

ORIGINAL

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable William Jeffrey Young, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JEFFREY DANA ANDREWS

APPELLANT

APPELLATE CASE NO 2015-001679

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

EXHIBIT D-31 (INTERVIEW OF ERIKA ANDREWS)

EXHIBIT D-32 (DASHCAM)

EXHIBIT D-33 (PHOTO OF PORCH)

Jeffrey Andrews-Cross by Meadors

1 was closer to here at that time.

2 Q. And you're where?

3 A. I am sitting right here.

4 Q. And where is Shamar?

5 A. Shamar is standing right here.

6 Q. And this is the first visit.

7 A. Yes.

8 Q. Then he leaves.

9 A. That's correct.

10 Q. The second visit, where does Shamar go on
11 the second visit?

12 A. Shamar came right back to this position
13 right here. Right back here.

14 Q. And you all starting arguing then?

15 A. Yes, sir, on this -- yes, sir.

16 Q. And you're arguing over the brandy.

17 A. Actually we were -- yes, sir.

18 Q. Because somebody brought that up again.
19 You're still mad about the brandy.

20 A. No, sir. Like I said, I wasn't mad. I
21 was just a little disappointed.

22 Q. But you're still talking about it.

23 A. Actually we wasn't talking about it. We
24 brought it up and tried to leave it alone.

25 Q. But you were getting angry.

Jeffrey Andrews-Cross by Meadors

1 A. No, sir, I wasn't getting angry.

2 Q. When you said that 'y'all were arguing,
3 that means you are getting angry on each side,
4 isn't it?

5 A. Not necessarily agree with that. If
6 you're arguing with somebody, you're angry---

7 Q. I'm asking you a question.

8 A. You're making an argument, but you're not
9 angry.

10 Q. I am not through yet. Now the second
11 time, where did he leave?

12 A. Excuse me?

13 Q. The second visit, you said he's got a what
14 in his hand? The bottle?

15 A. Yes, when he came back in he had that,
16 what appeared to be that 40-ounce bottle you
17 showed me on the tape. It is right here.

18 Q. Did he put it down when you were all were
19 arguing?

20 A. No, he had it in his hand.

21 Q. And that's when you all started scuffling
22 with him when you go to the door?

23 A. No, sir.

24 Q. Tell me, Monday you testified -- or the
25 other day you testified under oath you did like

Jeffrey Andrews-Cross by Meadors

1 this to him, do you remember?

2 A. Yes.

3 Q. You squared up to him.

4 A. Yes, sir.

5 Q. Where were you when that happened?

6 A. Right here. Right there.

7 Q. What trip was that, the second or third?

8 A. That was when we got into the -- when
9 Shamar asked, are you all talking about me. Then
10 the argument escalated and escalated. And that's
11 when he was advancing towards me.

12 Q. So he didn't have the bottle in his hand
13 then.

14 A. Yes, he did.

15 Q. So you're doing this.

16 A. That's why I did that.

17 Q. And that's the second visit.

18 A. That is, that's correct.

19 Q. Now the third visit, come show me what
20 happened then.

21 A. On the third visit Shamar never made it in
22 the door. He never made it. He never made it in
23 the door. On the third visit, that's when I had
24 Erika. Shamar was entering the house, I grabbed
25 him.

Jeffrey Andrews-Cross by Meadors

1 Q. So you were outside?

2 A. I was in -- I was, no, I am sorry. That's
3 the front door. I had Erika here. Shamar is
4 there. I'm trying to get him out. Trying to get
5 Erika.

6 Q. So had he already entered then?

7 A. Yes.

8 Q. And you were trying to get her out then?

9 A. That's correct.

10 Q. And did you get them out? You got him
11 out.

12 A. I got him out.

13 Q. That's when you go to your room. Your
14 dad's room.

15 A. That's correct. When I -- that's correct.

16 Q. And closed the door. Locked the screen
17 door and closed the wooden door.

18 A. That's correct.

19 Q. Go to his room. Shamar, you don't know
20 where he is.

21 A. Shamar is on the porch.

22 Q. You don't know that.

23 A. When I locked the screen door that's where
24 he was.

25 Q. Because the door is closed, you can't see

Jeffrey Andrews-Cross by Meadors

1 outside.

2 A. That's correct.

3 Q. You're inside there. You say you are
4 looking for your phone. Where does your dad
5 usually keep his phone?

6 A. In his room. There is a night stand right
7 by the dresser. Between the dresser and the bed.

8 Q. And it wasn't there then.

9 A. No, sir.

10 Q. Where did Erika find it, if you know?

11 A. She actually took it from my dad. My dad
12 had it on him. My dad, like I said during the
13 wintertime, he usually keeps the phone in his
14 jacket pocket.

15 Q. So at this point, Shamar is out the door.

16 A. Correct.

17 Q. You're looking for the phone.

18 A. Correct.

19 Q. The gun? Where was the gun?

20 A. On the dresser drawer by the TV right as
21 you enter the room right, it would be, this is the
22 room right here. Could I see the picture? I can
23 show you if you've got it.

24 Q. This is Defendant's 12.

25 A. I can't show you from this picture. But

Jeffrey Andrews-Cross by Meadors

1 you have some more.

2 Q. But that's the door we're talking about to
3 the bedroom, right?

4 A. Yeah.

5 Q. And inside there on the left is a little
6 dresser.

7 A. There is a dresser is right there, yeah.

8 Q. You go looking for the phone, and you
9 can't find it, but you grab the gun.

10 A. When I heard the door opening, the screen
11 door, when I heard the screen door being snatched
12 open, that's when I got the gun.

13 Q. Show us how that happened.

14 A. Grabbed it, brandished the weapon, walked
15 right here. You can see right here. My body is
16 right here.

17 Q. You didn't know if the door was opened or
18 closed, the wooden door. I know, I could see the
19 wooden door open.

20 A. I know, I can see the wooden door open.

21 Q. So you did see it open?

22 A. That's correct.

23 Q. Well who opened it?

24 A. I believe it appeared that Erika opened
25 the door.

Jeffrey Andrews-Cross by Meadors

1 Q. Where did she do that?

2 A. As I was going to the room, looking for
3 the telephone.

4 Q. And then what happened?

5 A. Excuse me?

6 Q. Then what happened?

7 A. I couldn't find the phone. I was on my
8 way out, I heard the screen door being snatched
9 open. I was right here, I grabbed the weapon.

10 Q. You were right where? Show us in here.
11 Put that down, and show us, please, sir. You were
12 right where? If this is the door and this is your
13 turn, please.

14 A. There is the door right here.

15 MS. COOKE: Your Honor, I just want to
16 note for the record that that was moved.

17 MR. MEADORS: Your Honor, that's
18 approximate.

19 THE COURT: That's just approximate.
20 That's not exactly.

21 A. I was right here.

22 Q. I guess what I'm saying, how long did it
23 take you to come out before you fired?

24 Mr. Mathews, would you come up here, please?

25 A. It happened so quick, sir.

Jeffrey Andrews-Cross by Meadors

1 Q. Where was -- if Mr. Mathews is Shamar,
2 where was -- when is the first time you saw him
3 when you came in that room?

4 A. When he snatched the door open, Shamar was
5 in, right here.

6 Q. Would you get up here, please. Well put
7 him in the position Shamar was, please.

8 A. Entering the house like so.

9 Q. Like that. Would you go back where you
10 were please?

11 A. Yes, sir.

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

14 Q. You come out, and show us how you shot
15 him.

16 A. I grabbed him, like I said. I grabbed the
17 weapon and shot him. And I swung around here, and
18 shot him.

19 Q. So he was at your front door. But he
20 wasn't in your door.

21 A. Yes, he was in the door, on the threshold.

22 Q. So was the glass door open?

23 A. Yes.

24 Q. So it was behind him, correct?

25 A. Yes.

Jeffrey Andrews-Cross by Meadors

1 Q. So it had been behind him this way.

2 A. On the side of him.

3 Q. And where was he hit, do you know?

4 A. According to your records and when I saw
5 him, he appeared to have a shot.

6 Q. Over here?

7 A. Nah, right here.

8 Q. Over here?

9 A. On this side.

10 Q. Over here?

11 A. On this side. The right side.

12 Q. Over here.

13 A. That's correct.

14 Q. And how tall are you?

15 A. I'm 5-foot 5.

16 Q. And how tall is he?

17 A. 6-foot tall.

18 Q. And point again how you'd shoot him. And
19 what did he have in his hands?

20 A. It appeared that he had nothing in his
21 hands, because he just snatched the door open. So
22 he had nothing in his hands.

