-C-R-A-Y.

23 DIRECT EXAMINATION OF GERALD LAMONT MCCRAY BY MR. HOLFORD:

24 Q: Mr. McCray, what is your date of birth?

25 A: [REDACTED]/85.

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1 THE COURT: Hold on one second. Y'all come up here and
2 talk to me.

3 (REPORTER'S NOTE: A bench conference was held off the record
4 in the presence of but out of hearing of the jury.)

5 COURT REPORTER: State your middle name again please?

6 MR. MCCRAY: Lamont.

7 COURT REPORTER: L-A-M-O-N-T?

8 MR. MCCRAY: Yes.

9 COURT REPORTER: Thank you.

10 THE COURT: Madam Forelady, ladies and gentlemen of the
11 jury, please go to your jury room for a little bit, please.
12 Thank you.

13 (REPORTER'S NOTE: Jury exits courtroom. The following takes
14 place outside the presence of the jury.)

15 THE COURT: All right, Solicitor, you're having someone
16 get that information for the defense?

17 MR. HOLFORD: Yes, Your Honor.

18 THE COURT: All right. Y'all let me know when it arrives
19 and if there is an issue once you get it, Solicitor, you let
20 me know.

21 MS. WILSON: Thank you.

22 THE COURT: We'll be at ease. Thank you.

23 (RECESS.)

24 *****OFF THE RECORD*****

25 (On the Record.)

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1 THE COURT: Are there any issues regarding the NCIC, Ms.
2 Wilson?

3 MS. WILSON: No, sir, Your Honor. I have received the
4 NCIC and I have personally gone over it.

5 Your Honor, I would and it was suggested that it might be
6 possible to have this witness in the morning and do Dr.
7 Proctor this afternoon?

8 THE COURT: Well, is Dr. Proctor here?

9 MR. HOLFORD: We're checking on the status of that right
10 now, Your Honor. I know he's ---

11 THE COURT: Well, if he's not here, then we're gonna ---

12 MS. WILSON: Okay.

13 THE COURT: --- we're gonna go forward. By looking just
14 so we're all on the same page, you looked through the NCIC.
15 Did you pick out the things that you would examine the witness
16 about?

17 MS. WILSON: Absolutely, Your Honor.

18 THE COURT: All right. And so how about once you, I
19 guess this is a copy of it. Why don't y'all tell me which
20 ones we have so -- and this is Mr. McCray, correct, is the
21 witness?

22 MR. HOLFORD: Yes, Your Honor.

23 THE COURT: All right. Very good. So what is it that
24 you would ask Mr. McCray about that he has been convicted of
25 in the past?

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BY THE COURT

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1 MS. WILSON: The trafficking from 2003.

2 THE COURT: All right. So, we'll probably have to talk
3 about that because that's past the 10 years. Okay.

4 MS. WILSON: He also has a 2012 drug distribution charge
5 for crack.

6 THE COURT: Okay. Let's see now -- well, I've got
7 driving under the suspension.

8 MS. WILSON: It's right below that.

9 THE COURT: Oh, okay, I'm sorry. There we go. Okay.

10 MS. WILSON: As well as the driving under suspension, I
11 failed to mention that.

12 THE COURT: Right. But that would be -- that would be a
13 Magistrate's offense, so that would not be one that would be
14 subject to the -- or obviously not go over the -- or approach
15 the one-year-and-one-day threshold so that would not be --
16 2012 court charge, conviction of, let's see, distribution of
17 cocaine base, first. All right. What's the next one?

18 MS. WILSON: There's a driving under the influence and a
19 DUI second from 2014.

20 THE COURT: 2014, hold on a second. It would -- where's
21 that at; is that ---

22 MS. WILSON: Looks like it is gonna be at -- I'm showing
23 it's another -- Page 1 of 5.

24 THE COURT: Okay.

25 MS. WILSON: And it's 9/25/14.

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1 THE COURT: 9/25/14. Okay. All right. Here we go.
2 That's the first offense, so that doesn't approach the, the
3 one-year, so -- and driving under suspension license not
4 suspended for DUI. second. What's the sentence for that
5 driving under suspension, second offense? Driving under
6 suspension, second. Sixty days/six months so that doesn't
7 approach the one year, also..

8 Any others?

9 MS. WILSON: Yes, sir. I'm looking back through.
10 Court's indulgence?

11 THE COURT: Okay. Very good.

12 MS. WILSON: I can certainly question him about current
13 charges, can't I? Can't I?

14 THE COURT: That he's facing right now?

15 MS. WILSON: Yes, sir. These are all distribution
16 levels.

17 THE COURT: Right that he is facing now to ask him
18 whether or not he's being given any type of leniency or reward
19 from the State for testifying in this particular matter, yes,
20 ma'am.

21 MS. WILSON: I can question about aliases, Your Honor?

22 THE COURT: I'm sorry, ma'am?

23 MS. WILSON: Aliases that are listed?

24 THE COURT: Is there -- well, what would be your reason
25 or rationale for that?

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BY THE COURT

1 MS. WILSON: Well apparently he has a nickname that he
2 goes by currently, at least there was in this discovery, and I
3 want to highlight the fact that that's not the only one, that
4 there are many, but they're also listed on the NCIC as
5 identifiers.

6 THE COURT: What's the State's position?

7 MR. HOLFORD: Your Honor, the State's not aware of many
8 aliases the Defendant goes by.

9 THE COURT: All right. Is there something on the NCIC
10 that says such?

11 MS. WILSON: It's Page 1 of 1 and it lists basic
12 information surrounding the Defendant, excuse me, Mr. McCray
13 and it lists his birth place, his sex, race, date of birth,
14 height, weight, eyes, hair, does indicate there's a photo and
15 then it goes -- and then it goes into his alias names and
16 there are at least eight.

17 MR. HOLFORD: Yes, Your Honor, it appears both Jay
18 McCroy, Little Jay McCray, Jay Little McRoy, JLo, JayLo,
19 Little Jay, Jay Little.

20 THE COURT: All right.

21 MR. HOLFORD: The State does not have a problem with
22 that.

23 THE COURT: All right. Very good. All right. So, again
24 so what you'd be -- what is it that ---

25 MS. WILSON: I'm so sorry. Also, Your Honor, there is a

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1 giving false information. Now, I clearly see it on here as a
2 charge. Because it's Magistrate's but because it goes
3 directly to honesty or truthfulness, certainly I would want to
4 note this position of that one because that would be an issue.

5 THE COURT: Where -- where is it?

6 MS. WILSON: That is listed on Page 4 of 5, and I'm sorry
7 I can't give you more specifics because of the way it's
8 printed out, but I have a Page 4 of 5, and it's a continuation
9 of a previous listing, but he has the top warrant is warrant
10 5102P -- I don't know if that's a Q or it's an O -- but it's
11 0730568. That's the top warrant number on that Page 4 of 5.

12 MR. HOLFORD: Your Honor, there's no disposition listed.
13 It appears the offense date is stated as 10/28/2016. That was
14 about a month and two weeks ago.

15 THE COURT: 10/28/16.

16 MR. HOLFORD: But it's not showing a conviction.

17 MS. WILSON: Well, and sometimes it want, Your Honor,
18 when it's lower level court, but because ---

19 THE COURT: I appreciate that. I still haven't found it
20 on here, but anyway, it shows what you're saying, the DCIC
21 shows no disposition of it at this time, but there's a charge
22 pending with no disposition; is that correct?

23 MS. WILSON: I do not believe -- oh, I'm sorry. I
24 thought you were addressing me.

25 THE COURT: Solicitor, is that what it shows?

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BY THE COURT

1 MR. HOLFORD: That's what the NCIC shows, Your Honor.

2 THE COURT: All right. So, Ms. Wilson, you can ask him
3 if he is currently facing charges for whatever he is currently
4 facing right now. You can't go any further than that, but you
5 could ask him are you currently facing charges for A, B, and C
6 and then obviously then you can ask if has the State made any
7 deals, promises, you know, no reward, leniency, whatever you
8 want to ask him about that in regards to those charges.

9 MS. WILSON: Yes, sir, and I would also request, Your
10 Honor, a moment to double-check. I certainly understand that
11 the State feels that it's not on here so if it's not resolved.
12 I'm not as confident and I would like to check the public
13 index to see if that case is resolved. I can do that on my
14 cell phone, Your Honor.

15 THE COURT: Okay. Well if you can do that.

16 MS. WILSON: Yes, sir.

17 THE COURT: And have we found out about Dr. Proctor?

18 MR. HOLFORD: Yes, sir, he is here.

19 THE COURT: Dr. Proctor is here, great. All right.

20 Mr. McCray, step down, please, sir.

21 Ask the jury to come in.

22 We're going to go on with Dr. Proctor.

23 MR. HOLFORD: Yes, Your Honor.

24 THE COURT: Mr. McCray -- Mr. McCray, just sit down in
25 the courtroom. Do not leave until you are given permission to

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1 do so by the Solicitors. Thank you.

2 (REPORTER'S NOTE: Jury enters courtroom.)

3 THE COURT: All right, Solicitor, your next witness,
4 please.

5 MR. OSKIN: Thank you, Your Honor. The State would call
6 Dr. Edward Proctor, please.

7 THE COURT: All right, sir, if you'd please come around
8 to be sworn and just meet the Clerk right over here, sir.

9 CLERK: Please raise your right hand and place your left
10 hand on the Bible.

11 DR. EDWARD PROCTOR, JR., HAVING BEEN

12 SWORN TESTIFIES AS FOLLOWS:

13 CLERK: Please state your full name and spell your last
14 name for the Court.

15 DR. PROCTOR: Yes, ma'am. I am Edward Proctor, Jr. and
16 that is P-R-O-C-T-O-R.

17 THE COURT: Go ahead, Solicitor.

18 DIRECT EXAMINATION OF DR. EDWARD PROCTOR, JR. BY MR. OSKIN:

19 Q: Thank you for joining us this afternoon, Dr. Proctor.

20 Dr. Proctor, are you a duly licensed physician and
21 surgeon?

22 A: Yes, I am.

23 Q: In which state, sir?

24 A: South Carolina and North Carolina.

25 Q: How long have you been licensed to practice your

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1 profession?

2 A: Approximately thirty-five years.

3 Q: Are you presently engaged in the practice of your
4 profession?

5 A: Yes, I am.

6 Q: Could you please explain to this jury your educational
7 background please?

8 A: Yes. I am medical doctor. I received my undergraduate
9 degree at Clemson University, my medical degree at the Medical
10 University of South Carolina, completed a Pathology residency,
11 Anatomic and Clinical Pathology at Walter Reed Army Medical
12 Center in Washington, D.C., received subspecialty
13 certification in Forensic Pathology through the United States
14 Army and am duly board certified in Anatomic Clinical and
15 Forensic Pathology.

16 Q: Does your work include the performance of autopsies, sir?

17 A: Yes, it does.

18 Q: About how many autopsies have you performed throughout
19 your career if you recall?

20 A: Probably in the neighborhood of 5,000.

21 Q: And if you could please, I think you covered it, but just
22 to make sure, could you tell this jury a little bit more about
23 what pathology involves?

24 A: What pathology is the medical -- medical evaluation of
25 disease, and in my profession, in anatomic pathology, we

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1 evaluate specimens to determine diagnosis, we run a clinical
2 laboratory, and in the forensic side of it is the medical
3 legal determination of death during which I do an examination,
4 take samples and make a determination as to the cause and
5 manner of death.

6 Q: Thank you. Now I know you stated it -- I missed the
7 name. The board -- the professional board you're a member of,
8 what is that association?

9 A: American Board of Pathology.

10 Q: Okay. And what are the special requirements for
11 certification by the American Board of Pathology?

12 A: You must complete a, a period of training. You must sit
13 for an examination and become duly certified. You have to
14 pass it.

15 Q: Thank you, Doctor. And have you ever been qualified in a
16 court of law as an expert before in pathology?

17 A: Yes, sir, I have.

18 Q: Do you remember how many times by chance?

19 A: Many times.

20 MR. OSKIN: Your Honor, the State would like to offer Dr.
21 Proctor as an expert in the field of Forensic Pathology?

22 THE COURT: Do you wish to examine the witness as to his
23 qualifications or challenge the offer by the State?

24 MS. WILSON: I do not, Your Honor. Thank you.

25 THE COURT: All right. Dr. Proctor is qualified to give

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1 his opinion in the field of Forensic Anatomical and Clinical
2 Pathology.

3 You may proceed.

4 MR. OSKIN: Thank you, sir.

5 BY MR. OSKIN:

6 Q: Dr. Proctor, did you have the occasion to perform an
7 autopsy on Saequan Vereen?

8 A: Yes, sir, I did.

9 Q: Where was this done, sir?

10 A: This was performed in the morgue at Grand Strand Medical
11 Center, Myrtle Beach.

12 Q: What was the condition of Mr. Vereen's body when you
13 received it?

14 A: Mr. Vereen was deceased. To answer that question, he
15 showed multiple gunshot wounds.

16 Q: So those were external injuries; those were present?

17 A: Yes, they were.

18 Q: Could you tell how many bullets caused the injury?

19 A: There were four gunshot wounds. There was an upper left
20 back, lower left back, a gunshot wound left of the nipple area
21 on the left chest and one below. There were four gunshot
22 wounds.

23 Q: Dr. Proctor, were you able to recover any projectiles
24 during this autopsy?

25 A: Three projectiles were recovered.

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1 Q: What did you do with those projectiles once they were
2 recovered?

3 A: They were transferred directly to the Myrtle Beach Police
4 Department Crime Scene.

5 Q: Thank you. I know it's obvious enough for you, but if
6 you'll please explain to the jury what internal injuries to
7 Saequan Vereen were associated with his entrance wounds that
8 you just described?

9 A: The significant wounds, the left upper back wound
10 traveled left to right. It penetrated the left upper lung
11 lobe, the aorta, the right upper lung lobe and was found over
12 in the arm area on the right side.. The lower back wound went
13 through the liver -- correction -- it went through the left
14 lower lung lobe, the liver and came out through the body and
15 was found in the arm on this lower arm. One of the chest
16 wounds was a very superficial wound through the skin and out
17 and that bullet was not recovered. The other chest wound
18 traveled left to right and superior, staying superficial, but
19 was found in the upper shoulder area on the right side.

20 Q: I think you just -- you certainly touched on it. What
21 sort of injuries would be associated with the bullets
22 traveling through the body you just described?

23 A: These bullets caused extensive trauma to the organs
24 through which they passed, the lungs and the liver, just
25 tearing the tissue and causing extensive hemorrhage.

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1 Q: What would the result of such injuries be in the
2 totality?

3 A: The results of these injuries were massive hemorrhage and
4 death.

5 Q: So it goes to say, that these injuries were fatal?

6 A: Yes, they were.

7 Q: And based on this particular autopsy, sir, within the
8 bounds of reasonable medical certainty, have you formed an
9 expert opinion concerning Saequan Vereen's death?

10 A: Yes, sir, I have.

11 Q: And, Dr. Proctor, what is that opinion, sir?

12 A: That is multiple gunshot wounds with extensive visceral
13 or tissue trauma and massive hemorrhage. That's the cause of
14 death. Manner of death would certainly be homicide.

15 Q: Lastly, Dr. Proctor, I know you initially said there were
16 four bullet holes that entered the body?

17 A: That's correct.

18 Q: And just to further clarify for myself and the jury, how
19 many holes on the body did you observe?

20 A: Well, there were four on this side. There was a
21 superficial exit from one of the chest wounds. The upper back
22 wound came out and back into the arm in the lower back would
23 out and into the arm. So that would be four-- approximately,
24 seven I would think..

25 Q: Dr. Proctor, I thank you so much.

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DR. EDWARD PROCTOR - CROSS BY WILSON

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1 Please answer any questions Mr. Wilson may have for you.

2 THE COURT: Cross examination?

3 MS. WILSON: Thank you, Your Honor.

4 CROSS EXAMINATION BY DR. EDWARD PROCTOR, JR. BY MS. WILSON:

5 Q: Dr. Proctor, obviously, you are very studied and you've
6 been doing this for quite a long time, correct?

7 A: Yes, ma'am.

8 Q: And certainly I don't have any real -- I wouldn't say
9 concern, but any real issue about what you stated thus far.

10 A: Yes, ma'am.

11 Q: I do have a couple of questions and they are, Did you
12 witness Kevin Bryant commit a murder in this case?

13 A: No, ma'am; I did not.

14 Q: You were not on scene to witness anything, were you?

15 A: That is correct.

16 Q: And the only contact you've had with anything in this
17 case came strictly from what was taken up and presented to you
18 for the autopsy?

19 A: The only -- that is correct. I received a request from
20 the Coroner's office and the history I was given that there
21 was young male involved in a dispute at a local night spot
22 during which time there were multiple shots fired.

23 Q: Thank you. No further questions.

24 A: Thank you.

25 THE COURT: Redirect?

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DR. EDWARD PROCTOR - REDIRECT BY OSKIN

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1 MR. OSKIN: Very, very briefly, Your Honor.

2 REDIRECT EXAMINATION OF DR. EDWARD PROCTOR, JR. BY MR. OSKIN:

3 Q: Dr. Proctor, when Saequan Vereen arrived to your hospital
4 deceased -- the incident you just described that was at a
5 local night club, that was in Horry County?

6 A: I was told that it was, I think, in Myrtle Beach.

7 Q: Okay. Thank you, sir. And you said the manner of death
8 was what again, homicide?

9 A: Homicide.

10 Q: Thank you. Nothing further.

11 THE COURT: Anything on those questions?

12 MS. WILSON: No questions, Your Honor. No further
13 questions.

14 THE COURT: Do you wish the witness to be excused?

15 MR. OSKIN: Yes, sir, Your Honor.

16 THE COURT: Any objection?

17 MS. WILSON: No objection, Your Honor. Thank you.

18 THE COURT: All right, Dr. Proctor, you're released from
19 your subpoena and you may go back to your regular activities.

20 A: Thank you.

21 THE COURT: Solicitor and Ms. Wilson, if y'all can come
22 up here for a second, please?

23 (REPORTER'S NOTE: A bench conference was held off the record
24 in the presence of but out of hearing of the jury.)

25 BY THE COURT:

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BY THE COURT

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1 THE COURT: All right. Ladies and gentlemen, I'm gonna
2 send you home for the evening rather than send you back to the
3 jury room. I've done that to you enough today. So, you go
4 home.

5 Again, don't talk to anybody about the case, husband,
6 wife, boyfriend, girlfriend, person down the street, whatever.
7 And again, if there happens to be some news report, something
8 like that, obviously you, you know, change the channel or turn
9 the page or whatever it might be because obviously that has
10 nothing to do with your decision in this particular matter.

11 So with that, see you back -- y'all be back at 9:15.
12 We'll do our level best to get started at 9:30. I attempt to
13 do that every day. One of these days, I'm gonna actually
14 start at 9:30. Anyway, we'll do our level best to start at
15 9:30. So with that you are now excused until tomorrow morning
16 at 9:15.

17 Thank you very much.

18 (REPORTER'S NOTE: Jury exits courtroom. The following takes
19 place outside the presence of the jury.)

20 THE COURT: All right, Solicitor, what -- do you -- do
21 you and Ms. Wilson want to talk about the NCIC and the State
22 have an opportunity to talk to Mr. McCray and if y'all have
23 any issues you can talk to me about it in the morning or the
24 issues we need to resolve right now or you can present to me
25 that we can resolve right now?

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BY THE COURT

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1 MR. HOLFORD: Your Honor, I believe there are a couple of
2 issues we could present right now.

3 THE COURT: Great.

4 MR. HOLFORD: At least what's on the NCIC and the State
5 would object to the initial trafficking charge that was
6 brought up, that was the 2003 conviction, as it's outside the
7 ten-year range. As such the Court would need to find that the
8 probative value substantially outweighs the prejudicial
9 effect, I believe, and the State would argue that the
10 prejudicial effect of mentioning a drug charge 13 years ago is
11 not substantially outweighed by any probative value in this
12 case.

13 THE COURT: All right.. Well, let's just deal with them
14 one at a time.

15 MR. HOLFORD: Yes, sir.

16 THE COURT: Ms. Wilson, under Rule 609, I'm just gonna go
17 directly to the rule. It says for the purposes of questioning
18 the credibility of a witness that the evidence that a witness,
19 other than the accused, has been convicted of a crime shall be
20 admitted subject to Rule 403 and that's, you know, weighing
21 the probative value and prejudicial effect, if the crime was
22 punishable by death or imprisonment in excess of one year
23 under the law in which the witness was convicted and that the
24 -- and that the -- obviously that the Court determines that
25 the probative value outweighs the prejudicial effect, a subset

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1 of that rule is the time limit, evidence of a conviction under
2 this rule is not admissible if a period of more than 10 years
3 has elapsed since the date of the conviction or of the release
4 of the witness from confinement imposed for that conviction,
5 whichever is later unless the Court determines in the interest
6 of justice that the probative value supported by specific
7 facts and circumstances, substantially outweighs the
8 prejudicial effect.

9 So looking at the charge of -- from 2003, says convicted
10 trafficking. And what do we have for the sentence?

11 MS. WILSON: It was a seven-year concurrent sentence.

12 THE COURT: Seven years.

13 MS. WILSON: So, it would've been 2010, Your Honor.

14 THE COURT: 2010. So it being 2016 ---

15 MR. HOLFORD: My fault, Judge, Your Honor. He did get a
16 seven-year sentence, but as anyone knows, a seven-year
17 sentence isn't actually seven years and so it's release from
18 confinement. He would have been released prior to that as is
19 evidenced by his own sheet. He was convicted of an offense in
20 2009. So certainly he still wasn't incarcerated in 2010.

21 MS. WILSON: That would still place him, Your Honor,
22 within the ten-year frame, I believe.

23 MR. HOLFORD: It depends on when he was released from
24 confinement.

25 THE COURT: Well, I appreciate that, but all I can tell

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1 from the information in front of me that was he obviously had
2 to be out in 2009. If we go 10 years from 2009, we're still
3 within the ten-year limit because on September 26, 2009, he
4 was arrested for this -- for that offense of apparently of
5 altering a license or using another's license or ID card or
6 fictitious license, a misdemeanor. But it obviously occurred
7 on that date so he had to have been out in the City of Myrtle
8 Beach for that to have occurred, but that's still within the
9 10 years.

10 So, I'm gonna allow Ms. Wilson to ask if he has been
11 convicted in the past of the crime of trafficking in cocaine
12 or trafficking, I'm sorry, crack cocaine -- let's see -- less
13 than 10 grams -- what is that, is it -- what does it have
14 here? It that ---

15 MR. HOLFORD: That'd be 10 grams to 28.

16 THE COURT: I'm sorry, between, yeah, 10 to 28 grams,
17 first offense, yeah, 10 to 28 grams, first offense. So,
18 you'll be able to ask him if he has been convicted of that,
19 Ms. Wilson.

20 MS. WILSON: Yes, sir. Your Honor ---

21 THE COURT: What else?

22 MS. WILSON: --- I would also want to bring in because of
23 the nature of the crime, the 2009 alteration or use of
24 another's altered license or ID. I think that goes directly
25 to honesty and truthfulness.

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BY THE COURT

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1 THE COURT: Well, I would normally agree, but looking at
2 our Supreme Court's most recent definition of what they
3 consider to be evidence that a witness has been convicted of a
4 crime shall be admitted and if it involves dishonesty or false
5 statement. What do you say to that, Solicitor?

6 MR. HOLFORD: Your Honor, I believe based on the Supreme
7 Court's clarification that using an altered license or someone
8 else's ID card. We can't tell by this what it is -- use of
9 another's or of an altered license or ID card, would actually
10 be a crime that falls under that definition of dishonesty.

11 MS. WILSON: And, Your Honor, I would suggest to the
12 Court that the very reason it's prosecuted because it's
13 evidence of dishonesty. Certainly, if it was your own ID, it
14 wouldn't be crime. So using someone else's identification or
15 an altered version, means that you are somehow deceiving
16 someone and it is dishonest.

17 THE COURT: I appreciate that. It sounds like a fine
18 argument. I don't think the South Carolina Supreme Court
19 agrees with you based upon their decision. I'm not gonna
20 allow you. Thank you, ma'am.

21 MS. WILSON: Thank you. Your Honor, I also would --
22 we're still going through, correct?

23 THE COURT: Yes, ma'am, keep going.

24 MS. WILSON: There is a distribution in 2012 that says
25 custody status received. So, it looks like he either was

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1 incarcerated at that time for this offense and it says it was
2 a two-year offense for a distribution of crack, first offense.

3 THE COURT: Well, it's 2012, so ---

4 MS. WILSON: Yes, sir, it would come in?

5 THE COURT: --- conviction, so you'll be able to ask him
6 that.

7 MS. WILSON: So we're clear then I can bring in any
8 convictions after 2012? And then I would like to check on the
9 one that matter ---

10 THE COURT: Well, I want us to go through each and every
11 one. I want us to have a laundry list that I know you're
12 gonna be asking him from that list. So, we've got the
13 trafficking, we've got now the distribution of cocaine base,
14 first offense. Okay. What else?

15 MR. HOLFORD: And, Your Honor, just, just for
16 clarification, the State would argue that distribution is not
17 necessarily a correct determination. It's manufactured
18 distribution more PWID. It could be a possession with intent
19 to distribute. It's all listed under the same CDR code.

20 MS. WILSON: It is, but with the absence of any
21 identifying information, I mean, I don't know which it is. I
22 can take PWID or distribution.

23 THE COURT: Well, then you say were you convicted of
24 manufacturing or distribution or possession with intent to
25 distribute cocaine base, first offense.

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1 MS. WILSON: I don't have a problem with that. Yes, sir.

2 THE COURT: All right.

3 MS. WILSON: Moving along, Your Honor, to the next
4 portion, I think it comes up at -- we're skipping Page 5 of 5
5 and moving on to the next segment. There's a Page 1 of 1, I
6 don't think that's anything of any real relevance.

7 THE COURT: Okay.

8 MS. WILSON: The next page, 1 of 5, certainly the
9 information at the very top appears to be -- the Court dates
10 are August 20th of 2015. It looks like a trafficking that was
11 a non-conviction that was nolle prossed.

12 THE COURT: Yes, ma'am.

13 MS. WILSON: I would be interested to know, Your Honor,
14 exactly under what circumstances that was dismissed, because I
15 believe that is approximately the time and date of range of
16 the second statement given by Mr. McCray. My understanding is
17 that there is not a proffer, but I would want to know what why
18 it was dismissed.

19 THE COURT: All right. Well, is it -- was that an Horry
20 County case or where was it?

21 MS. WILSON: Yes, sir, Your Honor, it looks like it was a
22 -- and I'm sorry -- I say -- it does look like Horry County.
23 I do not see -- it was an Horry County case. It looks like it
24 was -- the warrant number is listed here. I assume it would
25 have been through the Solicitor's office at that time and I

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1 suspect Johnny McCoy was the attorney of record.

2 THE COURT: Well, Solicitor, look in your records and see
3 if that -- if you have any information about the disposition
4 of that and tell Ms. Wilson, please.

5 MS. WILSON: And, Your Honor, that would also include the
6 possession of a weapon during a violent crime.

7 THE COURT: Okay.

8 MS. WILSON: Those two are listed together. I believe
9 that Your Honor has already decided that on 9/25/14 the arrest
10 charge, too, of a DUI should not come in?

11 THE COURT: Okay. So it was arrested, offense he got it
12 says convicted fine or jail time, but it was driving under the
13 influence .08, first offense. That's a Magistrate's Court
14 offense that would not qualify under the, the excess-of-one-
15 year rule.

16 MS. WILSON: Yes, sir. Moving on to February 18th of
17 2015, there's another -- well, it's just a possession. I'm
18 not as concerned about that. I do see charges, arrest
19 charges, for what looks like a PWID or a distribution. There
20 are no dispositions and that is of some interest simply
21 because ---

22 THE COURT: Cocaine third or subsequent non-conviction.

23 MS. WILSON: There's, I think, four drug charges listed,
24 Your Honor. It says that Court charge one was dismissed. I
25 don't see a resolution for the remaining ones.

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1 THE COURT: Two, three and four, okay.

2 MS. WILSON: If that's -- certainly those would have been
3 General Sessions charges.

4 THE COURT: They still pending then is your question?

5 MS. WILSON: Right, that's exactly what -- yes, sir.

6 THE COURT: All right, Solicitor, you'll have to have
7 them look at the files and look at that and again, regarding
8 the -- those charges, are they still pending now and if they
9 were dismissed, if there is a rationale or reason for the
10 dismissal. And, obviously going to the point of was he given
11 some benefit to agree to testify in this case.

12 MS. WILSON: I'm not concerned about the speeding on
13 8/26/15, Your Honor. There is a DUS, third or more, and right
14 now I cannot recall what that carries, if it's going to meet
15 the one year, but if it does, I'd like to bring it up.

16 Your Honor, I'm being informed by one of the officers
17 that it's only a ninety-day offense.

18 THE COURT: It might very well be, but we'll look it up
19 and make sure.

20 MS. WILSON: Thank you.

21 THE COURT: All right. Driving under suspension, license
22 -- no, that's -- driving under suspension of license not
23 suspended for a DUI, third or subsequent, misdemeanor not more
24 than ninety days, 1,000-dollar fine.

25 MS. WILSON: Okay. I don't believe that the ones -- the

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1 drug charges on August 18th, 2016 meet the one-year minimum,
2 so I will move past those.

3 THE COURT: Okay.

4 MS. WILSON: I do want some more information on arrest
5 charge five. On 10/28/16, which is a giving false
6 information.

7 THE COURT: All right.

8 MS. WILSON: And ---

9 THE COURT: And there's a disposition for that?

10 MS. WILSON: Yes, sir, and I will also check public
11 index, but I figured the State might want to know.

12 THE COURT: I expected you would be doing so, but,
13 Solicitor, if you'll check for that giving false information
14 to see what disposition, if any, there might be for that
15 particular charge or if it's still pending at the present
16 time?

17 MR. HOLFORD: Yes, Your Honor.

18 MS. WILSON: And then on October 30th, Your Honor, which
19 I believe is the actual end of the criminal history report, I
20 would simply want to be allowed to ask if these charges are
21 still pending?