23 Q. And didn't have a gun.

24 A. Not that I know of. I wasn't aware of it.

25 Q. And that's where you shot him.

Jeffrey Andrews-Cross by Meadors

1 A. That's correct.

2 Q. And Mr. Virlyn Gardner was where? Was he
3 over here on this side?

4 A. Again, at that time, I'm not quite sure
5 where Virlyn was.

6 Q. Well let me show you this picture again.
7 State's No. 10, where did you put Mr. Virlyn the
8 last time you put him there?

9 A. Well this is when we all started. When we
10 all started, this chair was here. Virlyn was
11 sitting here. I was sitting here. Erika. This
12 is was early on.

13 Q. Well Virlyn was still in the room, wasn't
14 he?

15 A. Oh, yes, he was still in the room, but I
16 couldn't tell you where he was.

17 Q. But if he was still sitting right here,
18 he'd be able to see you, wouldn't he?

19 A. Sure.

20 Q. I mean, from here to here, Mr. Virlyn
21 Darryl Gardner would be able to see you.

22 A. He should be able to see me.

23 Q. Or you could see him, couldn't you?

24 A. When I grabbed the weapon, sir, and I shot
25 Shamar, peripheral vision and all that, I just

Jeffrey Andrews-Cross by Meadors

1 couldn't tell. So I can't testify and swear that
2 under oath.

3 Q. Swear to what?

4 A. Where he was at the time. I cannot do
5 that.

6 Q. When did you become in fear of suffering
7 serious bodily injury or death, Mr. Andrews?

8 A. When Shamar advanced towards me with the
9 bottle during the course of the argument. When he
10 advanced towards me with a bottle. When Shamar
11 came back it the house.

12 Q. Wait a minute. So that's when you were in
13 fear of your life. No, sir, let me clear it. Was
14 that when you were in fear of your life?

15 A. That's correct.

16 Q. And that was one or two visits before that
17 or the visit before that. That was the second
18 visits before that. That was the second visit,
19 wasn't it?

20 A. Shamar and I got -- Shamar went to the
21 restroom. And I'll slow down. I'll slow down for
22 you.

23 Q. You'll slow down. Thank you.

24 A. I'll slow down. Shamar went to the
25 restroom. Came back. And we argued. Now repeat

Jeffrey Andrews-Cross by Meadors

1 the question again, sir.

2 Q. I think you said that when he came at you
3 with the bottle is when you thought you were in
4 fear of suffering serious bodily injury or death.
5 You said when he came with the bottle at you.

6 A. Yes, sir. We started the argument on the
7 second visit in the house, when he came back in,
8 when he appeared to have 40-ounce bottle. That's
9 correct.

10 Q. And you didn't call the police then when
11 you were in fear of suffering serious bodily
12 injury or death.

13 A. Actually what happened is, I wasn't going
14 to turn my back on him. I was not going to turn
15 my back on him with a bottle. That's what
16 happened. So when I got him outside, that's when
17 I...

18 Q. That's when you what?

19 A. That's when I made the attempt to go and
20 call the police.

21 Q. And what was it he said to you outside
22 here before he came in this last time?

23 A. The last time.

24 Q. You said he was cussing a bunch of times.

25 A. Yeah, when I got out him out with the

Jeffrey Andrews-Cross by Meadors

1 bottle in his hand, you're a punk mother fucker,
2 I'll kill you. You are a punk mother -- you are a
3 punk ass nigger.

4 Q. And that ticked you off, didn't it?

5 A. Of course that made me a little upset.

6 Q. Lost your brandy. Stole your brandy. Was
7 cussing at you. That made you mad.

8 A. That made me upset.

9 Q. That made you angry.

10 A. Made me upset.

11 Q. Well you weren't in fear of suffering
12 seriously bodily injury or death then, were you?

13 A. Of course I wasn't. Like I told you, when
14 he advanced towards me during the course the
15 argument, that made me scared and in fear of my
16 life.

17 Q. I was talking about the time before that.
18 But this last time, what did you say he said right
19 before he came in according to your testimony, on
20 the fourth visit? When he cussed you again, did
21 he say, 'I'm going to kill you, and use the N word?
22 I'm certainly not going to say that.

23 A. That's not the fourth visit, sir.

24 Q. Oh, that wasn't the fourth visit? When
25 did he say that?

Jeffrey Andrews-Cross by Meadors

1 A. That's when I put him out. That's when
2 we got him out. That's when I Got Shamar out.
3 He came back in the second time, I got him out.
4 He had the bottle in his hand. That's when that
5 happened.

6 Q. And he said he was going to kill you.

7 A. Yeah, I'll kill you, punk mother fucker.
8 He was pretty ticked off, because we were arguing.

9 MR. MEADORS: Thank you. I appreciate you
10 coming down here.

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

13 Q. Okay. So you had replaced the liquor?

14 A. That's correct.

15 Q. Is that, where was that?

16 A. Where was?

17 Q. The picture of the liquor. I mean were
18 was the liquor in the house?

19 A. We probably had tossed it, because we only
20 got, I think, like 2 half a pints from the
21 bootlegger.

22 Q. Now after you shot Shamar Howell, and that
23 was a last minute decision you're saying to grab
24 the gun right before he came in the fourth time,
25 where the wooden door was closed. And you don't

Jeffrey Andrews-Cross by Meadors

1 know how it came open. You just came out, and the
2 gun was right there and you shot him?

3 A. Can you repeat the question, again, sir?
4 Can you explain to me? Can you repeat the
5 question again, because---

6 Q. Well the wooden door is closed. You've
7 locked the glass door. You're inside looking for
8 a phone.

9 A. Yes.

10 Q. You hear, I don't know if -- when did you
11 become aware the wooden door was open?

12 A. Well like I told you, I had the presence
13 of mind of knowing that Erika was walking towards
14 the door.

15 Q. You didn't see her?

16 A. I saw her. Actually I had the presence of
17 mind of knowing that she walked towards the door.
18 And it appeared, and Shamar could have opened the
19 door, because I had screen door locked. So
20 Erika---

21 Q. So that's when you grabbed the gun?

22 A. Excuse me?

23 Q. Is that when you grabbed the gun?

24 A. No, I grabbed the gun after I couldn't
25 find the phone. I was on my way out, and I heard

Jeffrey Andrews-Cross by Meadors

1 the screen doors being snatched open.

2 Q. So you're inside the room here. So you
3 don't see the screen door being snatched open.

4 A. Yes, sir. Yes, sir, I did.

5 Q. So you grabbed the gun. You hear the
6 screen door being snatched open, and you just turn
7 and shoot him.

8 A. That's when I brandished the weapon and
9 shot. I see him coming in.

10 Q. After the -- after you had shot Shamar,
11 and you heard Erika out there. She was screaming,
12 upset, mad at you, cussing, correct?

13 A. Yes, sir.

14 Q. And do you remember Corporal Kelly coming?

15 A. Yes, I do.

16 Q. And do you remember him reading your
17 miranda rights?

18 A. Yes, sir.

19 Q. And you told him, I would be happy to talk
20 to you Kelly. Do you remember saying that,
21 because his name was on there. I'll be glad to
22 talk to you?

23 A. Well I didn't see that on the record, and
24 that was a year ago. So I can't exactly what I
25 said, that was a year ago. But I do remember

Jeffrey Andrews-Cross by Meadors

1 making contact with Kelly. Officer Kelly.

2 Q. But you can't remember what, I'm sorry.

3 A. It's not on record that I said I'll talk
4 to you Kelly. So I don't remember that. But I do
5 remember telling me Kelly, come to the house.

6 Q. It's not on record?

7 A. It's not -- I haven't seen anything where
8 it was written down in a statement that I said,
9 I'll talk to you Kelly.

10 Q. So you're denying you talked to Kelly.

11 A. I'm not denying that I talked to him.
12 What I'm denying is I'm saying that, I don't know
13 if I made that statement, I'll talk to you Kelly.

14 Q. Did you talk to him?

15 A. That's correct, I talked to him.

16 Q. And that would be logical that you told
17 him, you remember him reading you your rights,
18 don't you?

19 A. Yes, correct.

20 Q. And you understood those rights.

21 A. Yes, sir.

22 Q. You told him you understood those rights.

23 A. Yes, sir.

24 Q. And so you remember conversating or
25 talking with Kelly?

Jeffrey Andrews-Cross by Meadors

1 A. I remember talking with him, yeah.

2 Q. And do you remember when he asked you, who
3 is that on the porch? Who is that lady? Do you
4 remember he asked you who is that lady screaming,
5 and you said that was your cousin?

6 A. I don't know if we had that on record,
7 and I don't know. And I don't know, I possibly
8 could have said it. She's my cousin, so I
9 possibly could have said that.

10 Q. He didn't know you, did he? Corporal
11 Kelly. He didn't know you. I mean, you don't
12 know him. He didn't know you. He didn't know who
13 was up there. And he asked you, who is up there.
14 And you told him, that's my cousin.

15 A. Okay. Again, sir, that was a year ago.

16 Q. Well you can remember everything else.

17 A. I can remember one or two things. But...

18 Q. And then do you remember when he said, who
19 is the person up there. And you said, because you
20 told him you shot him, didn't you? I mean you
21 told him you shot him.

22 A. I told him I was the man he was looking
23 for when he came into the house. I said, I'm the
24 person you're looking for. And it's possible,
25 because I didn't run from anyone. I did admit

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1 that I shot Shamar.

2 Q. You shot Shamar Howell and killed him,
3 didn't you?

4 A. I did shoot Shamar.

5 Q. And Corporal Kelly asked you who that was
6 on there and you said, that's her boyfriend?

7 A. Okay.

8 Q. And that's a yes. And he wouldn't have
9 known that.

10 A. Yeah, he wouldn't known that.

11 Q. He wouldn't have known that. And then he
12 asked you, do you remember this? He asked you,
13 why did you shoot him. Do you remember that?

14 A. No, sir, I don't remember that.

15 Q. You don't remember Corporal Kelly, because
16 there is a dead person up there, that you just
17 said, I shot. He asked you, it's not really take
18 a smart -- it doesn't take a genius, not that he
19 isn't a genius, I don't mean that, but why did
20 you do it. You don't remember him asking you
21 that?

22 A. I may have made a statement, telling him I
23 did it. Or I think I made a statement, the
24 altercation took place over some missing brandy.

25 Q. You told him, he took something from me,

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1 didn't you?

2 A. Okay if I did, I haven't seen any
3 statements saying that I said that. But if I said
4 that, I said it.

5 Q. The first words out of your mouth to law
6 enforcement after you put a bullet in Shamar
7 Howell's head was, he took something from me.
8 That's what you first told law enforcement. He
9 took something from me. He took the brandy from
10 me. And you were pissed off about it, and I
11 apologize. And you were angry, weren't you?

12 A. No, sir.

13 Q. And do you remember what Corporal Kelly
14 said to you? You killed him over liquor? Do you
15 remember when he said that?

16 A. No, sir, I do not remember when Corporal
17 Kelly said that I killed him over liquor. I
18 remember, I have a statement to remind me that
19 Corporal -- I said the altercation started over a
20 missing bottle of brandy. I have that on record.

21 Q. But you didn't tell him you were in fear
22 of your life, did you?

23 A. Actually I was trying to ask the questions
24 that they were -- as in context, as they were
25 asked to me.

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1 Q. And he asked you why you did it. And you
2 said he took something from you.

3 A. If I said that, I said it. But all I
4 remember is saying an altercation started over a
5 missing bottle of brandy. That's on record.

6 Q. You did not tell him that he cussed at you
7 and said, I'm going to kill you. You didn't tell
8 him that. Isn't that true? You didn't tell him
9 that he had come at you with the beer bottle, and
10 that you were in fear of your life, did you?
11 Corporal Kelly?

12 A. I don't have that on record where I said
13 that to him so.

14 Q. And when did you tell him at the scene,
15 that he busted into your door, pulled the door
16 open, and you had to shoot him?

17 A. Well I think what I said to---

18 Q. When did you tell Corporal Kelly that?

19 A. When did I tell Corporal Kelly?

20 Q. Yes, that the man had come in to your
21 home, busted the door open, and you had to shoot
22 him. When did you tell him that?

23 A. I don't think I ever said that.

24 Q. You've never told him that.

25 A. I don't think I ever did. I think what I

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1 told him is, and if this is on record that a man
2 has a right to protect himself in his home,
3 something to that effect. I did say that. When
4 you tell someone to leave your home, and they
5 don't leave, you have the right to protect
6 yourself. That's what I said to Corporal Kelly.
7 And after that, Corporal Kelly took me to the
8 vehicle in cuffs, and I didn't have any more
9 interaction with him so.

10 Q. When you tell a man to leave your home,
11 you don't have a right to put a bullet in his
12 head.

13 A. Sir, when a man forcefully and unlawfully
14 enters your house and scares you, there's no
15 telling how you will react in your own home.

16 Q. I agree with that.

17 A. I was not -- I was at my home.

18 Q. I agree with that, but you never told
19 anybody that. You didn't tell Corporal Kelly on
20 the scene that. You didn't tell him that. You
21 didn't say, man, this guy busted into my home, my
22 castle, I had a right to shoot him. Here's the
23 gun, take it. You damn right I shot him, he was
24 breaking into my house. You said, he took
25 something from me, didn't you?

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1 A. Again I don't have that on record where I
2 said he took something from me. I don't have that
3 on record. But all I know that I have on record
4 is, there is an altercation about a missing bottle
5 of brandy. That's what I said to Officer Kelly.
6 That's what I remember. It's been a year. I
7 don't remember everything. But I have what I said
8 on record in Motion of Discovery.

9 Q. Why didn't you give law enforcement the
10 gun. Why didn't you just turn it over to him?

11 A. Because my dad told me to give him the
12 gun. I think during that time, it was just,
13 again, sir, it was just a heat of the moment,
14 things are moving too fast. My dad asked me for
15 the gun. I gave it to him. Give me gun, son.

16 Q. Where were you when you gave him the gun?

17 A. We were in the living room.

18 Q. And how did you fire the gun?

19 A. Excuse me?

20 Q. How did you fire the gun?

21 A. I grabbed the weapon, as I was saying,
22 from the dresser drawer. May I ask to have our
23 picture, please? Picture of the -- that big one
24 would be sufficient.

25 Q. 10?

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1 A. No, not that one. There is a big one
2 similar to that one I can show the jury.

3 Q. Can you come down? I don't know which one
4 you are talking about.

5 A. I'll do that.

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

8 A. Just let me see. This is where I was when
9 I grabbed the weapon. My body is actually facing
10 the door right here. And I grabbed and reached,
11 and I grabbed the weapon and shot him.

12 Q. Tell me where you were standing.

13 A. It's right here.

14 Q. So you were at that door and you reached
15 in and got the gun?

16 A. That's right.

17 Q. So you weren't in -- did you go inside the
18 room?

19 A. Yes, I was in there looking for the
20 telephone.

21 Q. So your full body went in to start with.

22 A. Correct, and I was on my way out.

23 Q. My question was, can you show me, how did
24 you shoot the gun?

25 A. Did I shot the gun?

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1 Q. Yes, sir. I mean how did you shoot it?

2 Did you just pull the trigger?

3 A. Yes, sir.

4 Q. Or did you cock it first, and then shoot
5 the gun?

6 A. I just pulled the trigger.

7 Q. And when you got through with it, because
8 this is the gun you used to kill Shamar.

9 A. I think so.

10 Q. When you got through with it, why did you
11 cock it again?

12 A. I don't know if I did that by mistake or
13 by accident, I do not know. I gave it to my
14 father.

15 Q. Was it cocked when you gave it to him?

16 A. I am not sure. I can't promise you that.
17 Again, things were moving so fast. I cannot
18 promise you that I cocked it. And if I did, it
19 was probably by accident.

20 MR. MEADORS: I beg the court's
21 indulgence.

22 THE COURT: Yes, sir.

23 Q. And you said or I think you said today or
24 it was Monday, that he called you outside?

25 A. During the altercation that we had in the

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1 house, when Shamar asked, I am not sure that I can
2 repeat what he said.