22 THE COURT: All right.

23 MS. WILSON: My understanding is that they are.

24 THE COURT: Okay. So those would be apparently
25 manufactured distribution or possession with intent to

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BY THE COURT

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1 distribute cocaine base, first offense? .

2 MR. HOLFORD: Yes, sir.

3 THE COURT: Two charges of that and then a ---

4 MS. WILSON: It looks like the other two are listed as
5 PWIDs.

6 THE COURT: Okay. All right. So, Solicitor, if you'll
7 check on those four and see if those charges are still
8 pending. And as to any charges, if they are still pending,
9 then, Ms. Wilson, you'll be able to ask the Defendant --
10 you'll be able to ask Mr. McCray if, first, is he currently
11 charged with whatever crime that it is and then go into any
12 questions you might have about, you know, leniency or ---

13 MS. WILSON: Yes, sir.

14 THE COURT: --- proffer deal with the State in some
15 manner.

16 MS. WILSON: Yes, sir, and I think we already addressed
17 the issue about the aliases.

18 THE COURT: Right. So the ones that are listed on the
19 very first page of the NCIC, ask him if he is also known by,
20 by, you know ---

21 MS. WILSON: Yes, sir.

22 THE COURT: --- each one of those names.

23 MS. WILSON: Thank you.

24 THE COURT: All right. All right. So with that,
25 Solicitor, he being your witness, I would ask that you cover

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1 that with Mr. McCray so that he is prepared for those
2 questions from Ms. Wilson and we don't have additional issues
3 at that -- at that point in time and, you know, go over the
4 rule with him that obviously if he admits that he's convicted
5 of that crime, that's the end of it, there can't be any
6 further questioning of it. Obviously, if he was denied -- if
7 he denied that he was convicted of a certain crime, then Ms.
8 Wilson would be allowed to go into further proof of that to
9 show that he actually has been convicted of that particular
10 crime. All right?

11 MR. HOLFORD: Your Honor, Mr. McCray is currently

12 represented by a defense attorney. He does have charges
13 pending in the Horry County Solicitor's office.

14 THE COURT: Well, then he probably needs to -- who is
15 that?

16 MR. HOLFORD: I believe his attorney is Johnny McCoy
17 still.

18 THE COURT: Then you need to inform Mr. McCoy that he
19 needs to be here tomorrow morning with his client.

20 MR. HOLFORD: Your Honor, would the State be ---

21 THE COURT: You can talk to him at that point in time.
22 You tell Mr. McCoy to be here tomorrow morning at 9 o'clock
23 with his client, no ifs, ands or buts about it.

24 MR. HOLFORD: Yes, Your Honor. Does the State still have
25 the option to call or not call Gerald McCray?

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BY THE COURT

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1 THE COURT: Well, I -- you can decide not to call him if
2 you so choose. I mean he's on your witness list, so you
3 haven't -- we haven't actually placed him, you know, in
4 essence before the jury for examination at this point in time.
5 So, if you do not want to call him, then you can tell me
6 tomorrow that you made your decision not to call him and that
7 will be the end of that. But if you do, then you do need to
8 get word and, and -- and when I say that, I mean that there is
9 some direct communication with Mr. McCoy.

10 MR. HOLFORD: Yes, sir.

11 THE COURT: Not leaving a message. That someone actually
12 speaks to him however that needs to be accomplished and tell
13 him to be here tomorrow morning with his client. Okay?

14 MR. HOLFORD: Yes, Your Honor.

15 THE COURT: All right. Thank y'all.

16 MS. WILSON: Thank you, Your Honor.

17 THE COURT: All right.

18 MS. WILSON: Your Honor, we're back at 9:00?

19 THE COURT: Yes. 9 o'clock please.

20 MS. WILSON: 9 o'clock.

21 THE COURT: At some point in time, Ms. Wilson, obviously
22 we're gonna need to communicate with your client about his
23 constitutional rights about testifying and make that decision.

24 MS. WILSON: Yes, sir.

25 THE COURT: So maybe if we can make sure that and I'm

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1 sure you already have, but go over that with him again so that
2 we'll be prepared.

3 MS. WILSON: We'll be ready tomorrow, Your Honor.

4 THE COURT: All right. Great. Thank y'all. I'll see
5 y'all in the morning.

6 MS. WILSON: Yes, sir.

7 MR. OSKIN: Thank you, sir.

8 THE COURT: Thank you very much.

9 (RECESS.)

10 *****OFF THE RECORD*****

11 (END OF DAY THREE.)

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BY THE COURT

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1 DAY FOUR - DECEMBER 8, 2016

2 (On the Record.)

3 BY THE COURT:

4 THE COURT: All right. Before we get started, we have
5 one important item of business. We need to -- everybody say
6 Happy Birthday to Ms. Dixie. It's her birthday today.

7 COURT REPORTER: Thank you, Judge.

8 THE COURT: Yes, ma'am. All right. So with that,
9 Solicitor, what's the State's position as to where they are in
10 this particular matter?

11 MR. HOLFORD: Yes, Your Honor. After the hearing
12 yesterday and reviewing Mr. McCray's NCIC as well as pending
13 charges in the office, the State will not be calling Gerald
14 McCray as a witness in this case. The State has no more
15 remaining witnesses and will rest in front of the jury this
16 morning.

17 THE COURT: All right. Very good. All right then, Ms.
18 Wilson -- so we don't have to send the jury out. We'll do all
19 this in front of the jury and the State will rest in front of
20 the jury but so we don't bring them in and send them right
21 back out.

22 MS. WILSON: Yes, sir.

23 THE COURT: What motions, if any, does the Defense have
24 at this time?

25 MS. WILSON: Your Honor, I do have a motion for directed

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MOTIONS

1 verdict.

2 THE COURT: All right.

3 MOTIONS:

4 MS. WILSON: I'm moving for a directed verdict on the
5 basis that the evidence that the State has presented is not
6 direct. The circumstantial evidence does not reasonably tend
7 to prove the Defendant's guilt. At best, the evidence they
8 presented merely raises a suspicion of guilt and I believe
9 that is the basis under which a motion for directed verdict
10 may be granted.

11 THE COURT: All right. Very good. Regarding a directed
12 verdict, when ruling on that motion, the Court is concerned
13 with the existence or non-existence of evidence, not with its
14 weight, not with its credibility, believability. So I told
15 the jury at the very beginning that's their job and their
16 responsibility; it's not my job and my responsibility. My job
17 is to decide whether or not the evidence exists, not whether
18 or not the jury believes it or not. A Defendant would be
19 entitled to a directed verdict when the State fails to produce
20 evidence of the offense charged, and the Court would grant a
21 directed verdict when the evidence merely raises a suspicion
22 that the accused is guilty. Now, suspicion implies a belief
23 or opinion as to guilt based on facts or circumstances which
24 do not amount to proof.

25 However, I am not required to find that the evidence

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1 infers guilt or does not infer guilt, to the exclusion of any
2 reasonable hypothesis. What I do is view the evidence and all
3 reasonable inferences in the light most favorable to the non-
4 moving party, that is to the State in this particular case,
5 and if any direct evidence or any substantial circumstantial
6 evidence reasonably tends to prove the guilt of the accused,
7 then the Court would find that the case should be submitted to
8 the jury.

9 When you have circumstantial evidence, that
10 circumstantial evidence looks to the evidence that's produced
11 and to see whether or not the guilt can be fairly and
12 logically deduced from that evidence. In this particular
13 case, we have certain direct evidence and substantial
14 circumstantial evidence. You have evidence of an individual
15 matching the description of the Defendant, who clearly was the
16 shooter of the victim, and within an extremely short period of
17 time the Defendant is found matching the description of the
18 shooter with a gunshot wound. When he is treated with the
19 gunshot wound, a bullet falls from the wound out of his
20 clothing. That bullet is seized into evidence, it is matched
21 through scientific evidence to the weapon fired by the
22 security guard at the shooter. That, in and of itself, is
23 more than sufficient evidence to bring the matter to the
24 jury's attention disregarding all other evidence produced in
25 this matter. I'm not doing that in ruling on this motion.

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KEVIN BRYANT - BY THE COURT

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1 I'm just making that particular point. But when you add up
2 all of the other circumstances, the testimony of the security
3 guards, the other witnesses in this -- in this matter, the
4 Court finds there is more than sufficient evidence in this
5 matter to -- that the matter should be submitted to the jury
6 and I respectfully decline to grant your motion for a directed
7 verdict.

8 MS. WILSON: Thank you.

9 THE COURT: Further motions on behalf of the defense?

10 MS. WILSON: None at this time, Your Honor.

11 THE COURT: All right. Is your client prepared for the
12 Court to question him regarding his constitutional right to
13 testify at this time?

14 MS. WILSON: He is, Your Honor.

15 THE COURT: All right. Very good. Could you stand up
16 please, sir, and Madam Clerk, could you place him under oath?

17 CLERK: Please raise your right hand?

18 KEVIN BRYANT, HAVING BEEN SWORN

19 TESTIFIES AS FOLLOWS:

20 BY THE COURT:

21 THE COURT: All right, Mr. Bryant, at this point in time,
22 I'm going to explain to you certain of your constitutional
23 rights. If at any point in time you don't understand what I'm
24 talking about or you've got a question about it, something you
25 need to ask or bring to the Court's attention, I need for you

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KEVIN BRYANT - BY THE COURT

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1 to do something. You can raise your hand, you can tell your
2 attorney, but you've got to affirmatively indicate to me in
3 some way that you've got a question or you need to bring
4 something to the Court's attention. Are we in agreement
5 there?

6 MR. BRYANT: Yes, sir.

7 THE COURT: All right. Very good. Now we've reached the
8 stage of the trial where you can present your defense. You
9 have the right to claim the protection given to you by the
10 Fifth Amendment to the Constitution of the United States of
11 America. Now that amendment states in part that no person
12 shall be compelled in any criminal case to be a witness
13 against themselves. Now that means you cannot be forced to
14 testify. You can testify if you want to; that's your choice,
15 but nobody can make you testify; do you understand that?

16 MR. BRYANT: Yes, sir.

17 THE COURT: Now, if you decide to testify, you're gonna
18 be subject to the same rules and under the same obligations as
19 all the other witnesses that you've already seen testify in
20 this case. You would be called, you would be examined or
21 asked questions by your attorney, you would be cross examined
22 by the State as to any matters the Court deems relevant.

23 Are there are any matters of a criminal conviction that
24 the State would bring up in examination, Solicitor?

25 MR. HOLFORD: Your Honor, the State has provided to the

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KEVIN BRYANT - BY THE COURT

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1 Defense a NCIC of the Defendant. He has a 2007 discharging a
2 firearm into a dwelling for which he got 10 years suspended to
3 90 days. In 2010, an unlawful possession of a sawed-off
4 shotgun for which he got two years, and a 2013 either
5 manufacturing/distribution or possession with intent to
6 distribute crack for which he got four years suspended to 90
7 days plus probation.

8 THE COURT: All right. Very good. Do you object to, on
9 any grounds, that the State would be able to ask the Defendant
10 about those convictions, Ms. Wilson?

11 MS. WILSON: I do not.

12 THE COURT: All right. So you understand, Mr. Bryant,
13 that if you decided to testify, the State would be able to ask
14 if you had been convicted of those crimes and if you admit
15 that you were convicted of those crimes, that's the end of it.
16 The State can't go any further regarding any of those issues.
17 You understand that?

18 MR. BRYANT: Yes, sir.

19 THE COURT: Of course, if you denied it, then the State
20 would be able to go forward with whatever proof they have to
21 prove that you actually had been convicted of those crimes.
22 You understand that?

23 MR. BRYANT: Yes, sir.

24 THE COURT: All right. And just for the record, I do
25 find that the probative value of the State being allowed to

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1 ask those questions does outweigh the prejudicial effect to
2 the Defendant for the purpose of credibility.

3 Yes, sir, ask your attorney what question you have.

4 All right. Mr. Bryant, did you have an opportunity to
5 talk to your attorney about the question that you had?

6 MR. BRYANT: Yes, sir.

7 THE COURT: And you satisfied with that answer?

8 MR. BRYANT: Yes, sir. You can disregard ---

9 THE COURT: All right, sir. You don't need to tell me
10 what y'all talked about.

11 MR. BRYANT: All right.

12 THE COURT: I just want to make sure that whatever
13 question you had that you now have an answer to that. Is that
14 correct?

15 MR. BRYANT: Yes, sir.

16 THE COURT: All right. Very good. All right. If you
17 decide to testify and, again, that's your choice, that's your
18 decision to make. You can receive help and information from
19 your attorney and get your attorney's best advice regarding
20 that issue, but it's your decision; do you understand that?

21 MR. BRYANT: Yes, sir.

22 THE COURT: Now, if you decide to testify, again, it's
23 got to be your decision freely, voluntarily made, knowing
24 these rights and protections that are given to you by the
25 Constitution of the United States of America. Further, I will

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BY THE COURT

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1 tell you that if you decided not to testify, I will instruct
2 the jury that they cannot use that in their deliberations in
3 any way. I always tell the jury that they can't even mentally
4 use it in their own mind to make a decision in this particular
5 matter. Before I asked you what you want to do in this
6 matter, do you understand everything that we have now talked
7 about?

8 MR. BRYANT: Yes, sir, I do.

9 THE COURT: All right. Do you want to ask your lawyer
10 any questions before I ask you what you want to do?

11 MR. BRYANT: No, sir.

12 THE COURT: All right, sir. Do you wish to testify in
13 this particular case?

14 MR. BRYANT: No, I do not.

15 THE COURT: All right. Very good, sir. Thank you very
16 much.

17 MR. BRYANT: Yes, sir.

18 BY THE COURT:

19 THE COURT: All right. Ms. Wilson, with the issue
20 decided that Mr. Bryant will not be testifying in this matter,
21 will there be other witnesses that the State will, I'm sorry,
22 that the Defense would call regarding this particular matter?

23 MS. WILSON: No, sir.

24 THE COURT: All right. So with that then, the Defense
25 would rest; is that correct?

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BY THE COURT

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1 MS. WILSON: That is correct.

2 THE COURT: All right. Very good. And at this point in
3 time, then are you renewing your motion for a directed
4 verdict?

5 MS. WILSON: I am, Your Honor, with the same grounds.

6 THE COURT: All right.

7 MS. WILSON: Should I restate or ---

8 THE COURT: No, ma'am. Since we just did it, I don't
9 know -- I don't really believe that's necessary unless there's
10 something additional that you thought about that you want to
11 tell me.

12 MS. WILSON: No, sir.

13 THE COURT: All right. Very good.

14 MS. WILSON: And of course, Your Honor, I would renew any
15 and all motions that I've made throughout the trial.

16 THE COURT: Yes, ma'am. Those are -- those have been
17 noted for the record, your objections and the Court's rulings
18 on those matters and so they are preserved.

19 MS. WILSON: Thank you.

20 MR. HOLFORD: And, Your Honor, just as a matter of
21 record, the State would also renew any objections that we
22 made.

23 THE COURT: Very good. Thank you very much.

24 All right. Regarding your renewed motion for directed
25 verdict, I'm not gonna go over the directed verdict law all

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CHARGE CONFERENCE

1 over again since we just did that. But suffice it to say that
2 the Court believes there is more than sufficient direct
3 evidence, more than sufficient substantial circumstantial
4 evidence that reasonably tends to prove the guilt of the
5 Defendant to send this matter to the jury. Again, I'm not
6 making any credibility or believability judgments, but if the
7 evidence that has been presented by the State is so believed
8 by the State, -- believed by the jury, then there is more than
9 sufficient evidence to convict the Defendant of the crime that
10 for which he has been charged, that being murder.

11 CHARGE CONFERENCE:

12 THE COURT: All right. So before we bring the jury in,
13 is there anything special that the Defense or the State, I'll
14 go over what I intend to charge the jury, but in addition to
15 that, is there anything other than that that the State or the
16 Defense wanted me to charge the jury that you have with you at
17 the present time?

18 MR. HOLFORD: No specific charges from the State, Your
19 Honor.

20 THE COURT: All right.

21 MS. WILSON: And no specific from the Defense, Your
22 Honor.

23 THE COURT: All right. Well let me review with you what
24 my intentions are and then y'all can make any comments you
25 might have regarding that.

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CHARGE CONFERENCE

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1 Obviously we are going to talk to the jury as we always
2 do, about their role, judges of the facts, credibility,
3 believability, direct and circumstantial evidence. Now
4 regarding direct and circumstantial evidence, so we're clear,
5 I will indicate that the law does not make a distinction
6 between the two and a greater degree of certainty is not
7 required of one over the other. But, I will tell the jury
8 that to the extent the State relies on circumstantial
9 evidence, all of the circumstances must be consistent with
10 each other and when taken together, point conclusively to the
11 guilt of the accused beyond a reasonable doubt, and if the
12 circumstances merely portrayed the Defendant's behavior as
13 suspicious, that proof has failed in that the State has the
14 burden of proving the Defendant guilty beyond a reasonable
15 doubt and that burden rests on the State regardless of whether
16 the State relies on direct evidence, circumstantial evidence
17 or some combination of the two. And again, it's their job to
18 weigh the evidence, find that evidence which convinces them of
19 the truth and decide whether or not the State has proven the
20 Defendant guilty beyond a reasonable doubt.

21 I'll talk to them about, since we had an expert witness
22 or a witness qualified to give their opinion or two of them,
23 that, you know, usual that the Court allows that type of
24 testimony but it doesn't give them any type of special status.
25 They judge all the witnesses the same.

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1 As I indicated to Mr. Bryant, I will instruct the jury
2 that the fact that the Defendant did not testify is not a
3 factor to be considered by them in their deliberations or in
4 their consideration of the question of guilt or innocence.
5 They cannot be considered by them in any manner whatsoever.

6 Talk to them about the presumption of innocence, the,
7 again, reaffirming the State's burden of proving the Defendant
8 guilty beyond a reasonable doubt. Reasonable doubt, the kind
9 of doubt that would cause a reasonable person to hesitate to
10 act. Proof beyond a reasonable doubt is proof that leaves you
11 firmly convinced of the Defendant's guilt.

12 Regarding the charge of murder, it was not my intention
13 to charge anything other than murder in this particular matter
14 not having heard any requests for anything else nor do I
15 believe, unless argument would persuade me otherwise, there's
16 any evidence of any -- anything other than whether or not the
17 Defendant committed the crime of murder or not. Defendant
18 being charged with murder, the State has to prove beyond a
19 reasonable doubt the Defendant killed another person with
20 malice aforethought. That's, you know, malice, hatred, ill
21 will, hostility has to exist in the mind of the Defendant just
22 before and at the time the act is committed. It can be
23 expressed or inferred. Expressed is when a person speaks
24 words to express hatred or ill will for another or when the
25 person prepared beforehand to do the act which was later

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CHARGE CONFERENCE

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1 accomplished.

2 In this regard, regarding the inference of malice, the
3 State is -- is the State requesting me to charge that the
4 inferred malice can rise when the deed is done with a deadly
5 weapon?

6 MR. HOLFORD: Yes, Your Honor, as there's been no
7 evidence or testimony presented about self-defense. I believe
8 that the jury would be allowed to infer malice by the use of a
9 deadly weapon.

10 THE COURT: All right. Ms. Wilson, I didn't hear any
11 evidence that would reduce or mitigate or excuse or justify in
12 any way a homicide or an assault with a deadly weapon. Is
13 there any reason the Court should not charge that inferred
14 malice could arise when the deed is done with a deadly weapon?

15 MS. WILSON: Your Honor, I don't ---

16 THE COURT: Again, it has to be proved by the State
17 beyond a reasonable doubt

18 MS. WILSON: Right. Right. I don't believe that there
19 was anything additional information or any testimony offered.

20 THE COURT: All right. Very good.

21 MS. WILSON: I'm fine with that.

22 THE COURT: So very good. So I will do that and give the
23 basic definition of a deadly weapon being an article,
24 instrument, substance which is likely to cause death or great
25 bodily harm and whether an instrument has been used as a

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CHARGE CONFERENCE

1 deadly weapon depends on the facts or circumstances of each
2 case.

3 MS. WILSON: Well, and Your Honor -- I'm sorry.

4 THE COURT: Yes, ma'am.

5 MS. WILSON: Certainly, while there has been evidence put
6 in that a deadly weapon was obviously used ---

7 THE COURT: Yes, ma'am.

8 MS. WILSON: --- I don't know that there has been
9 sufficient evidence put in that it was connected to Mr. Bryant
10 and I -- I'm -- as I'm talking about this, I'm thinking
11 through. Certainly there is no connection between the deadly
12 weapon and Mr. Bryant. Certainly, I understand that a deadly
13 weapon may be, you know, evidence of that malice, but I
14 certainly don't know that they presented any evidence that
15 ties it to him. And on that basis, I think that there's a
16 problem with putting in that language when the evidence is not
17 there.

18 THE COURT: Solicitor?

19 MR. HOLFORD: Yes, Your Honor. I mean, that's clearly
20 the battleground here and why we're in trial is to tie the
21 Defendant to the person who did this, this murder. The
22 killing has been shown by evidence in this court to have been
23 done by a gun, by a deadly weapon, that was the cause of
24 death. That's the evidence and the testimony in this case
25 today that the cause of death to the victim was multiple

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1 gunshot wounds also shown on the video, the using of a deadly
2 weapon or a gun in that instance to cause the death of Mr.
3 Vereen, the victim in this case. Certainly, the essence of
4 the trial is connecting that killing to the Defendant.

5 MS. WILSON: And, Your Honor, I would go so far as to say
6 that certainly I appreciate what the State is saying, but that
7 is not my issue. My problem is they have not put in evidence
8 that says that he had that weapon.

9 THE COURT: Well ---

10 MS. WILSON: And my problem is that putting in some
11 information about the, the use of a deadly weapon as express
12 -- expressly being malice, malicious, they haven't put
13 anything into evidence that says he had that.

14 THE COURT: All right. Well, let me go over what I
15 believe the facts are -- and again, this goes to the
16 circumstantial nature of the crime. The State has proved that
17 a person matching the general description of the Defendant lay
18 in wait between parked vehicles until the victim came to a
19 point close to the shooter. The shooter sprang from the place
20 in hiding, shot the victim multiple times. In fact, stood
21 over the victim when the victim was laying prone and fired
22 into the victim. The security guards witnessing this,
23 challenged that individual, fired on that individual. That
24 individual ran, dropped a weapon in their sight, which they
25 saw, which they said the person dropped the weapon the street.

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1 They secured that weapon. The suspect, the person who
2 committed the crime ran off, they gave that description to the
3 police, the police in an extremely short period of time saw
4 the Defendant matching the description of the shooter in all
5 respects. No facial recognition, but in all other respects,
6 he exactly matches the description. When he is being treated
7 for a gunshot wound to his arm, a bullet falls from the wound
8 in his clothing. It is secured. It is matched by scientific
9 evidence to the weapon of the security guard who shot the
10 person committing the crime. Therefore, if the State --
11 that's the evidence in the case. If the jury believes that,
12 then the State has directly tied the Defendant as the shooter
13 in this particular matter and the shooter using a deadly
14 weapon, firing it multiple times at a person within a very
15 short distance from them and standing over them and firing
16 into them. So therefore, the facts are there. Now, I don't
17 know what the jury is gonna believe. I have no idea about
18 that, but the facts are there for the jury to consider and if
19 they believe those facts, then it is clear the Defendant
20 committed the crime of murder, those factors having been tied
21 together and tied to the Defendant. So with that then the
22 Court will charge that malice can be inferred by conduct
23 showing a total disregard for human life. Inferred malice may
24 arise when the deed is done with a deadly weapon. A deadly
25 weapon is any article, instrument or substance which is likely

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1 to cause death or great bodily harm. Whether an instrument
2 has been used as a deadly weapon depends on the facts and
3 circumstances of each case.

4 If facts are proved beyond a reasonable doubt sufficient
5 to raise an inference of malice to the jury's satisfaction,
6 that inference is simply an evidentiary fact to be considered
7 by them along with all the other evidence in the case and they
8 may give it the weight they decide it should receive.

9 MS. WILSON: Thank you, Your Honor, and I would just ask
10 that my objection be noted.

11 THE COURT: It is noted. You've made it in the record;
12 it is noted.

13 MS. WILSON: Thank you.

14 MR. HOLFORD: Thank you, Your Honor.

15 THE COURT: All right. That being the intention of the
16 Court to charge the jury, is there anything else that the
17 State would request to be charged to the jury?

18 MR. HOLFORD: Just one question, Your Honor. Does the
19 Court use the-hesitate-to-act language for beyond a reasonable
20 doubt or is a hybrid?

21 THE COURT: Just hold on one second. I thought I had
22 gone over that, but let me go over it again. The reasonable
23 doubt is the kind of doubt that would cause a reasonable
24 person to hesitate to act. Proof beyond a reasonable doubt is
25 proof that leaves you firmly convinced of the Defendant's

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1 guilt. That's my intention to charge to the jury on that
2 particular issue.

3 MR. HOLFORD: Thank you, Your Honor.

4 THE COURT: Anything else from the State?

5 MR. HOLFORD: Nothing further from the State, Your Honor.

6 THE COURT: From the Defense?

7 MS. WILSON: Your Honor, is it possible that we could
8 have a copy of each of these charges?

9 THE COURT: No, ma'am, since I have written all over
10 them, I don't intend to give you copies of my handwritten
11 notes.

12 MS. WILSON: Yes, sir. Thank you.

13 BY THE COURT:

14 THE COURT: Thank you. Anything else?

15 MS. WILSON: Nothing, Your Honor.

16 THE COURT: All right. Let's take a very short break for
17 five minutes. Y'all get organized.

18 So in this particular matter, as I understand it, the
19 Defense did not introduce any evidence or testimony,
20 therefore, the State would be required under the rules to give
21 its full and complete argument to the -- to the jury and the
22 Defense will give their argument. Is that your understanding,
23 Solicitor?

24 MR. HOLFORD: Yes, Your Honor.

25 MS. WILSON: Yes, sir.

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1 THE COURT: Ms. Wilson?

2 MS. WILSON: Yes, sir.

3 THE COURT: All right. So y'all get organized and we'll
4 come back in and then we'll go over it with the jury, the
5 State will rest, the Defense will rest and then we'll go into
6 the closing arguments.

7 MS. WILSON: Thank you.

8 THE COURT: All right. Thank y'all.

9 (RECESS.)

10 *****OFF THE RECORD*****

11 (On the Record.)

12 THE COURT: Solicitor, you ready for the jury?

13 MR. HOLFORD: Yes, Your Honor.

14 THE COURT: And, Ms. Wilson?

15 MS. WILSON: Yes, sir.

16 THE COURT: All right. Very good. Ask the jury to come
17 in please, sir.

18 And when the jury comes in, Solicitor, the position of
19 the State and you tell me you rest and then I'll turn to you
20 Ms. Wilson.

21 MS. WILSON: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (REPORTER'S NOTE: Jury enters courtroom.)

24 THE COURT: All right, Solicitor, what's the position of
25 the State at this time?

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BY THE COURT

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1 MR. HOLFORD: Your Honor, the State rests.

2 THE COURT: Very good.

3 Ms. Wilson?

4 MS. WILSON: Your Honor, the Defense would rest.

5 THE COURT: Very good. All right, ladies and gentlemen,
6 that is the evidentiary portion of the trial. We have
7 concluded the evidentiary portion of trial and there will be
8 no more witnesses or evidence presented to you in this
9 particular matter. Where we are in the trial is we will now
10 proceed into the closing arguments of the attorneys. Now,
11 remember I told you closing arguments are not evidence, can't
12 be considered as evidence in this case, but they are
13 important. They are each side's summation to you of what they
14 believe the evidence as shown to you during the course of the
15 trial, remembering of course, that you are the judges of the
16 facts in this particular case. After that, I will give you
17 the law that you will apply to the facts and evidence you find
18 to be true in this case and then I will submit the case to you
19 for your deliberations and your unanimous decision in this
20 particular matter.

21 So with that, Solicitor/

22 MR. HOLFORD: Thank you, Your Honor. May it please the
23 Court?

24 THE COURT: Yes, sir.

25 CLOSING STATEMENT BY HOLFORD:

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CLOSING BY HOLFORD

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1 MR. HOLFORD: Good morning, ladies and gentlemen of the
2 jury. Here we are Thursday morning. We got started Monday,
3 actually Tuesday morning with opening statements. I know it's
4 been a long couple of days. I know that I have introduced a
5 lot of evidence in front of you. Sometimes it's a lengthy
6 process. You know I think about the trial that go on in other
7 states that take weeks on end. There's a reason for that.
8 You see that it can be a slow process sometimes that we have
9 to show you that a piece of evidence that was picked up at a
10 crime scene was actually secured and taken to another location
11 and another location, and sometimes that takes a witness to
12 get up there and say, yeah, the box was sealed. And you're
13 probably looking at me saying, all right, we know the box is
14 sealed, we got it. You know, the trial is certainly for the
15 jury. It's for you to determine whether the Defendant sitting
16 in the courtroom that we've charged with murder is actually
17 the person who committed the murder.

18 The trial also has a record. As the State, we have to
19 preserve evidence. We have to mark evidence. We have to keep
20 evidence in the record and show that State's Exhibit 107 is
21 actually Item 1 by SLED, which is actually Item B labeled by
22 the -- by the detective. So, I know that it's lengthy. I
23 know that were probably times you were thinking, get on with
24 it, we've got that. There were also probably times when you
25 were wondering man, I wish he would ask that question.

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CLOSING BY HOLFORD

1 Unfortunately, in our system here in Horry County and in South
2 Carolina, you don't have an opportunity to question the
3 witnesses. There might be questions that you're thinking of,
4 gosh, I just wish he would ask that or I wish he would move
5 on. You know, that's the difficult job that we're tasked with
6 in this. I'm trying to present the evidence that I think is
7 necessary to show you that the Defendant sitting here in the
8 courtroom today is the same person that you saw on that video
9 murder the victim, Saequan Vereen. I think that the evidence
10 has shown that and I think that it's shown that beyond a
11 reasonable doubt.