3 THE COURT: She's going to object, go
4 ahead.

5 MR. MEADORS: Go ahead.

6 A. And Shamar said, are you calling me a
7 liar, I'm going to have to take you outside.

8 Q. So he was saying, let's go outside.

9 A. That's correct.

10 Q. And what incident was that?

11 A. Excuse me?

12 Q. What time was that when he was there?

13 A. What time do you mean?

14 Q. Well I'm asking you.

15 A. On which visit?

16 Q. Yes, sir.

17 A. Because I don't know the actual time.

18 Q. Well you know what I meant, which visit?

19 A. That was when he came in with the 40-ounce
20 bottle.

21 Q. And when your dad---

22 A. And then the altercation took place.

23 Q. That's not when the killing took place.

24 A. No, sir. The killing didn't take place.

25 Q. That was when you were in fear of

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1 suffering serious bodily injury or death on that
2 incident, correct?

3 A. On the second when we were arguing, and he
4 advanced towards me with the bottle.

5 Q. And he never hit you with the bottle.

6 A. No, sir.

7 Q. And your dad, when you dad said there was
8 arguing, you all just leave, do you remember him
9 saying that?

10 A. I remember my dad saying Erika, Erika,
11 Erika, you and Shamar go now, Jeffrey done told
12 you all to leave.

13 Q. And he told you to go to your room.

14 A. My dad didn't tell me to go to my room.
15 He might have been -- he might be mistaken, but he
16 didn't tell me to go to the room, sir. My dad is
17 a little old now.

18 Q. So he might be mistaken about several
19 parts of his testimony then.

20 A. You know, Mr. Meadors---

21 Q. And you said that, I didn't.

22 A. Mr. Meadors, I'll tell you like this. I
23 didn't want my father on the stand to start with.
24 I didn't run and hide from this. I felt in fear
25 of my life. I was in home, and I shot Shamar. I

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1 didn't want him involved.

2 Q. I didn't either. You brought us here.

3 A. Yes, I did bring you here.

4 MR. MEADORS: I being the court's
5 indulgence.

6 THE COURT: Yes, sir.

7 Q. Did you say earlier in your testimony the
8 screen door was open? His feet was -- he had --
9 his feet had the screen door open when he was
10 shot?

11 A. Yeah. Shamar one of his feet had the
12 screen door open. That's correct. After he was
13 shot.

14 Q. Your testimony when he was shot, his feet
15 had the screen door open.

16 A. Yeah, part of his foot was, part of one of
17 on his feet had the screen door open.

18 Q. And that would have put his head closer to
19 the door, wouldn't it?

20 A. No, that would have put his -- can I show
21 you?

22 Q. Sure.

23 (Whereupon, the witness steps down from
24 the witness stand.)

25 A. This is where Shamar fell at. The screen

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1 door is here. This is where he fell at. The
2 screen door is right there. Right there.

3 MR. MEADORS: Thank you.

4 A. So that would be his body.

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

7 Q. Finally you said you had a criminal
8 domestic violence. That was an aggravated
9 criminal domestic violence conviction, wasn't it?
10 And also an aggravated assault conviction one
11 2010, and one in 2005. In addition to that a
12 shoplifting conviction.

13 A. 2004.

14 Q. You were convicted in 2005.

15 A. That's correct. Yes, sir. I did have.

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

17 THE COURT: Any redirect?

18 MS. COOKE: No, Your Honor.

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

20 MS. COOKE: Your Honor, the State rests
21 at this time.

22 THE COURT: The defense rests.

23 MS. COOKE: The defense rests, I'm sorry.

24 MR. MEADORS: May we approach?

25 THE COURT: You may.

1 (Whereupon, attorneys approach and confer
2 with judge.)

3 THE COURT: Ladies and gentlemen, it
4 appears to be a good time to break for the day. So
5 I am going to send you home with strict instructions
6 not to speak to anyone or each other about this
7 case. And do not look in newspaper. It's
8 anticipated that we will argue and charge tomorrow
9 morning, and then you will have the case after that.
10 Thank you, Ladies and gentlemen, be back here at
11 9:30.

12 (Whereupon, the jury is dismissed at
13 5:08 p.m.)

14 THE COURT: Anything before we break for
15 the evening?

16 MR. MEADORS: No, sir.

17 MS. COOKE: No, Your Honor.

18 THE COURT: If you have any proposed
19 charges, please send them to David tonight after he
20 sends you the draft charge and the verdict form.
21 The court is adjourned until 9:30 tomorrow morning.

22 (Whereupon, the trial commences on
23 Friday, July 24th 2015 at 9:30 a.m.)

24 (Whereupon, the following takes place
25 outside the presence of the jury.)

1 happens all over the State; that jurors think they
2 have assigned seats. You all can sit anywhere you
3 want to. So but, Ladies and gentlemen, all of the
4 testimony and evidence has now been presented in
5 this case. Now is the time where the parties will
6 give their closing arguments. After that, I will
7 charge you the law, and give you the task of
8 deliberating in this matter.

9 So is the State ready to proceed?

10 MR. MATHEWS: We are, Your Honor.

11 THE COURT: Is the defense ready to
12 proceed?

13 MS. COOKE: Yes, Your Honor.

14 MR. MATHEWS: May it please the court.

15 THE COURT: Yes, sir.

16 MR. MATHEWS: Good morning, Ladies and
17 gentlemen. Let me explain a little bit about what
18 my role is here today. I'm going to do what's
19 called the closing on the law. I'm going to tell
20 you a little bit about the law as it exists in our
21 State, what the law is specifically in regards to
22 this case. And I'm going to sit down. And
23 Ms. Cooke is going to get up and give her argument
24 to you on behalf of the defendant, and then
25 Mr. Meadors is going to close on the facts. He's

1 going to tell you how the facts that have been
2 presented in this case and apply it to law as I give
3 it to you.

4 Now of course His Honor, the judge, is the
5 ultimate giver of the law. He decides the law. He
6 will tell you what the law is. And I am going to
7 summarize what the State believes the law is, and
8 what the law is that applies to this case. We're
9 here today because the defendant, Jeffrey Dana
10 Andrews has been charged with murder. And I will
11 tell you a little bit about what murder is, and what
12 we have to prove. Now that seems kind of intuitive,
13 common sense tells you what murder is. But as
14 Mr. Meadors said in his opening, murder is the
15 killing -- the unlawful killing of another human
16 being with malice aforethought.

17 I think we all know what it means to kill
18 somebody. The one thing that may not be as
19 intuitive as malice aforethought. And what does
20 that even mean. Aforethought is really one of those
21 fancy lawyer words, that nobody actually uses in
22 every day life. We use it in the courtroom for
23 whatever reason. So I'll start out by telling you
24 what malice is. Malice is ill will, hatred, spite,
25 an evil intent.

1 Now malice can be shown in two ways. It
2 doesn't have to be shown in both ways, one or two
3 ways: Express or implied. Express malice would be
4 saying something like, threatening somebody saying,
5 I hate you. I want to kill you. It could also mean
6 as in this case, confronting somebody about stealing
7 your liquor. Inviting them over, arguing with them
8 about stealing the liquor. And then shooting them
9 because you think they stole your liquor.

10 Malice can also be implied. It can
11 implied from words, deeds, actions. An example of
12 that would be after you shot somebody in the head,
13 and say, awe, that ain't nothing but a little bug
14 bite. That's just a mosquito bite. That's showing
15 a disregard for human life. And that can be implied
16 malice. Now to the aforethought. It's that fancy
17 lawyer word. What does mean. Mr. Meadors gave a
18 pretty good idea of what it means in opening. He
19 said, it doesn't have to be premeditation. You
20 don't have to sit and plan, and say, I am going kill
21 Shamar Howell in this date and this time. And this
22 is how I am going to do it. It just has to exist
23 for an instant right before the action it committed.

24 So right before Jeffrey Andrews pointed
25 that gun with his right hand, shot Shamar Howell, he

1 has to have malice and the intent to kill Shamar
2 Howell at that moment. The intent to kill Shamar
3 Howell with malice combined at one point, that's
4 malice aforethought. And that's what we have to
5 prove for murder. Mr. Meadors will tell you a
6 little bit about how we've proven that, and what the
7 facts will show you in this case. Now the second
8 crime that Mr. Andrews is charged with, is
9 possession or use of a weapon in the commission of a
10 violent crime.

11 Now to find Mr. Andrews guilty of this
12 charge, you're going to have to determine that a
13 crime was committed. So you're going to have to
14 find that he murdered Shamar Howell. It is not in
15 dispute that he killed Shamar Howell, you'll have to
16 find that he did it with malice aforethought. And
17 that when he did it, he utilized, used a weapon in
18 the commission of that crime. You have to find that
19 he used this weapon, State's No. 21, in the
20 commission of that crime. We argue there is no
21 dispute to that. He shot Shamar Howell in the
22 head, that's how he committed the murder.

23 Now Ms. Cooke got up here opening and told
24 you that this was a self defense case. So I'm going
25 to tell you a little bit about the law of self

1 defense. There are four elements to self defense in
2 South Carolina. One of those elements, the State is
3 willing to concede has been met already; that you
4 have no duty to retreat in your own home. The State
5 is willing to acknowledge that Mr. Andrews was in
6 his home on the night of March 25th 2014. So we're
7 not really concerned with that here.

8 Now they're an additional three elements,
9 and all three of them have to be met. You can think
10 about like, sitting on a three legged chair, sitting
11 on a bar stool. If you take out one of those legs,
12 you're going to fall over backwards. If you take
13 out the other one side, you fall over sideways. The
14 defense can't stand without all three legs. Now the
15 first element of self defense is the defendant has
16 to be without fault. So what does that mean. That
17 means the defendant can't have brought this on
18 himself. He can't have done something that would
19 reasonably provoke a deadly assault.

20 Now, Ladies and gentlemen, we contend that
21 Mr. Andrews invited Shamar Howell over to his house
22 that night. He invited him over there specifically
23 to confront him about the stolen jug of liquor. He
24 wanted to start a fight that night, and he invited
25 Shamar Howell over to do that. Mr. Andrews is not

1 without fault in this situation. And that's one
2 element you have to have for self defense.

3 Now the second element is that you have to
4 be in imminent danger of serious bodily injury or
5 death. And you have to have a belief that you were
6 in serious danger -- danger of seriously bodily
7 injury or death. Now the second element and the
8 third element kind of go along together. Because
9 the third element is a reasonable person standard.
10 So if you're in reasonable danger or serious injury
11 or death, a reasonable ordinary prudent person, it's
12 kind of like every man standard, an average person
13 would feel so threatened in that situation, that
14 they would strike the fatal blow. An every day
15 person would feel so threatened by what the victim
16 was doing, that they would decide to shoot him in
17 the face out on the porch.

18 If you have a belief of a serious danger,
19 so you're not in actual danger, but you believe that
20 you are, a reasonable person would also have to
21 share that belief. Now Mr. Meadors will tell you in
22 more detail about why Jeffrey Andrews wasn't in
23 reasonable apprehension of serious bodily injury or
24 death. But suffice it to say for my purposes here,
25 when you shoot someone out on the porch when they're

1 attempting to leave your house, that's not a
2 reasonable apprehension of serious bodily injury or
3 death. And thus the elements of self defense have
4 not been meet.

5 As I mentioned before, the State has to
6 disprove all -- one out of three of those elements.
7 Not all three of them. The chair cannot stand only
8 one of two legs. If one element is gone, the
9 defense is gone. Now I'm also going to talk to you
10 about something the judge is going to charge called
11 voluntary manslaughter. Now some of you might have
12 heard this on TV, heard it, watched some Law and
13 Order, it's not as intuitive as what murder means.
14 But I'll tell you that voluntary manslaughter means
15 the unlawful killing of a person without malice, in
16 the heat of passion if there is sufficient legal
17 provocation.

18 Now I'm going to have to break this down.
19 What does all that mean. If you kill another
20 person, and you don't have that element of malice,
21 you don't have that element of ill will or hatred,
22 but you do in the heat of passion without sufficient
23 legal provocation. So what does sufficient legal
24 provocation mean. That's really the point of
25 contention here, the heart of the matter. Legal

1 provocation is something that the victim does to
2 enrage your passions enough, the defendant, get the
3 defendant angry enough, passionate enough, have so
4 much exasperation and anger that he is incapable of
5 calm, collective thought.

6 So in order for something to be in the
7 heat of passion, the defendant would have to do
8 something -- I'm sorry, the victim would have to do
9 something to the defendant that he got him so angry,
10 so riled up, that he couldn't possibly be clam, cool
11 and collected, and he had to shoot the victim at
12 that point.

13 Now, Ladies and gentlemen, we believe that
14 Mr. Andrews killed Shamar Howell with malice
15 aforethought. But voluntary manslaughter is another
16 charge to consider, and the judge will instruct you
17 on. Now you've heard evidence from the witness
18 stand over these last 3 days. And Mr. Meadors told
19 you a little about in the opening statements about
20 direct and circumstantial evidence. Now direct
21 evidence is something that you can see, feel, hear,
22 touch. It's physical items taken from the scene.
23 This gun, you can feel, hear, see and touch. This
24 bullet that killed Shamar Howell, you can feel it,
25 see it, touch it. It's also eye witness testimony.

1 Individuals that were on the scene that night. It's
2 a statement of Jeffrey Andrews saying, I shot Shamar
3 Howell. That's direct evidence. He's saying he
4 shot him. There's also direct evidence to say
5 Corporal Kelly said, he took something from me. He
6 took a bottle of liquor from me. That's direct
7 evidence that Corporal Kelly heard Shamar -- I'm
8 sorry, Jeffrey Andrews say.

9 Then you have circumstantial evidence.
10 And the classic example that Mr. Meadors used was,
11 you go inside tonight. The ground is dry outside.
12 No moisture. When you wake up in the morning,
13 there's snow all over the place. You didn't see it
14 snow last night, but you know that it snowed,
15 because there's snow everywhere. That's similar to
16 the way Erika Andrews got on the stand and she said,
17 I didn't see the shot happen. I didn't see the
18 bullet leave the barrel of the gun and go into
19 Shamar Howell's head. But she knows it happened,
20 because she saw Mr. Andrews in the doorway out on
21 the porch, pointing the gun, and she heard a
22 gunshot.

23 Then when she gets out there, Shamar
24 Howell is laying dead on the ground. That's a good
25 example of circumstantial evidence. That shows she

1 didn't directly see it happen, but it's a chain of
2 events that leaves her to believe that's what
3 happened. In a similar way, Chad Smith from sled,
4 didn't see this bullet leave that gun. He didn't
5 see State's 23 leave State's 21, but he knows it
6 happened. How does he know? Because he performed
7 tests on it. He looked for distinctive markings on
8 this bullet to show that that bullet came from that
9 gun. That's an example of circumstantial evidence.

10 Finally, the real heart of the matter
11 today, what does the State have to prove to you.
12 What are we tasked for showing you. We have to
13 prove the elements of these crimes beyond a
14 reasonable doubt. And that can be sometimes tough
15 concept to visualize and understand. What does it
16 mean to have reasonable doubt. I can tell you what
17 it doesn't mean. It doesn't mean beyond all doubt.
18 It doesn't mean beyond a shadow of a doubt. There
19 are very few things in life we can be absolutely
20 certain of. And that's not the standard of
21 criminal court. It's beyond a reasonable doubt.
22 It's a doubt based on reason and common sense.

23 Another way to put it is, if you are
24 firmly convinced by the State's evidence, then it
25 would be your duty to find Jeffrey Dana Andrews

1 guilty of murder. If you are firmly convinced that
2 he shot Shamar Howell in the head with malice
3 aforethought, it would be your duty to find him
4 guilty of murder. If you're firmly convinced that
5 the State has disproved one of the elements of self
6 defense without fault, immediate fear, or imminent
7 fear of bodily injury or death, and a reasonable
8 person would act the same way, if we've disproved
9 one of those, that has you firmly convinced that we
10 disproved one of those, then it would be your
11 guilty -- then it would be your duty to find Jeffrey
12 Andrews guilty of murdering Shamar Howell.

13 Ladies and gentlemen, we have embrace that
14 standard. We understand that is our burden, and we
15 embrace it. And we believe with all the evidence
16 that's been presented to you over the last few days,
17 we've done that. We've presented enough evidence to
18 have you firmly convinced of the guilt of the
19 defendant. Now, as I said before, we'll allow
20 Mr. Meadors. So first Ms. Cooke will speak on of
21 her client. And then Mr. Meadors will come up here
22 and instruct you, argue to you about what's been
23 shown at this trial. What the State has proven, and
24 what we disproven. And at that time, we'll ask you
25 to return a verdict of guilty. Thank you.