12 Now I'm gonna go through -- I get a chance to talk about
13 how I think the evidence shows that. So, I'm gonna start with
14 this video. Now, we talked a lot about video and there's tons
15 of video, and I know I had to explain to you, you know, why we
16 cut portions and tried go to lengths to show you it wasn't
17 edited, we didn't fabricate anything and we're not trying to
18 pull the wool over your eyes. I'm trying to show you what
19 actually happened without sitting here and making the trial
20 last fourteen days by showing you Camera 1 for an hour at a
21 time, Camera 2. These are the important parts. This is the
22 part that matters. The multiple camera angles, the the
23 detectives talked to you about that; we went over that ad
24 nauseum. The detective said that the Defendant was inside the
25 club beforehand. He has watched this video a ton of times.

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CLOSING BY HOLFORD

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1 You've watched this video maybe once or twice at this point.
2 I'm gonna pause it right here. You see that? It's 2:20:35
3 A.M. You see this jacket right here. That's a very distinct
4 design on a jacket. This is State's Seventy-seven. This is
5 the jacket that the Defendant was wearing that night. Notice
6 the design? I can make arguments to you; it's up to you to
7 say, boy, that sure looks like a ninja with stuff around it just
8 like that wearing a toboggan. This is definitely the
9 Defendant's jacket. This is what he was wearing when we
10 stopped him. The State would say that's the Defendant in the
11 club. The colors are inside the club are gonna be different
12 from colors outside. Obviously not everyone is wearing some
13 shade of black, white or gray inside.
14 So we move forward, there's a little bit of the awning,
15 it's 2:20:34. So, now we see the people that just came out
16 right here. That is the Defendant. That is the shooter. So,
17 now we're seeing an outside view right after he comes outside
18 the club. This black toboggan, black jacket, black pants,
19 black shoes. It's a still frame, State's Eight. You'll see
20 this later on as he comes back across the street and comes
21 here. This still was captured from that. So, that's how
22 we're able to tie the Defendant, the shooter in this case,
23 leaving the club wearing the same clothes. How are we sure
24 that that right there -- can I look at him in itself and say
25 that's definitely the Defendant, no. But with the evidence

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CLOSING BY HOLFORD

1 pieced together the State's able to say that it is. So, if
2 you can see the mouse, he walks across the street, this is
3 2:20 in the morning, drops something, picks it up. Now he's
4 across the street for some time. I'm gonna move forward.

5 Here he comes back across the street, same black
6 toboggan, same black jacket, same black pants, and he sits
7 right here by the truck. It's 2:25:55 in the morning. He
8 sits there for some time. He's still sitting by the truck at
9 2:26, still at the truck, still at the truck, still at the
10 truck. 2:27, still at the truck. He's walked from the truck
11 right here, black toboggan, black jacket, black pants, black
12 shoes. It's a still photo of about that time. These are
13 definitely Defendant's clothes that were recovered; black
14 jacket, black shoes. Same black shoes. Notice the little cap
15 on those shoes a slightly different color, black pants, black
16 shirt that was cut on the right arm because he'd been shot,
17 black shirt, black pants, black toboggan.

18 We have to prove to you malice in this case, that it
19 wasn't a justified shooting. The way that we can do that is
20 showing an ill will, hatred. He stopped in-between that truck
21 about 2:25 in the morning. We're gonna see people coming
22 across the street. You'll be able to watch this video in its
23 entirety if you want to. The detective says he's right here
24 right now; he's crouched down. You will, you'll see him
25 crouched down. It's 2:33, there are people coming, jumping

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CLOSING BY HOLFORD

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1 over, jumping over. 2:33:39, this is the victim, Mr. Saequan
2 Vereen. Notice who else is on the street right now, a person
3 in red, a person in white, the victim, individuals coming
4 towards the club. Now, he comes out from the truck, springs
5 forward. You notice people in front of him start to run. He
6 shoots, shoots, stands over the victim, shoots, shoots. Man
7 in red runs off to the right. The shooter in all black,
8 wearing a black toboggan, black jacket, black pants, black
9 shoes, runs. Here's APS Security. They told you they fired
10 shots. He drops the gun. See the other individuals running,
11 white shirts, white shirts, white shirts, gray shirt. That
12 man that you just watched commit murder, with malice, waited
13 10 minutes until Saequan Vereen came outside the club, shot
14 him multiple times. The Coroner told you Saequan Vereen was
15 shot at least four times with multiple entrance and exit
16 wounds. You watched him run. Here's Levels, here's the
17 shooting, run, drops the gun, westbound on 9th, and then
18 that's where the Defendant was stopped with the shot in his
19 arm. APS Security calls out a description of the suspect.
20 Within five minutes of the shooting, that Defendant was
21 stopped at the HR building a couple of blocks away with the
22 shot to his arm.

23 State's Ninety-two is the victim's shirt, multiple
24 gunshot wounds. If you have any doubt about malice, this
25 should erase it. That video should erase it. There's no

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CLOSING BY HOLFORD

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1 doubt that person you just watched on the video meant to kill
2 the victim standing over him shooting multiple times, he meant
3 to kill that victim.

4 Ninety and Ninety-one, bullet fragments, show an impact
5 of down. Standing over someone while they're laying on the
6 ground continuing to fire and that's the result. All these
7 shell casings, all those markers, and then up near the club a
8 couple of shell casings. What's that confirm to you? That
9 confirms the story that APS told you. That confirms the
10 description that they gave out that night. It's the same
11 description. That confirms the story that they told to
12 detectives that night. It's the same story. That confirms
13 their evidence that they told you in court two days ago; it's
14 the same story. How can you believe them? How are they
15 credible witnesses. They've given the exact same story and it
16 matches up. The gun dropped by the suspect in the middle of
17 the road. A close up wide, you can see it's wide, serial
18 number GTB326. This has a lock on it; it's safe. This is the
19 murder weapon, serial number GTB326. We brought SLED in and
20 went through a lengthy process. Why? To show you that eight
21 or nine casings, right around the same area, came from that
22 murder weapon. It couldn't have been someone else shooting.
23 It couldn't have been an unknown person. Maybe that's not the
24 gun. That's the gun that killed the victim. That's the gun
25 that was dropped by the Defendant. That's the gun that was

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CLOSING BY HOLFORD

1 left in the middle of the street.

2 I went through a long process to show you stuff that
3 hadn't even been sent to SLED. Why would I go through that?
4 Well, Officer Bailey was able to tell you, you know I marked
5 these evidence boxes. I put something in them and I say what
6 the date is, 2/15/15; who it's collected by, Bailey; the
7 description, small fragment, description, fragment (N). So we
8 know this is that. Why does that matter? Well, the APS
9 Security Guards turned over their weapons that night. This is
10 one, a live weapon. It means it has rounds still in it from
11 Ronald Poston turned over to Paul Morrell on 2/15/15, serial
12 number WPH644, rounds still in the clip. He said he fired a
13 couple, .40 caliber. State's Ninety-five, SLED was able to
14 confirm, yes, a couple of those shell casings out there on the
15 scene matched WPH644. This is Ronald Poston's gun that he
16 turned over to Paul Morrell that night. This is the gun which
17 he advanced with Pettengill and shot the Defendant.

18 Again the painstaking lengths we went to so that you'll
19 know when you're looking at B, this is the bullet that fell
20 from the Defendant's arm at the Human Resources building a
21 couple of blocks away is bullet B collected by Bailey on
22 2/15/15 which is SLED Item Number 1, which is State's Exhibit
23 107, which SLED told you was fired from Ronald Poston's gun.
24 So what's that say? It says that APS Security is believable.
25 It says what you watched on the video is believable. It's

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CLOSING BY HOLFORD

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1 science that matches up the shooter that murdered Saequan
2 Vereen was advanced on by APS Security was shot in the arm is
3 the Defendant. Well, why is that important? Because we
4 could've shown any number of things. What if in this case we
5 just had clothing? I would submit that's beyond a reasonable
6 doubt. What if we just had the bullet tying him to it; you
7 could find beyond a reasonable doubt.

8 We also have two eye witnesses, Pettengill separately
9 within twenty minutes of the crime, is taken to the Defendant
10 at HR and says, yes, that is the shooter. If we didn't have
11 all this, the Defense could get up here and say, well, we
12 can't believe him; he didn't see his face; can he really be
13 sure; yes, you can. You can be sure beyond a reasonable doubt
14 because all of the evidence points to one person in this case.
15 Can you believe Poston when he says I saw the shooter, I
16 advanced on him, I fired, I might have hit him, I went to the
17 HR building and identified that the Defendant, Kevin Bryant,
18 is in fact the shooter. Yes, you can. Why? Because the
19 evidence shows you that it's true.

20 Ladies and gentlemen, I've taken a lot of time. I know
21 that it's been a difficult process. We've showed you a lot of
22 evidence and gone to painstaking lengths to get down to this
23 twenty minutes, maybe thirty, to show you that you can believe
24 the people on the witness stand when they say I know the
25 person we just watched murder Saequan Vereen is that Defendant

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CLOSING BY WILSON

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1 sitting in the courtroom, Kevin Bryant. I submit to you that
2 the State has proved that beyond a reasonable doubt and that
3 we've done our jobs in this case.

4 Please find the only verdict that I think is supported by
5 the evidence, the witnesses, the testimony in this case, that
6 that Defendant, Kevin Bryant, viciously, maliciously murdered
7 the victim, Saequan Vereen and find him guilty. Thank you.

8 THE COURT: Ms. Wilson?

9 CLOSING STATEMENT BY WILSON:

10 MS. WILSON: Thank you, Your Honor.

11 Good morning, ladies and gentlemen. The State is
12 correct. It has been a very busy, hectic, information packed
13 few days and we really appreciate just well how you all have
14 listened. You've been very attentive and I think we both have
15 both of us, including the Court, has noticed that. So we
16 appreciate it.

17 Now when this case started, I asked you just to keep a
18 couple of things in mind. One of them is that Kevin Bryant is
19 innocent where he sits, as he sits, he is innocent. The State
20 has a high burden to prove to you that he is guilty and that
21 burden requires beyond a reasonable doubt.

22 Now the State would have you piece together everything
23 that they have presented to create the narrative or the story
24 that they want you to believe. I'm telling you that's not
25 your job. It's almost as if we're on a football field and

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CLOSING BY WILSON

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1 they are trying to get to the other end zone so they can get a
2 touchdown, they can score a touchdown, but they want to get
3 halfway and have you award them that six points for that
4 touchdown. They don't get to do that. They have to get to
5 the end zone to get the touchdown. And I'm certainly not
6 trying to just make this into some kind of game; it certainly
7 is not. We're talking about someone's life. We are also
8 talking about the life of someone who is now gone from this
9 earth, but that does not mean that you are required to just
10 abandon all common sense and reasonableness and piece together
11 a story that fits what they want you to believe.

12 Now I asked you to also listen critically and carefully
13 to the evidence that was presented and if you've done that,
14 you've heard various answers that, yes, there have been lots
15 of witnesses. Lots of witnesses who prepared the crime scene
16 evidence, who have tested evidence. There's also lots of
17 things you did not hear, people who didn't take the stand.
18 They were there, available; the State chose not to use them.
19 For example, we've got two lead investigators on this case who
20 have sat in this courtroom every single day of this trial and
21 did not testify. I submit to you there is a reason for that.
22 The reason is there's information they didn't want coming in
23 through those investigators so they didn't put them on the
24 stand. The lead investigators, the people who orchestrated
25 this entire case, the investigation of this entire case, have

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CLOSING BY WILSON

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1 sat here. You didn't hear from them. I didn't get to
2 question them. And I'm telling you that they didn't want you
3 to hear those answers.

4 Now certainly we talked about bullets and fragments and
5 pieces and weapons and the State has tried them out for you
6 here, guns, and gun in the street, gun by the security guard,
7 there's photographs of bullets, photographs of casings. None
8 of those things can tell you who shot it, who used it, where
9 it came from or how it got there. That is simply what was
10 documented on scene. The people who took the stand, we got --
11 and excuse me for referring to my notes but there's so much.
12 We've got Crime Scene Officer Bailey and Matteson, both who
13 talked about how thorough they were in going out and
14 documenting. And as the State showed you, you know, markers
15 on the various fragments and bullets and things that were
16 found on scene. All of those things they took care of. They
17 took great care to make sure that they noted for this case.
18 And the State made great pains to tell you that they didn't
19 alter anything, they didn't change anything as they took it
20 into evidence and that's important. The reason it's important
21 is because they're taking it and they told you they took it so
22 that it could be stored until they could send it to SLED for
23 testing.

24 Now, we did hear from one person from SLED and I believe
25 that person was Mr. Green. Mr. Green was, I think, the gun

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CLOSING BY WILSON

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1 expert and he was very knowledgeable, a very nice man, very
2 serious about his work. And he clearly told us that he didn't
3 see Mr. Bryant commit a crime, he wasn't present on scene for
4 any crime that he thought or that the State was trying to
5 present that Kevin Bryant committed, he has no information
6 about what happened that night. And that is refrain that we
7 heard over and over and over again from every witness that the
8 State put up. They weren't there. They didn't know. They
9 brought and presented people to you who were not there that
10 night with the exception of two. Okay? So I guess that we
11 had a good 19, maybe 20 people take the stand and testify and
12 all of them but two weren't even there, have no firsthand
13 knowledge about anything that occurred in this case, couldn't
14 tell you anything that occurred in this case and every single
15 one of them admitted to that.

16 So, when we get down to the two, we've got the two
17 security guards from APS. And the State would have you
18 believe that it's sufficient in dealing with someone's life to
19 say all black, black male, almost six-feet tall is sufficient
20 for a conviction. They would say that a general description
21 of the clothing is sufficient for a conviction, and I'm
22 submitting to you today that it's not. There is nothing that
23 any person can say when you -- what's the one thing that's
24 most identifying about a person are their facial features.
25 What they actually look like is the one thing that if everyone

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CLOSING BY WILSON

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1 wears the exact same clothes, every single day, differentiates
2 us, unless you're a twin or some form of a triplet or
3 something, but you understand my point. Our facial features
4 are important for a reason. We don't look like each other.
5 And the reason we don't look like each other, God only knows,
6 but the point is we don't and that is what distinguishes us
7 from one another. We can wear the same clothes all day. They
8 can't even say specific clothing. They're just saying all
9 black. He didn't talk about what the Solicitor is now trying
10 to tell you which is red piping on the jacket, red eyes;
11 that's not what he said. Now he's trying to create a
12 narrative to make you understand or believe that this is what
13 the shooter had to be wearing. They didn't even have anybody
14 from the club come and confirm that that's actually who was at
15 the club, that it was Kevin Bryant inside the club leaving.
16 They don't have anybody to tell you that. What they've done
17 is they're telling you that that's who it is because they say
18 that's who it is. That requires additional evidence that they
19 did not present to you. There were over 4' to 500 people in
20 that club that night. If he was in that club, they could've
21 put somebody on the stand to talk about it. They showed you a
22 video saying that he left with two people. Well, where are
23 those two people? Why aren't they on the stand saying he was
24 there with me and we left together? It is not your job to fix
25 the problems with the problems with their case. It's not.

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CLOSING BY WILSON

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1 It's not your job to come up with a plausible explanation for
2 them for what they did not prove to you.