1 THE COURT: .Thank you, Mr. Mathews. Ms.
2 Cooke.

3 MS. COOKE: Where was Shamar when he was
4 shot? There are no pictures of the body where it
5 was laying then the police first arrived on the
6 scene. There are countless crime scene photos, but
7 there is not one photo where he was laying when the
8 police arrived. We know that EMS testified that EMS
9 had been waiting until the scene was clear and that
10 gun was found, which by that video alone took a long
11 time. And all these scene pictures were taken, but
12 no picture was taken of where the body was. There
13 was no crime scene sketch done. And there was no
14 first responder put up on the stand to say exactly
15 the position the body was in. No first policer that
16 showed up on the scene before EMS got there.

17 At a much later time after the scene was
18 cleared and the gun was found, to say where the body
19 was. So how do we know where it was. Well the EMT
20 said that she feels like he was dropped where he was
21 shot. Well and she never really explained what she
22 meant by that, or where exactly he fell. But if she
23 was saying that he fell over here where the blood
24 was, he didn't crumple up into a ball. He fell
25 backwards. And remember she also didn't know the

1 bullet didn't exit the brain or the head. She
2 didn't know the bullet stayed in the brain.

3 The pathologist with 38 years of
4 experience and 3,000 autopsies in a controlled
5 environment with a specific reason of forensics, and
6 law enforcement purposes, and with the intention of
7 testifying, said that she with a medical degree and
8 all that experience in doing this for 38 years for
9 law enforcement and too testifying in the courtroom,
10 couldn't say with any degree of scientific certainty
11 exactly how and where he fell. But what she did
12 agree to was when I posed the hypothetical to her of
13 how Jeffrey said this happened, and she agreed and
14 said yes, it could have happened that way. That's
15 consistent.

16 John Davis' measurement, we have testimony
17 about here the blood pool was. He measured the
18 porch. He measured all of this. He put a lot of
19 work in to this. He cut this. With EMS's testimony
20 that the head was over here at the blood pool, and
21 the body was this way with the feet towards the
22 door. His measurements put Shamar's feet at the
23 threshold of the door with the pathologist's
24 testimony that he was 6-foot tall. And don't get
25 confused about that. The pathologist said that his

1 height was measured. His weight was estimated.

2 His height was measured at 6-foot.

3 And then the State questioned John Davis.
4 about well isn't this an estimate. Isn't this an
5 estimate. Well he testified on my redirect about
6 the painstaking efforts he took, and showed you on
7 the picture of how he went about-getting this
8 estimate. So it may be an estimate, but it's a
9 very close estimate. And also what he did is he
10 measured the edge that gives the State the benefit
11 of the doubt, not the defense. So if his
12 measurements are off, they're off to the State's
13 benefit.

14 The GSR expert testified. Yes, the small
15 amount, a small amount of GSR on Shamar is
16 consistent with Erika holding on to him and EMS and
17 law enforcement having to pull her off of him. Or
18 it's consistent with him being shot 3 feet away from
19 the barrel of the gun, three feet from the barrel of
20 the gun, at a minimum. The pathologist said at a
21 minimum, he was 2 feet away from the barrel. So
22 that is a minimum distance; not the distance, a
23 minimum distance. And then we've got the length of
24 the gun, and the length of Jeffrey's arm to add to
25 that, which is also consistent with Jeffrey's

1 version of what happened.

2 The GSR expert also testified that the GSR
3 on the dad's hands are consistent with him hiding
4 the gun, which is consistent with both Jeffrey and
5 Robert, the dad's testimony. Dubose testified that
6 Jeffrey told him, he came at me with a 40-ounce
7 bottle. And he also told Dubose yeah, that's it in
8 the yard and we saw a picture that you'll see back
9 in the jury room, with a 40-ounce bottle in a bag
10 out in the yard. Now the State inferred that
11 Jeffrey was telling Dubose, he was coming at me
12 through the door with a 40-ounce bottle when I shot
13 him. That's not what he said.

14 He said two different things to Dubose.
15 He said he came at me with a bottle. And he also
16 said yeah, there's the bottle there in the yard. We
17 find out later in testimony that the coming at him
18 with a bottle was earlier. He wasn't putting those
19 two statements together. He told Dubose both those
20 things; that he -- just because he told Dubose both
21 of those things doesn't mean that he was saying that
22 Shamar was coming through the door with a bottle,
23 when he shot him. He very clearly told Dubose
24 through his testimony, and that the bottle -- yeah,
25 that's the bottle out in the yard in the bag. So

1 let me give you a plausible version of events that
2 Jeffrey -- is consistent with Jeffrey's testimony
3 about what happened this evening.

4 Jeffrey goes over, finds the bottle of
5 brandy missing, and goes over to Erika and Shamar's
6 house and asks them about the brandy. Comes back to
7 the house. Shamar comes over. Shamar leaves.
8 Shamar goes to the bathroom. Shamar comes back with
9 a 40-ounce bottle. They get into an altercation,
10 an argument, a physical confrontation, Shamar, Erika
11 and Jeffrey. At some point during that time,
12 Shamar comes at him with a bottle. And he's afraid
13 for his life. Jeffrey says that he finally gets
14 Shamar out of the house, that Erika stays and is
15 over in the corner drinking. He shuts the screen
16 door. He latches it. Shamar is outside. Erika his
17 girlfriend, who lives with him, and who he has a
18 child with, is inside.

19 Shamar is walking home, heading towards
20 the gate, right out in front of the front yard,
21 because they live a lot over. And thinks oh, no,
22 no, no, no. This ain't over. Sits the bottle down
23 in the yard. Goes back. Yells to Erika, Jeffrey
24 ain't coming out here, I'm going to beat his ass.
25 Snatches the locked scene door open, telling

1 Jeffrey, I'm going to kill you mother fucker. And
2 Jeffrey raises the gun and fires it at him. And
3 just as I posed to the pathologist, when Jeffrey, as
4 Jeffrey sees the gun raised, if he in the very
5 slightest leans backwards, he falls backwards when
6 he is shot in the head; is what the pathologist
7 said, because of the initial inertia of him leaning
8 backwards, and he falls backwards. He didn't
9 crumple into a ball and fall exactly where he was
10 shot. He wasn't in a ball. He was laid out. You
11 fall backwards. He was laid out. His feet were
12 pointing towards the door. And his arms were back
13 like this. There was testimony of it. He fell
14 backwards when he was shot.

15 Ladies and gentlemen, we don't have to
16 prove that happened. Jeffrey and the defense does
17 not have to prove anything in this case. The State
18 has the complete burden of proof. They not only
19 have to prove murder or voluntary manslaughter, they
20 have to go a step further in this case and disprove
21 that Jeffrey acted in self defense. We don't have
22 to prove that he acted in self defense. The State
23 has to disprove that he acted in self defense.

24 Now Robert's testimony, he said Shamar
25 started yelling. He asked Jeffrey to leave. Excuse

1 me, he asked Shamar to leave. Jeffrey asked Shamar
2 to leave. He admitted he hid the gun to protect his
3 son. He said the gun was on the dresser. He got
4 dripped up for a minute during cross examination and
5 said once that it was in the drawer, and then he
6 changed his story and said no, no, no, it was on the
7 dresser. But it was on the dresser. Sometimes it's
8 on the dresser when the kids aren't there, and it
9 was on the dresser.

10 He said that Shamar was shot in the
11 doorway between the screen door and the wooden door.
12 He said those words, in the doorway between the
13 screen door and the wooden door. Not inside, in the
14 doorway, in the threshold. Now I asked Robert about
15 the latch. And I asked Jeffrey about the latch.
16 And you saw pictures of the latch. You will see
17 pictures of the latch. The latch was broken. And
18 the State asked, well these pictures were taken last
19 week. And it's been a year. And John Davis
20 readily, yes, I took those last week. Absolutely, I
21 took these last week. I did not take these the
22 night of the crime scene. I was not there. I took
23 these last week.