3 Now, I want to go back to the SLED evidence because it's
4 important. There were, as I said before, James Green was the
5 only SLED person I believe that we heard from in this trial
6 and he talked about the weapons, but there were other SLED
7 items that Kelly Matteson said were sent off and she said she
8 took those items, the gun, okay, and sent it off for DNA
9 testing. I specifically asked her that question. She said it
10 was sent off. We did not hear any evidence about the results
11 of DNA testing on the gun. And I am submitting to you today
12 that is because that evidence would tend to exonerate Mr.
13 Bryant. I guarantee you that if it had showed that Mr. Bryant
14 possessed that weapon, they would have presented that to you
15 in court and they did not do that.

16 In addition to the DNA, the gun was sent off -- and I
17 believe there was a GSR testing done. Again, we did not hear
18 from the gunshot residue expert from SLED. And the reason we
19 did not hear from that expert is again because that evidence
20 would tend to exonerate Mr. Bryant. If they had something
21 that would show his guilt, they would have put them on the
22 stand and there was no question about that. We have spent the
23 last few days going through tons of information, bullets,
24 photos, documents to refresh the memories of the officers, yet
25 you leave out the gunshot residue that would show if he had a

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CLOSING BY WILSON

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1 weapon and that he fired one and if the residue was on his
2 hand and you leave out DNA that would show that he actually
3 had his hand on that gun. I don't think so, no, that evidence
4 would have exonerated Mr. Bryant and that's exactly why they
5 didn't present it to you.

6 Now all of these things I'm talking to you about are
7 reasonable doubt. The lack of proof of these things is
8 reasonable doubt. Not having DNA, not having GSR, not
9 presenting it to you, rather, reasonable doubt. Two officers
10 who say I recognize clothing, but I never saw a face and I
11 admittedly never said I saw a face, but I didn't see anybody's
12 face. That is reasonable doubt.

13 Now the officers who took the stand, obviously, as we've
14 established this; they were not present that night. None of
15 them, none of them could say that he committed a murder; that
16 is reasonable doubt. You haven't heard from anybody who can
17 say unequivocally that he did it. That is reasonable doubt.
18 The fact that there was no effort to seek out any other
19 suspects; that is reasonable doubt. Now I know that in the
20 video you saw -- and I believe that Ms. Root testified that
21 she edited that video -- and again, it's not about them
22 tampering with the quality of the video. That's not my issue.
23 They're showing you specific things they want you to see and I
24 get it. We don't want to watch all those hours of video. We
25 don't want to see all that. It's a waste of time. But, what

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1 you did see was there's not just a front door to the club.
2 They showed you the victim, Saequan Vereen, exiting from a
3 back door. Who's at the back door? Who's watching the comings
4 and goings at the back door? What's happening at the back
5 door? Who's leaving out that way? Clearly people were
6 exiting the club. They're exiting front and back. You didn't
7 see that either, but you did see him leave the back door and
8 I'm -- I'm pointing this out to you because I think it's
9 important to understand that when you're presented with a
10 narrow slice of something, you have a very limited view along
11 that corridor, but that's not all that there is to consider
12 and those things that are not there are reasonable doubt.

13 Now, there is an issue with the missing time, and I
14 believe that Detective Sutton or the former Detective Sutton
15 and I spoke about that and I questioned him about the video
16 because he says he's the one who went to get the video. Now,
17 I don't have any concern that he did anything to that video.
18 He seems like a very nice man also, a hardworking officer. He
19 went and did what he was supposed to do. However, he
20 distinctly said that he could not account for what would be in
21 that missing time on the video, and there's no question that
22 that time is missing. That missing time is reasonable doubt.
23 Pettengill, Poston, I really can't say enough about my concern
24 about what they're saying. They claim that, and I believe
25 them, that they were standing -- and I think Poston pointed it

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1 out to you on the video, in the upper left corner of the
2 video. So they're on the far end of the sidewalk. By his own
3 estimation, 30 yards away from what actually took place and
4 then he goes on to say that there's at least twenty people
5 outside on that sidewalk. Now, I know the Solicitor just
6 pointed out to you a small scene there, again, that narrow
7 view of a sidewalk and people that you don't see on the
8 sidewalk. But if we're to believe any portion of what he
9 says, certainly we can believe that there's other people out
10 there because he agreed to that. He said there were other
11 people out there and as he is running, in what was a split
12 second of activity in a flurry of activity, I don't believe
13 that he can be certain about where he was firing, who he might
14 have hit and he doesn't know either because the shooter, the
15 person that he says was the shooter that he saw run across the
16 street and that the Solicitor pointed out to you, he lost
17 sight of him around the corner. So there was no constant line
18 of sight of this person and neither of them talked about any
19 red on the coat. They didn't discuss the red that the
20 Solicitor was bringing out to you today. The fact that those
21 things did not come up from them, the fact that they never
22 told anyone that the jacket was red, also, that is reasonable
23 doubt.

24 Now, I've talked quite a bit here and apparently when you
25 talk time seems to go a little faster than it normally would.

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CLOSING BY WILSON

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1 I want to try to wrap things up here. I understand that this
2 is a very difficult task. It, it's not an easy one. You have
3 a loss of life, a very meaningless loss of life, unnecessary
4 and you have a person who sits here before you innocent who is
5 charged with a heinous crime and a decision has to be made and
6 it's going to be your decision. The State wants you to just
7 say, you know what, they've put in a lot of stuff, they, they
8 -- they've gone through lots and lots of fragments, bullets,
9 pictures and things and, you know, there's been a lot of work
10 done. And I'm submitting to you that that's not your job.
11 That's not what you're here for. You're here to look at the
12 evidence presented, at what you've heard, what you've seen and
13 it is your job to think critically about that information and
14 decide beyond a reasonable doubt on the guilt or innocence of
15 Mr. Bryant.

16 Certainly, you've been presented with a lot to go over
17 and I don't envy you this task. I will say this, Mr. Bryant
18 is presumed innocent and, unless you are firmly convinced that
19 they have met their burden, that means you don't hesitate
20 about a conviction, you don't have any qualms about anything
21 that has been put into evidence, then you would convict. But
22 if, if you have a second thought about the sufficiency of the
23 evidence in this case, you would have to find him not guilty.
24 That is beyond a reasonable doubt.

25 I thank you for your time and your attention and I am

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1 firmly convinced if you do as I've asked, you will find Mr.
2 Bryant not guilty of this murder.

3 Thank you.

4 CHARGE TO JURY:

5 THE COURT: All right, ladies and gentlemen, it's my duty
6 and responsibility, to give you the law that you will apply to
7 the facts and evidence you find to be true. I told you in the
8 beginning I would not indicate to you in any way what I
9 believed the facts were and I've stuck with that. If you came
10 into this courtroom with any preconceived ideas of what the
11 law is, what it ought to be, what it should be, what you hope
12 it would be, you'll disregard that. You'll take the law as I
13 now give it to you and apply it to the facts and evidence you
14 find to be true in this case.

15 I told you at the very beginning one of your jobs, duties
16 and responsibilities was to judge the credibility and that is
17 the believability of the witnesses that came before you and
18 testified in this particular matter. Now in that, you can
19 believe one witness against several, several against one, you
20 can believe a portion of what a witness says, disregard the
21 remaining portion of it. If you've got a good and sound
22 reason for doing so, you can disregard in its entirety the
23 testimony of a particular witness. You look at whether or not
24 witnesses exhibit to you any kind of interest, motive, bias,
25 prejudice they might have in giving you the testimony that

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1 they gave you from the witness stand.

2 Now, your job, to find the truth, look at the facts and
3 evidence and find that evidence that convinces you it's true.
4 You don't have any enemies to punish, you don't have any
5 friends to reward. Your verdict can't be the result of any
6 kind of passion, prejudice or sympathy. It has to be an
7 examination of the facts and evidence and find that evidence
8 that convinces you it is true.

9 In this case, there has been presented, and virtually
10 every single case that's tried, there is direct and
11 circumstantial evidence. Direct evidence, that's the
12 testimony of a person who claims or asserts to have actual
13 knowledge of a fact, what they saw, what they heard, what
14 occurred in their presence.

15 Circumstantial evidence is proof of a chain of facts
16 indicating the existence of a fact. The law doesn't make any
17 distinction between the two, a greater degree of certainty of
18 one over the other is not required, but if the State and to
19 the extent that the State relies on circumstantial evidence,
20 all of the circumstances must be consistent with each other
21 and, when taken together, point conclusively to the guilt of
22 the accused beyond a reasonable doubt. If the circumstances
23 would merely portray the Defendant's behavior as suspicious,
24 that proof would have failed because the State has, and I told
25 you at the very beginning, always has the burden of proving

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1 the Defendant guilty beyond a reasonable doubt.

2 I qualified, I believe, two witnesses in this case as
3 expert witnesses or witnesses that can give their opinion in
4 this particular matter. We usually don't let witnesses give
5 their opinion. They have to tell you what I saw, what I
6 heard, what occurred. But some witnesses, by reason of their
7 experience, training, expertise, knowledge in a certain area
8 will allow them to give their opinion, but that doesn't give
9 them any special status as far as credibility and
10 believability. You judge all the witnesses the same. You
11 look at all the witnesses the same and find that evidence that
12 convinces you it's true.

13 In this particular matter, the Defendant did not testify.
14 I am telling you, instructing you that this is not a factor to
15 be considered by you in deciding this case. You may not use
16 it in any way to make your decision in this case, not even
17 mentally to try and form an opinion regarding this particular
18 matter. That is because, as I told you at the beginning, the
19 Defendant is presumed innocent. The Defendant has the right to
20 remain silent no matter what the charges may be and the burden
21 of proof is always on the State of South Carolina to prove the
22 Defendant guilty beyond a reasonable doubt.

23 The presumption of innocence, that's -- we liken it to a
24 robe of righteousness. It stays on the shoulders of the
25 Defendant and remains with the Defendant unless and until the

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1 State can rip that robe of righteousness off the shoulders of
2 the Defendant by evidence that convinces you it's true and
3 evidence that convinces you that the Defendant is guilty
4 beyond a reasonable doubt. That presumption of innocence
5 remains with him until and unless the State can do that based
6 upon the evidence it presents to you in the case.

7 Reasonable doubt, the kind of doubt that would cause an
8 ordinary, reasonable person to hesitate to act. Proof beyond
9 a reasonable doubt is proof that leaves you firmly convinced
10 of the Defendant's guilt. Now there are very few things that
11 we can know with absolute certainty and the law doesn't
12 require the State of South Carolina to give you that kind of
13 proof. What is required is based upon your view of the
14 evidence, the evidence you find to be true, you are firmly
15 convinced the Defendant is guilty of the crime charged, you
16 must find the Defendant guilty. On the other hand, based upon
17 your view of the evidence, the evidence you find to be true,
18 you are not firmly convinced the Defendant is guilty of the
19 crime charged, you must give the Defendant the benefit of the
20 doubt and find him not guilty.

21 The State has charged the Defendant with the crime of
22 murder. The State has to prove to you beyond a reasonable
23 doubt that the Defendant killed another person with malice
24 aforethought. Malice, that's hatred or ill will, hostility
25 towards another. It's the intentional doing of a wrongful act

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1 without just cause or excuse, with an intent to inflict an
2 injury and under the circumstances that the law would infer an
3 evil intent.

4 Now malice aforethought, it isn't required that that
5 malice exists for any particular time before the act is
6 committed, but the malice must exist in the mind of the
7 Defendant just before and at the time the act is committed.
8 There's this combination of evil intent and the act. Now this
9 malice aforethought, it can be expressed or inferred.

10 Now regarding expressed, that means that a person, they
11 have spoken ill will of another person or they've prepared
12 beforehand to do an act which they later accomplished. Malice
13 can be inferred also. It can be inferred from conduct showing
14 a total disregard for human life. Inferred malice could also
15 arise when a deed is done with a deadly weapon. A deadly
16 weapon is any kind of article, instrument or substance, which
17 is likely to cause death or great bodily harm. Now whether an
18 instrument has been used as a deadly weapon depends upon the
19 facts and circumstances of each case. If it's been proved to
20 you beyond a reasonable doubt to raise the inference of this
21 malice to your satisfaction, the evidence you find to be true,
22 that this inference is an evidentiary fact to be considered by
23 you along with all the other evidence in the case and you give
24 it the weight you believe it should receive.
25 That's the law. That's the law that you will apply to the

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CHARGE TO JURY

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1 facts and evidence you find to be true in this particular
2 case.

3 I've prepared a verdict form for your use in this case
4 and it's very straightforward, very simple. It's got the
5 caption of the case, State of South Carolina versus Kevin
6 Tyrone Bryant, Defendant, murder. On the charge of murder, we
7 the jury, by unanimous consent, find the Defendant, Kevin
8 Tyrone Bryant -- and there's two choices and I put one before
9 the other don't assign anything to that, you've got to put
10 before the other -- not guilty or guilty.

11 Madam Forelady, it will be your responsibility, once your
12 jury well and truly deliberates in this matter and reaches
13 their unanimous decision to take the verdict form, check the
14 appropriate block, sign your name, and put today's date on the
15 verdict form.

16 Now, I have said unanimous several times. It means
17 exactly what you think it means. Twelve/zero. It does not
18 mean 11/1, 10/2 or any combination there is. Madam Forelady,
19 you check that block and you put your name down there and
20 you're telling the Court every single member of the jury
21 agrees that's their verdict. So, if called upon when you come
22 back into court by the Clerk of Court to raise your right hand
23 affirm that is your verdict, every single member of the jury
24 can do so.

25 What I'm gonna ask that you do, Madam Forelady, is take

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BY THE COURT

1 your jury back to the jury room. The alternate, please, sir,
2 if you'll stay with us. Take all the other members of the
3 jury to the jury room. Do not, do not begin your
4 deliberations until the Bailiff hands to you the verdict form
5 and the exhibits. When the Bailiff hands to you the verdict
6 form and the exhibits, then you may begin your deliberations.

7 So, Madam Forelady, take your jury to the jury room
8 please.

9 (REPORTER'S NOTE: Jury exits courtroom. The following takes
10 place outside the presence of the Jury.)

11 BY THE COURT:

12 THE COURT: Is there any reason at this point in time
13 from the State that the Court should not excuse the alternate?

14 MR. HOLFORD: No, Your Honor.

15 THE COURT: From the Defense?

16 MS. WILSON: No, Your Honor.

17 THE COURT: (To Juror 186.) Sir, I want to thank you for
18 your service in this case. As you saw in this particular
19 case, it's not unusual that sometimes we have to substitute in
20 an alternate and just so that you know, your names were drawn
21 by lot. We put both your names on a slip of paper and the
22 Clerk picked one not knowing who was who and it just so
23 happens it was the other alternate that we substituted in when
24 we needed to do so and that's how it occurred. You did what
25 we asked you to do, pay attention, be here in case we needed

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BY THE COURT

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1 to substitute in another alternate. I'm gonna allow you to be
2 released from your jury service for this week. I want to
3 thank you and I appreciate your service. You are now excused.

4 Thank you, sir.

5 JUROR 186: Thank you.

6 (REPORTER'S NOTE: Juror 186 exits courtroom.)