24 But Robert and Jeffrey both testified the
25 latch was not like that before that evening. The

1 inconsistency away by saying oh on those times when
2 I said that, I mean I just saw Jeff raise the gun.
3 That is not what she said on the tape. She said on
4 the tape when we were all outside, they were
5 standing face to face, Jeff just reach out and shoot
6 him in the head. So she can try to explain the
7 inconsistency away, but it was on the tape what she
8 said. She said that she came to the house with
9 Shamar two times. But four times she admitted that
10 they came separate. Now this is all over 4
11 different things. This is one, a written statement
12 she made to Officer Trip Mays. One is the dashcam
13 video on -- where they can hear everything she says
14 on the evening of the incident. One is an interview
15 that she gave to Dubose that we heard. And another
16 is her testimony. And all these inconsistencies in
17 her testimony, she can't get her story straight.

18 Now let's talk a little bit more about
19 cross examination of Erika, the State's most
20 important and only eye witness. I've been a lawyer
21 for 15 years, and half of it was as a prosecutor.
22 And I never in my career seen a witness especially
23 as important as Erika, interrupted to take another
24 witness' testimony in the middle of it.

25 MR. MEADORS: Your Honor, I'm going to

1 object to that. She consented to that.

2 THE COURT: Basically you did the same
3 thing. Overruled. Or sustained, excuse me.
4 Sustained, because she did the same thing.

5 MS. COOKE: Let's talk about the tapes.
6 There were inconsistencies on the audiotapes that
7 Erika said. Very specific things she said that are
8 completely contradictory on different tapes, that I
9 was going to play for you, but the State wanted the
10 whole tape played. Why do you think that is. Were
11 you able to listen and concentrate to the whole tape
12 and pick out the inconsistencies that I wanted you
13 to hear. I think there was reason for that. And
14 then they played the 911 tape, that very disturbing
15 emotional 911 tape. They told us nothing that
16 wasn't already testified to.

17 Now I read a story about Norman Rockwell
18 one time that said, and I don't know if it's true or
19 not, but I read it; that when he is doing a painting
20 and he doesn't think it is going quite well, he puts
21 a little dog with a bandaged paw to distract the
22 jury. Ladies and gentlemen, I think that's what is
23 happening here. I think you are trying to be
24 distracted from the defense and Jeffrey's side of
25 the story.

1 Erika said at point that Shamar was
2 leaving, and Jeffrey walked out and shot him. Well
3 then why isn't he shot in the back or on the steps
4 or in the yard. That's just one of her inconsistent
5 stories. Which one is it, was he shot face to face
6 on the porch? Was he shot as Jeffrey was following
7 him out the door? None of that is consistent with
8 Jeffrey's account. What is consistent with
9 Jeffrey's account is the pathologist's hypothetical,
10 EMS's testimony about the position of the body, the
11 GSR expert, and John Davis' measurements. You know
12 who could have told them, a blood spatter analysis
13 at sled. Three other experts were employed for this
14 case, but a blood spatter analysis wasn't.

15 And I'll talk about Jeffrey and his
16 testimony. Jeffrey, and this is in common sense.
17 You can make this decision completely on your own or
18 not, of what you observed of Jeffrey. But he was
19 visibly and obviously and very reasonably nervous.
20 And I would think under conditions of public
21 speaking is hard on its own. When you're in the
22 spotlight and you're on trial for murder, it's easy
23 to see how somebody could get really nervous. And
24 he was visibly nervous and mixed up a little bit on
25 the time line.

1 The first thing he said, the State says
2 was, he took something from me. This very first
3 thing, he took something from me to the officer. He
4 took something from me. Now I want to give you an
5 analogy to try to explain that. And it's going to
6 be disturbing analogy, this whole trial had been
7 disturbing and tragic. And this example is going be
8 a little bit disturbing too. But I have to use an
9 analogy that matches the trial. Let's say a mother
10 is with her child, and the child is screaming to the
11 mother, I want ice cream from McDonald's. And the
12 mother finally says, okay, let's go. Let's go get
13 ice cream from McDonald's. And the mother takes the
14 child to get ice cream from McDonald's. And on the
15 way, a car runs a red light and crashes into the
16 car, and kills the child. Can you imagine the
17 mother at that point sitting in a police car, saying
18 I took my child to get ice cream. Well I'm
19 analogizing that to Jeffrey saying, he took brandy
20 from me. Because we were never told the tone or
21 demeanor he said it in was that, he took brandy from
22 me. Was it, he took brandy from me? We don't know.
23 We don't know if it was a hateful, wicked, with ill
24 heart tone, or whether it was remorseful, oh, my
25 God, I can't believe this was over brandy. He take

1 brandy from me. We don't know. After he shot
2 Shamar, he checked for his pulse. He tried to do
3 CPR, but Erika wouldn't let him. He knew 911 was
4 called. He knew the police were on the way. He
5 said, it's me. It's me you're looking for. I shot
6 him. He asked about his condition. What's wrong
7 with him. What's wrong. Is he gone. He asked
8 about his condition. He said I gave the gun to my
9 father. I'll help you look for it. I'll talk to my
10 dad if you want me to.

11 He also told Dubose that he was in fear
12 for his life. That he was in fear for life. And he
13 said during cross examination, he didn't know when
14 Shamar came through the door if he still had that
15 bottle or not. All he knew is that he had come in
16 with it earlier, and he had gone outside. And he
17 was busting through a locked door saying, I'll kill
18 you mother fucker. He didn't know if he had that
19 bottle or not. He was afraid he had the bottle. He
20 was afraid for his life.

21 Reasonable doubt. The State has the
22 burden not only of disproving self defense, we do
23 not have to prove self defense. They have to
24 disprove self defense. They have to prove murder or
25 voluntary manslaughter. Let's talk about reasonable

1 doubt. Reasonable doubt is a doubt that causes a
2 reasonable person to hesitate to act. If you are
3 firmly convinced of his guilt, then they have met
4 their burden.

5 Another analogy that I like to use in
6 trials is, I'm a huge baseball fan. I haven't
7 watched in a few years, so I don't even know who the
8 players are anymore. But I used to be huge
9 baseball fan. And in baseball when the pitcher
10 throws the ball, and the batter hits the ball and
11 runs to first base, if the runner makes it to first
12 base before the ball, the runner is safe. And if
13 the ball makes it to be first base before the
14 runner, the runner is out.

15 Well sometimes there is a tie. In
16 baseball the tie goes to the runner. And in this
17 courtroom Jeffrey Andrews is the runner. He gets
18 the benefit of any doubt that you have. The judge
19 is going to charge you that he gets the benefit of
20 any doubt that you have. He is the runner. If
21 there is a tie here, he gets the benefit of the
22 doubt, and he is safe. Is it reasonable that a
23 52-year-old man with three charges on his record,
24 from 04, 08 and a shoplifting from 2010, and we
25 don't have any idea. The State made a big deal

1 about, it was aggravated. We don't know what
2 aggravated assault or aggravated criminal domestic
3 violence means in Arizona.

4 Is a reasonable that a 52-year-old man
5 with three charges on his record, would just all of
6 a sudden up and shoot his niece's boyfriend in the
7 head over a stolen bottle of brandy for no reason
8 whatsoever. I don't think that's reasonable. I
9 don't think that makes any sense at all. Yes, he
10 got a little confused on the stand. Yes, he mixed
11 some things up. It's perfectly reasonable in the
12 situation that he's in. What's more reasonable is
13 that Shamar was leaving, after being kicked out and
14 the door was shut and locked said, oh, no. Set the
15 bottle down in the yard where it was found. Came
16 back, yelled at Erika, Jeffrey ain't coming outside,
17 he knows I'll bet his ass. Busts through the locked
18 screen door yelling, I'll kill you mother fucker.
19 Jeffrey knew he just had the bottle earlier when he
20 was walking out.

21 He couldn't see the phone. He grabbed the
22 gun and he shot him in self defense. Here's another
23 thing about the State's burden of proof. The
24 pathologist, the MD, with 38 years of experience, in
25 3,000 autopsies for law enforcement purposes and the

1 purposes of testifying said, yes, it can happen the
2 way you've said. It's possible. It's consistent.

3 The GSR was consistent with Jeffrey's
4 story. The painstaking measurements that John Davis
5 did are consistent with Jeffrey's story. If the
6 experts can't ruled out that it happened that way,
7 then the State can't rule out that it happened that
8 way. And you can't rule out that it happened that
9 way. And then if you can't rule out that it
10 happened that way, you have to find him not guilty.
11 Or do we believe one of the many of Erika's story
12 that are not consistent with the evidence, and are
13 completely inconsistent with each other.