7 THE COURT: Exceptions, deletions, additions to the charge
8 from the State?

9 MR. HOLFORD: No, Your Honor.

10 THE COURT: From the Defense?

11 MS. WILSON: None, Your Honor, with my objection as
12 stated before being noted.

13 THE COURT: As far as the inferred malice?

14 MS. WILSON: Yes, sir.

15 THE COURT: All right. Very good.

16 MS. WILSON: Thank you, Your Honor.

17 THE COURT: All right. And the Court reaffirms its
18 ruling that it made prior regarding that.

19 What I'd like for you to do, Solicitor and Ms. Wilson, if
20 y'all would come forward and check with the Court Reporter,
21 make sure that all the exhibits are proper and are going to
22 the jury.

23 While you're doing that, both Solicitors and Ms. Wilson,
24 I want to commend all three of you for the job that you did.
25 You did everything that the Court would expect of all of you

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BY THE COURT

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1 in trying this case and I appreciate what y'all have done in
2 this case. Thank you very much.

3 MS. WILSON: Thank you, Your Honor.

4 MR. HOLFORD: Thank you, Your Honor.

5 MR. OSKIN: Thank you, sir.

6 THE COURT: We'll be at ease until the jury needs us.
7 Thank you.

8 (REPORTER'S NOTE: Counsel reviews and agrees on exhibits to
9 be submitted to jury. Deliberations begin 11:25 A.M.)

10 **(RECESS.)**

11 *******OFF THE RECORD*******

12 **(On the Record.)**

13 (REPORTER'S NOTE: The following takes place outside the
14 presence of the Jury.)

15 THE COURT: Solicitor, Ms. Wilson, I understand that the
16 jury has reached a verdict in this matter. Is the State ready
17 to receive it?

18 MR. HOLFORD: Yes, Your Honor.

19 THE COURT: Defense?

20 MS. WILSON: Your Honor, I certainly -- I was hoping my
21 client's mother would make it back in time. We have called,
22 but I have not seen her back. We just called her a second
23 ago.

24 THE COURT: Okay. All right. We'll wait a second while

25 ---

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BY THE COURT

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1 MS. WILSON: I appreciate it.

2 THE COURT: While we do that, y'all can sit down.

3 MS. WILSON: Thank you.

4 THE COURT: While we do that, I do want to say something
5 to everyone in the courtroom.

6 MS. WILSON: Yes, that's her. Thank you.

7 THE COURT: All right. I do want to say something to
8 everyone in the courtroom. I do not know what the verdict is.
9 We will all receive the verdict at the same time. I'm telling
10 you that that verdict -- we asked that jury to do a very
11 difficult thing, so that verdict will be received with respect
12 and it will be received with silence. The Court will not
13 tolerate any kind of showing of emotion or outbursts of any
14 kind regarding the verdict when it is read by the Clerk. If
15 you do that, you will be detained by one of the members of the
16 Horry County Sheriff's office. Thereafter, I will hold a
17 contempt of Court hearing to find -- if I find you in contempt
18 of Court, I can send you to the Department of Corrections for
19 a period of up to one year. If you cannot abide by these
20 instructions, I am instructing you to leave the courtroom now,
21 giving you an opportunity. If you stay in the courtroom, the
22 verdict will be received with respect and it will be received
23 with silence. Thank you very much.

24 Ask the jury to come in.

25 (REPORTER'S NOTE: Jury enters courtroom. 1:35 P.M.)

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VERDICT OF JURY

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1 VERDICT OF JURY:

2 THE COURT: All right, Madam Forelady, has your jury
3 reached a verdict in this matter?

4 JUROR 323: Yes, sir.

5 THE COURT: All right, ma'am, could you hand the verdict
6 form to the Clerk's representative please, ma'am.

7 All right, ma'am, you may publish the verdict.

8 CLERK: Indictment Number 2015-GS-26-1708, the State of
9 South Carolina versus Kevin Tyrone Bryant on the charge of
10 murder, we, the jury, by unanimous consent, find the
11 Defendant, Kevin Tyrone Bryant, guilty. Signed by Foreperson
12 Kimberlyn Poston, Number 323, dated December 8th, 2016.

13 Ladies and gentlemen of the jury, if this is your
14 verdict, so signify by raising your right hand.

15 THE COURT: You may place your hands down. Thank you.

16 The jury having affirmed their verdict by the raising of
17 their right hand, does the State wish the jury polled?

18 MR. HOLFORD: No, Your Honor.

19 THE COURT: Does the Defense wish the jury polled?

20 MS. WILSON: Yes, Your Honor.

21 THE COURT: Madam Clerk, if you'll poll the jurors by
22 calling of their juror number, please, ma'am.

23 POLLING OF THE JURY:

24 CLERK: Please stand when I call your juror number.

25 Number 323, is this your verdict?

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POLLING OF THE JURY

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1 JUROR 323: Yes.

2 CLERK: And this is still your verdict?

3 JUROR 323: Yes.

4 THE COURT: Thank you, ma'am.

5 Those are the two questions that will be asked. Thank
6 you.

7 CLERK: Number 210, is this your verdict?

8 JUROR 210: Yes.

9 CLERK: Is it still your verdict?

10 JUROR 210: Yes.

11 CLERK: Thank you.

12 Number 288, is this your verdict?

13 JUROR 288: Yes.

14 CLERK: Is it still your verdict?

15 JUROR 288: Yes.

16 CLERK: Thank you.

17 Number 278, is this your verdict?

18 JUROR 278: Yes.

19 CLERK: Is it still your verdict?

20 JUROR 278: Yes.

21 CLERK: Number 258, is this your verdict?

22 JUROR 258: Yes.

23 CLERK: Is it still your verdict?

24 JUROR 258: Yes.

25 CLERK: Thank you.

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POLLING OF THE JURY

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1 Number 114, is this your verdict?
2 JUROR 114: Yes.
3 CLERK: Is it still your verdict?
4 JUROR 114: Yes.
5 CLERK: Number 36, is this your verdict?
6 JUROR 36: Yes.
7 CLERK: Is it still your verdict?
8 JUROR 36: Yes.
9 CLERK: Thank you.
10 Number 387, is this your verdict?
11 JUROR 387: Yes, ma'am.
12 CLERK: Is it still your verdict?
13 JUROR 387: Yes.
14 CLERK: Number 303, is this your verdict?
15 JUROR 303: Yes.
16 CLERK: Is it still your verdict?
17 JUROR 303: Yes, ma'am.
18 CLERK: Thank you.
19 Number 394, is this your verdict?
20 JUROR 394: Yes.
21 CLERK: Is it still your verdict?
22 JUROR 394: Yes.
23 CLERK: Thank you.
24 Number 177, is this your verdict?
25 JUROR 177: Yes.

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BY THE COURT

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1 CLERK: Is it still your verdict?

2 JUROR 177: Yes.

3 CLERK: And Number 35, is this your verdict?

4 JUROR 35: Yes.

5 CLERK: Is it still your verdict?

6 JUROR 35: Yes.

7 CLERK: Thank you.

8 THE COURT: The jury having affirmed their verdict after
9 being polled, anything further as to the jury from the State?

10 MR. HOLFORD: Nothing further, Your Honor.

11 THE COURT: As to the jury from the Defense?

12 MS. WILSON: Nothing, Your Honor. Thank you.

13 THE COURT: Very good.

14 BY THE COURT:

15 THE COURT: Madam Forelady, ladies and gentlemen of the
16 jury, I want to thank you for your service in this particular
17 case. I'm gone excuse you from your jury duties for this
18 week. I know participants in this matter know we ask you to
19 do a difficult thing. I mean, just in general, if any of
20 y'all are in any kind of relationship or family matter, you
21 understand that it's often difficult to get two people to
22 agree on something. Twelve people, but that's our process and
23 it's why it is the great system that it is. I appreciate your
24 service. I want to thank you for your service. You are now
25 excused.

MOTIONS

1 If you wish to stay for the sentencing, which will
2 commence shortly. The Bailiffs are gonna take you out and
3 they would escort you back around to sit in the back if you
4 wish to. That's your choice. You're not required in any way
5 to do that, but again, thank you. You are now excused.

6 (REPORTER'S NOTE: Jury exits courtroom.)

7 THE COURT: Is the State ready to proceed with
8 sentencing?

9 MR. HOLFORD: Your Honor, Mr. Oskin is going to print a
10 sentencing sheet up here on the third floor next door in our
11 office.

12 THE COURT: All right. Very good.

13 Go do that, please sir.

14 MR. OSKIN: Yes, sir.

15 MR. HOLFORD: Your Honor, the State is ready to proceed.

16 THE COURT: All right. Before we do that, Ms. Wilson, is
17 there any motions on behalf of the Defense?

18 MOTIONS:

19 MS. WILSON: Yes, sir, Your Honor, there is. At this
20 time I move for a judgment in arrest of verdict. Your Honor
21 my argument is simply that the jury's verdict is in -- is
22 against the greater weight of the evidence, I believe, that
23 was presented at trial. I'm requesting that the Court vacate
24 the jury's verdict in favor of a not guilty for Mr. Bryant.

25 THE COURT: Thank you, ma'am.

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MOTIONS

1 MS. WILSON: And ---

2 THE COURT: Yes, ma'am?

3 MS. WILSON: --- and also just while I'm up, I would
4 renew all motions or objections that I have made thus far
5 throughout the trial ---

6 THE COURT: Thank you, ma'am.

7 MS. WILSON: For the record. Thank you.

8 THE COURT: --- regarding the prior motions, the Court
9 reaffirms the Court's rulings in all those matters and
10 respectfully declines to grant those motions.

11 Regarding your motion for a new trial, as I indicated at
12 the directed verdict motions, I do find that there was more
13 than sufficient evidence if that jury -- it was so believed by
14 the jury and it must've been by the return of their verdict --
15 again, I told you I was not judging credibility and
16 believability, that being the jury's job -- but as to the
17 existence of evidence, the Court did find and I so find there
18 was more than sufficient evidence presented by the State to
19 convict the Defendant of the crime for which he had been
20 charged, that is murder. And I do respectfully decline to
21 grant your motion for a new trial having found that there is
22 more than sufficient competent evidence to sustain the jury's
23 verdict in this particular matter.

24 Any other motions on behalf of the Defense?

25 MS. WILSON: None at this time, Your Honor.

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SENTENCING

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1 THE COURT: All right, Solicitor, on behalf of
2 sentencing?

3 SENTENCING:

4 MR. HOLFORD: Yes, Your Honor. This is the State of
5 South Carolina County of Horry versus Kevin Tyrone Bryant,
6 indictment 2015-GS-26-01708 for murder. That's an offense
7 that carries thirty years to life. It is a violent offense.
8 It's a most serious offense. Having been convicted by a jury
9 -- I will hand up the sentencing sheet, Your Honor. /

10 THE COURT: All right, sir. Very good.

11 MR. HOLFORD: Your Honor, the Defendant does have a prior
12 record. Also, three members of the family, Mr. Shaw, his
13 father, Ms. Vereen, his mother and Ms. Vereen, his sister
14 would like to be heard at the appropriate time.

15 THE COURT: All right. Very good. I'll be glad to
16 receive his prior record at this time.

17 MR. HOLFORD: Your Honor, convictions show a 2007
18 discharging a firearm into a dwelling. For that offense he
19 got 10 years suspended to 90 days and probation. In 2010, he
20 had a violation of his probation and an unlawful possession of
21 a sawed-off shotgun; for that he got two years. In 2013,
22 manufactured distribution or PWID crack or cocaine base; for
23 that he got four years suspended to 90 days and two year's
24 probation. That would be the substance of his prior record,
25 Your Honor.

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1 THE COURT: Very good. I'll be glad from the
2 representatives of the victim at this time.

3 MR. HOLFORD: Mr. Shaw?

4 THE COURT: All right, sir. If you would, please, sir,
5 if you'd just state your full name and then I'll be glad to
6 hear from you, sir.

7 MR. SHAW: Henry Bernard Shaw.

8 THE COURT: Yes, sir.

9 MR. SHAW: Your Honor, all my life my mother has taught
10 not to disrespect nobody, not to treat nobody wrong. You know
11 in all my life I've tried to live by that even when it was
12 times when I had brushes with the law. I never ran from
13 nothing. I always admitted to my faults. This right here,
14 this is unbelievable right here. I mean, I can't understand
15 how grown people will go -- would go after a young individual
16 and do something to him like this right here all in the
17 namesake of a few dollars.

18 THE COURT: I appreciate that. Thank you very much, sir.
19 Yes, ma'am, just tell me your name, please, ma'am.

20 MS. VEREEN: Crystal Vereen.

21 THE COURT: Yes, ma'am, be glad to hear from you.

22 MS. VEREEN: I'm Saequan Vereen's mom. I just wanted to
23 just -- the night -- I'm gonna taking a little bit of my
24 experience. It was Valentine's night. You know, I work at
25 the Convention Center and I got off work about 2:30, about --

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1 I rode past the scene and police cars were out there. Didn't
2 think nothing about it. I said, well, I know Saequan ain't
3 out there, whatever was going on, because he went out last
4 night, the night before. He don't do clubs like that. I
5 wasn't home five minutes, I got up to my door, I got a call,
6 they shooting at your brother. The next phone call was he on
7 the ground; he's -- he -- he's not moving. You know and to
8 find out, you know, the way that Saequan was assassinated was
9 very unnecessary and, and to shoot somebody, to shoot a
10 person, period, that you don't even know -- if he -- if he
11 would have met my son that would never -- nobody couldn't have
12 been -- convince anybody to do that. You know, if it was over
13 money, I work. I'll pay you. I'll pay you. I work, you
14 know, and just to hear the fact, you know, there've been
15 things said that he killed my son for \$10,000 on behalf of
16 another -- of the hearsay of another person. But normal
17 people that want \$10,000, we go to work. We work all year, we
18 work hard, you know, and I just think it's, it's, it's awful.
19 My son was a hugger, very mannerable, you know, would give you
20 pretty much anything, you know. He didn't give me no trouble
21 and just to -- to see him laying out there on that slab -- and
22 I was so, I was so afraid. I mean, even though I knew the
23 young man was shot and took him to the hospital, but I mean it
24 really traumatized me. I was afraid. I was afraid of, of
25 other black men, you know, and I shouldn't -- that shouldn't

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1 be the case, you know. I mean I got to a point where it's
2 like, like normally -- like one night after -- well, probably
3 three weeks after that I was going to the -- it was spring
4 break because there was a bunch of kids, you know, they on
5 spring break, they on college. They just having fun. I'm
6 scared, you know. It's just -- it just turned my whole life
7 upside down, my entire family. We all grieve differently, but
8 everybody's grieving, you know. It, it, it, it -- he took my
9 precious jewel and I ain't never gonna get him back. You
10 know, I think about stuff like, you know, maybe he would've
11 got married, had kids, you know, and the kid part is kind of
12 bittersweet because I'm glad his girlfriend wasn't pregnant
13 because I don't want to have to tell my granddaughter or
14 grandson about their father. I would prefer that if he did
15 have a child, he be here to tell, you know, to tell his kids
16 to do this and do, you know, the positive things to do and
17 it's, it's, it's just awful. To me, you know, I consider it
18 assassination, just period, you know. And the only thing I
19 can say as far as him shooting him in the back and, from what
20 I heard my son was having a good time that night. I'm glad he
21 shot him in the back instead of in his face. For one, I was
22 praying to God that I could show my son's body so that I could
23 see him one last time, you know, but then shooting him in the
24 back, so my son didn't even see him coming, you know. I mean,
25 I just imagine if, if he would've saw him coming, you know,

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1 towards him with whatever kind of gun he had or whatever. And
2 then from what I understand, when this all occurred, his, his
3 girlfriend was down here with him. Who travels from one
4 county to another county on Valentine's Day? It's supposed to
5 be World Love Day. They kill somebody. To kill somebody, you
6 know, I mean even though it was February 15th when he was
7 pronounced dead but, you know, if you out or whatever you're
8 doing, it's still Valentine's Day, you know. It's just
9 terrible and it makes no sense and I hope that you can give
10 him the maximum as you possibly can. And I thank you for
11 listening to me.

12 THE COURT: Thank you, ma'am.

13 Yes, ma'am, if you just tell me your name?

14 SERAH: Thank you, Your Honor. My name is Sereya
15 (spelled phonetically). Can you hear me very well?

16 THE COURT: Yes, ma'am, I can hear you.

17 SERAH: I'm Saequan's older sister and I just wanted to
18 let everybody I know that everybody heard the bad day of
19 Saequan's life. I just want to say that my brother was very
20 good person. He was only 23 years old. He couldn't live his
21 life to the fullest. He was actually the only person in our
22 household to ever attend college. He did a lot of things that
23 we didn't do. He had a lot of respect for people. Like my
24 mom said, he was a hugger. He was a big boy so he was much
25 like a teddy bear. And I just wanted everybody to know that

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1 about him, you know, because he didn't do anything wrong to
2 anyone. And also that I wished a lot of people was like my
3 brother. I always say when I marry a man, I want him to be
4 like my brother because my brother never, never worried about
5 anything. He never stressed. If he see anybody in need, he
6 will tell them it was okay. And his favorite line was you
7 worry about the things that you cannot change. I can't get my
8 brother to say that to me when I'm having tough times with my
9 kids for him to walk in the door and help me with them. And I
10 just think, how could you do anything they say when you
11 overkill somebody that is probably personal. How could you
12 overkill someone that you did not know unless you was -- he
13 don't have no regards for life. He's older. He has children.
14 He had time to change his life or make better decisions. My
15 brother can't do that. My brother can't do that so I'm just
16 asking that you favor with us and make sure that he can't hurt
17 anyone else and give him the max because if you can do that to
18 somebody that you don't know, that easily could be done to
19 anybody else that you do not know and that's not fair.

20 THE COURT: Thank you, ma'am.

21 Anything further, Solicitor?

22 MR. HOLFORD: Your Honor, as you see, the victim in this
23 case, Saequan Vereen, was very loved by his family, those who
24 spoke and those who did not. He was only 23 years old, Your
25 Honor, a boy by all -- by all accounts although he was, he was

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1 a bigger boy, he was young and had a lot of life ahead of him.
2 Your Honor, as you saw in the video, this was a senseless,
3 cold-blooded execution. The Defendant waited in between that
4 car for a good 10 minutes knowing exactly what he was gonna
5 do. He had been armed with guns before, convicted of carrying
6 guns before, did so on this night. Came from Kingstree to
7 Myrtle Beach and killed a Myrtle Beach street boy. Your
8 Honor, he came into town with a plan to execute the victim,
9 Saequan Vereen and he carried that out. Based on the facts
10 and the evidence in this case, based on the conviction, the
11 State would -- would request from Your Honor a life sentence
12 in this murder. This is as serious as it gets.

13 THE COURT: Thank you, sir.

14 Ms. Wilson, be glad to hear from you, ma'am.

15 MS. WILSON: Thank you, Your Honor. Your Honor, Mr.
16 Bryant is 31 years of age. He has a 10th grade education,
17 does work as a brick mason. He was raised in Kingstree, Your
18 Honor and all of his family lives there. He has family here
19 today as well. His mother is here and some other relatives
20 from the family. She's been a constant in the courtroom
21 during this trial in support of her son and, certainly -- I am
22 certain that this is as difficult for her as it is for my
23 client and as it is for myself. He is single. He does have a
24 child. She's two years old. He has actually been in custody
25 since February 15th one way or the other. Served

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1 approximately 661 days as of today and by that statement, I
2 also mean to let the Court know that he's been incarcerated
3 the majority of his daughter's life. He's had very little
4 time to actually spend with her. Certainly, the jury has
5 spoken in this case. My client has maintained his innocence
6 since I began my representation. The verdict does not change
7 his feelings about that or disposition. I certainly
8 understand, however, that a judgment has been rendered and
9 that a sentence must also be rendered. This charge is a very
10 serious one as the State has said. I don't think we were ever
11 in any doubt about that and in my presentation to the jury, I
12 think I was very clear that we understood the gravity of this
13 charge and this entire situation. A sentence has to be in the
14 range of 30 years to life. We've talked about what that
15 means. That is an 85 percent, excuse me, a day-for-day
16 charge. If he is sentenced to anything after conviction, it
17 has to be day, one day at a time for whatever the term is that
18 the Court finds appropriate in this case. Certainly a 30-year
19 sentence depending on what happens in prison or even my
20 client's personal health could be a life sentence.

21 I am asking this Court, I am begging this Court for
22 leniency and leniency in the sense that he is going to prison.
23 There is no question about that. He has to do at least 30
24 years. There is no question about that. That 30 years is
25 still gonna be day-for-day. He would be at the earliest 61

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1 years of age before he could be released and that would be a
2 day-for-day 30-year sentence if he were to live that long. I
3 understand that -- and begging the Court for any leniency. We
4 are throwing ourselves on the Court's mercy and mercy is not
5 something that is earned or necessarily even deserved if that
6 were a concern for the Court, but it is something that is
7 within this Court's discretion to grant and we are asking the
8 Court for that mercy today.

9 Your Honor, I believe that my client may wish to address
10 the Court.

11 THE COURT: Yes, ma'am. Mr. Bryant, is there anything
12 you'd like to add to what your attorney has already said, sir?

13 MR. BRYANT: Yes, sir. I want to apologize to the
14 family, but I still remain -- I mean, maintain my innocence.
15 I never got paid no money to kill your son, never. The same
16 dudes, they brought me here to try to use against me were --
17 they know I didn't do nothing to your son. I never got any
18 money to kill your son, but I apologize, but I didn't kill
19 your son. And I can look you in the face and tell you I
20 didn't and I apologize to y'all for y'all's loss, but I didn't
21 do it.

22 THE COURT: All right, sir. Thank you very much.

23 MR. BRYANT: And, Your Honor?

24 THE COURT: Yes, sir.

25 MR. BRYANT: Your Honor, if you don't mind, if it's okay

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1 with you, could I hug my mother, please?

2 MS. WILSON: Your Honor, what I would ask is that we
3 address that maybe ---

4 THE COURT: Why don't we try to accomplish that in a
5 different setting.

6 MS. WILSON: Yes, sir.

7 THE COURT: Please, ma'am. I'll take that request under
8 consideration, but it will not be accomplished here in the
9 courtroom.)

10 Anything else, Ms. Wilson?

11 MS. WILSON: I'm so sorry, Your Honor.

12 THE COURT: That's all right, ma'am, not a problem.

13 MS. WILSON: Your Honor, I think my client has something
14 else he wishes to say to the Court.

15 THE COURT: Yes, sir, Mr. Bryant?

16 MR. BRYANT: Your Honor, when this incident took place on
17 February the 15th, when I was arrested, it was -- along with
18 that I had three more co-defendants. They were arrested, too.
19 And on the affidavit they said that me and these people act in
20 cahoots to kill this individual. At that time, their charges
21 just started disappearing. I came before you -- I can't
22 remember exactly one day, you ordered me to give DNA testing
23 to known DNA that was found on the firearm. I gave that DNA
24 testing. It came back insufficient saying that it was not a
25 match on the gun. I also gave a GSR kit on my right hand.

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1 That came back negative. If I was the shooter and that young
2 man got shot that many times, GSR was supposed to be all over
3 my clothes and my hand the DNA -- DNA don't lie. It wasn't my
4 DNA on the gun. If it was me and they caught me right there
5 and then, I never had a chance to go wash my hand. I never
6 had a chance to do anything.

7 THE COURT: Anything else?

8 MR. BRYANT: No, sir, I just wanted to let you know that
9 for the record.

10 THE COURT: All right. Thank you, sir.

11 Anything else, Ms. Wilson?

12 MS. WILSON: Nothing at this time, Your Honor.

13 THE COURT: Thank you, ma'am.

14 MS. WILSON: Your Honor, I -- correction. I believe that
15 my client's mother would like to address the Court briefly?

16 THE COURT: All right. Glad to hear from you.

17 Yes, ma'am, if you'd just state your name and I'll be
18 glad to hear from you, ma'am.

19 MS. BRYANT: Bessie Bryant.

20 THE COURT: Yes, ma'am.

21 MS. BRYANT: I would like to turn around and tell the
22 family, I wasn't out there. I don't know what happened, but I
23 want to apologize for y'all's loss of y'all's son, from the
24 bottom of my heart. The son I raised, Your Honor, I know he
25 didn't do it, so I'm gonna have to leave that in God's hands.

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1 But I'm telling the family, if I knew my son had anything to
2 do with this with money, so help me, mother to mother, I
3 wouldn't be sitting in here with him today. And I'm so sorry
4 you lost your son and your brother. God bless y'all.

5 Thank you.

6 THE COURT: Thank you, ma'am.

7 2015-GS-26-1708, State of South Carolina versus Kevin
8 Tyrone Bryant. The sentence the Court imposes is based upon
9 only the facts presented in this particular matter and the
10 Defendant's prior record. It's not based on any speculation,
11 surmise about any possible motive or any other matters that
12 were not presented in evidence in this particular case. The
13 Court finds that the actions of the Defendant, Kevin Tyrone
14 Bryant, were deliberate, calculated, callous. Therefore, the
15 Court finds that the Defendant is committed to the State
16 Department of Corrections for life imprisonment.

17 This matter is ended.

18 MR. HOLFORD: Thank you, Your Honor.

19 MS. WILSON: Thank you, Your Honor.

20 END OF DAY FOUR.

21 (ADJOURNED - 2:30 P.M.)
22
23
24
25

ORIGINAL

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State v. Bryant - 2015-GS-26-01708
Certificate of Court Reporter

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the trial held in the case of State of South Carolina versus Kevin Tyrone Bryant, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on December 5-8, 2016, taken Dixie C. Eubank.

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



Kay H. Richardson

Official Court Reporter

March 13, 2017.

WITNESSES

SH Jones Myrtle Beach Police Department

ARREST WARRANT NUMBER

2015A2620600352

CDR: 0116 16-03-0010, 0020

DOA: 2/18/2015

ACTION OF GRAND JURY
TRUE BILL

Bob Harris
Foreperson of Grand Jury

Date: APR 23 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-26- 01708

The State of South Carolina

County of Horry

Joshua D. Holford

15H00909

COURT OF GENERAL SESSIONS

April, 2015 TERM

THE STATE

vs.

Kevin Tyrone Bryant B/M
Pine Ave
Kingstree, SC 29556-2050
DOB: 1985-
SSN:

Kia Wilson
ATTORNEY: ~~William Edward Chisum~~

Indictment for

MURDER

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED
HORRY COUNTY

2015 APR 27 AM 10: 22

WILLIAM E. BOWEN
CLERK OF COURT

DATE RECEIVED FROM
GRAND JURY

CERTIFIED COPY
2016 DEC 12 AM 10: 02
CLERK OF COURT
HORRY COUNTY

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on April 23, 2015, the Grand Jurors of Horry County present upon their oath:

MURDER

CDR: 0116 16-03-0010.0020

That Kevin Tyrone Bryant did in Horry County, on or about February 15, 2015, willfully, feloniously, and intentionally kill the victim, Saequan Vereen, with malice aforethought, either express or implied, by means of lying in wait for the victim in a public place and did shoot the victim multiple times with a semi-automatic handgun, and the victim did die as a proximate result thereof on or about February 15, 2015 in Horry County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

FILED
2016 DEC -8 PM 3:13
CLERK OF COURT
COURT DATE
PLED GUILTY/TRIAL

CLERK OF COURT
HORRY COUNTY

2016 DEC 12 AM 10:02

CERTIFIED COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

639

COUNTY OF Horry
 STATE VS.
Kevin Tyrone Bryant
 AKA:
 Race: B Sex: M Age: 31
 DOB: 1985 SS#: [REDACTED]
 Address: Pine Ave
 City, State, Zip: Kingstree, SC 29556-2050
 DL#: [REDACTED] SID#: [REDACTED]
 *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2015GS2601708
 A/W#: 2015A2620600352
 Date of Offense: 2/15/2015
 S.C. Code §: 16-03-0010, 0020
 CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
 TO: Murder (30 years - Life Sentence)

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.
 ATTEST: [Signature] SCB80071

Holford, Joshua D. SC Bar# [REDACTED] Defendant Attorney for Defendant SC Bar# [REDACTED]
 WHEREFORE, the Defendant is committed to the State Department of Corrections, ☐ County Detention Center,
 for a determinate term of Life Imprisonment or ☐ under the Youthful Offender Act, not to exceed 30 years
 and/or to pay a fine of \$ [REDACTED]; provided that upon the service of [REDACTED] days/months/years and/or payment
 of \$ [REDACTED]; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP [REDACTED] days/hours Public Service Employment

Total: \$ [REDACTED] plus 20% fee: \$ [REDACTED]

Payment Terms: [REDACTED]

☐ Set by SCDPPPS [REDACTED]

Recipient: [REDACTED]

*Fine: [REDACTED] \$ [REDACTED]

§ 14-1-206 (Assessments 107.5%) [REDACTED] \$ [REDACTED]

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ [REDACTED]

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ [REDACTED]

§ 56-5-2995 (DUI Assessment) \$12 \$ [REDACTED]

§ 56-1-286 (DUI Breath Test) \$25 \$ [REDACTED]

Proviso 61.6 (Public Def/Probation) \$500 \$ [REDACTED]

§ 14-1-212 (Law Enforce. Funding) \$25 \$ [REDACTED]

§ 14-1-213 (Drug Court Surcharge) \$150 \$ [REDACTED]

§ 50-21-114 (DUI Breath Test Fee) \$50 \$ [REDACTED]

§ 56-5-2942(1) (Vehicle Assessment) \$40/ca \$ [REDACTED]

3% to County (if paid in installments) [REDACTED] \$ [REDACTED]

TOTAL \$ N/A

Obtain GED. ☐

Attend Voc. Rehab. or Job Corp. [REDACTED]

May serve W/E beginning [REDACTED]

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ [REDACTED] beginning [REDACTED]

\$ [REDACTED] paid to Public Defender Fund

Other: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

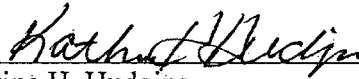
Melanie Huggins Ward
Dixie Eubank

[Signature]
12/8/16

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Kathrine H. Hudgins
Appellate Defender

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

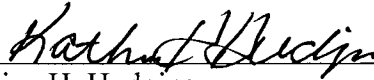
ATTORNEY FOR APPELLANT

This 15th day of September, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 15th day of September, 2017.