14 She didn't even know how tall her
15 boyfriend was. She said he was 5'9. And the
16 pathologist measured at him 6-foot or either she was
17 flat out lying on the stand. Yes, there was an
18 altercation over brandy. But Shamar ended the
19 altercation when he busted through a locked door
20 after being force out by Jeffrey. Totally by
21 Jeffrey. Totally by Robert, who both live at that
22 address, screaming I will kill you mother fucker,
23 after just having a 40-ounce bottle of beer in his
24 hand, even though he didn't have it at the moment,
25 Jeffrey didn't know that. And after coming at him

1 earlier, and almost hitting him with it. If the
2 experts can't rule out his version of events, and
3 also say, they go even further to say that the
4 evidence is consistent with his version of events,
5 then the State can't rule it out, and you can't rule
6 it out. And you must find him not guilty. Thank
7 you.

8 THE COURT: Thank you, Ms. Cooke.
9 Mr. Meadors.

10 MR. MEADORS: May it please the court.

11 THE COURT: Yes, sir.

12 MR. MEADORS: Mr. Mathews, Ms. Cooke,
13 Mr. Foreman, Ladies and gentlemen, good morning.
14 What's a life worth? Shamar Howell's life was only
15 worth a bottle of brandy to the defendant. He took
16 something from me. This case really is about the
17 defendant getting mad because he stole his liquor.

18 I think he was still mad yesterday. The
19 way he talked about it. He hid it when he and
20 brother, who brother is best friend, who was sitting
21 there; saw everything and watched it. They talked.
22 Been drinking together. And this investigator just
23 talked to him 2 days ago. But brother and those hid
24 it. They went to go get something to eat, and they
25 come back and it's gone. Do you think he's mad

1 about this? What does he do to start with? Well to
2 start with, he calls some other person we don't
3 know, and said well I think she might have taken. I
4 mean he's mad that somebody took his liquor. And
5 she said, no, I didn't take it.

6 Well then what does he do, let it go.
7 Well it's just a, no. He gets out of the house, and
8 walks with his legs, and energy with his friend down
9 to Erika's and Shamar's and said, did you all take
10 my liquor. Do you think he is not angry about this?
11 This is sad, all over a bottle of liquor. I mean
12 there is no other explanation for it. No, sir, we
13 didn't take it. I don't know if they did or not.
14 She says they didn't. Did Shamar take it. I don't
15 know. But he certainly didn't need to be killed if
16 he did. And then he takes it a step further. He's
17 still mad about that. He said Shamar said some kind
18 of comment, and he said, yeah, well what size was
19 he. Do you remember that? He's upset about it. He
20 is angry about it.

21 Now at some point later, I don't know if
22 that's why he invited him down back to seek revenge
23 for that liquor or not, I don't know. But, Ladies
24 and gentlemen, this is not a classic invasion of
25 somebody's home, and you've got a right to blow them

1 away. If they come in trying to cause you harm,
2 trying to come into your house, which we all have a
3 right to protect our castle. I agree with that as
4 much or more than anybody. This isn't that case.
5 They're trying to make it that case, but it is not
6 that case. He was invited over there. She's over
7 there. They're drinking. Everybody is drinking.
8 Except Mr. Andrews, Robert Andrews, said he did not
9 drink. I respect that. He said he didn't allow
10 drinking in his house. Obviously there are beer in
11 the pictures, and everybody is drinking. Everybody
12 says they're drinking. Be that as it may, they were
13 all drinking.

14 Now how could this and why could this not
15 happened the way they said it did. Because it just
16 couldn't happen. It couldn't have happened that
17 way. It physically could have not happened that
18 way. If he was shot right here, number one, you
19 think the door -- the door would have broken then, I
20 guarantee you. That's when the door would have
21 broken, because it would have had to be opened. And
22 guess what, he would have fallen back in. He would
23 have been against this rail. There would have been
24 a blood stain back here. He physically could not
25 get here, turn and go back. It couldn't happen.

1 Well right there that's impossible. Now he gets him
2 right here. And I said so, he's outside. And he
3 said, no, he was actually on the threshold. Who
4 uses that word threshold? That's kind of a legal
5 word, a legal term there, on the threshold. Is he
6 preparing for his defense, trying to get him exactly
7 coming into his house, it physically could not have
8 happened that way that he was shot.

9 In addition to that, he's got him
10 standing here. He's got 8 feet back there. I was
11 going to get this later, but I'll go ahead and do
12 it. He says, I may do it again, I'm sorry. He says
13 he's in here looking for the phone. Well you know
14 that don't make much sense either, does it? Because
15 he said earlier he had used the phone to call
16 somebody, and now they can't find the phone. Erika
17 sure didn't have any trouble finding it when she was
18 in that state of hers; went and found it and called
19 911. He wasn't looking for phone, he was looking
20 for the gun, which is in the drawer inside here.

21 Now he slips up there, well I got the
22 drawer. I mean, it was on the top. It was in the
23 drawer. People have habits. The same place
24 Mr. Robert put it back when he hid it. He went and
25 got that gun from the drawer. And he didn't have

1 time to do all that under his story. And then he
2 comes back, and he kind of feels. And I felt like
3 and kind of saw where Erika come and unlock the
4 wooden door. So then I reached up here and got it.
5 No, sir, you had already gotten that gun from inside
6 that drawer, and you were going to -- you already
7 had it in your mind that you were going to kill him;
8 that you were going to do him harm, and he was
9 outside.

10 Think about it, folks. He's inside.
11 There is a doorway right here. He thinks he hears
12 something. He gets inside, the gun comes up and
13 shooting him. It doesn't make sense. It's not
14 possible. The angle lever of the bullet, when the
15 pathologist says it went right to left. If he's
16 standing here, I'd have to be this way. The angle
17 from there won't work. He'd have to be shooting
18 from over here. It won't work from where he is.
19 It won't. He wants it to work. He's trying to get
20 him inside, but it won't. It physically is
21 impossible. It is consistent with him leaving this
22 way, and having a few particles on his fingers on
23 this way. You notice there are not any this way,
24 like he's coming in. No gunshot residue. He's
25 leaving this way. Close proximity. There would be

1 no gunshot residue from 8 feet -- 6 feet from where
2 there is on his palms. Now she's trying to say
3 well that Erika put those on there, when she was out
4 comforting him. No, sir. No, ma'am. That is
5 impossible. That's beyond all doubt. That's not
6 our burden.

7 You know she said something about the
8 position of the body and they're no pictures. When
9 law enforcement and EMS responds, first responders,
10 they don't start investigating if there's a chance
11 that life might be saved. You don't sit there and
12 take pictures. Get out of the way. I know he's
13 breathing a little bit. Before you all do that, let
14 me take a picture. That's not the way it works.
15 EMS doesn't go to a scene until it's secure. At
16 least somebody is on there just, because you don't
17 know what danger is out there. But they're going to
18 let EMS, life is first. Saving life is first. And
19 what does she say? No witnesses to where to the
20 body is.

21 What does Corporal Kelly, stand up
22 Corporal Kelly. That's a great American right here.
23 First responder. What does he tell you? I saw the
24 body where it was and saw the woman behind him.
25 That ain't evidence of where the body is. That's

1 not where it is. That's where the body was, and he
2 testified to it and he saw with his eyes.

3 What does Kim say when she comes up, EMS.
4 That's where the body was. It was over -- it wasn't
5 over here. It was here where the blood stain is.
6 That's where it is. Don't have a picture of the
7 body. That's a smoke screen. You rarely have a
8 picture of a body when somebody is killed. He still
9 had a pulse. Maybe there's still a chance. Don't
10 work in intent. She mentioned this. She forgot
11 this. This is no DNA. You know, when they, he says
12 they were fighting, and you're talking about getting
13 stories mixed up, no, sir, no, ma'am. When the
14 truth is there, you can tell it. Not -- so how many
15 times did you go over there? You can tell a lot
16 just from watching people. Well, he can't keep his
17 story straight. Well, 3, 4 times. Okay, take us
18 through the 4 times. She went through three times.
19 She didn't take you four there. It's a lie. He
20 can't keep it straight.

21 What happened the first time. Well he was
22 leaning on the heater, and I got mad. He actually
23 got mad about that a little bit. And the man's got
24 hips that were hurt in a car wreck. He leaves.
25 Comes back. What happens then. I think that's

1 when the bottle -- he says the bottle is the second
2 trip. And I think he said well I thought he might
3 throw it at my dad. I was scared about the bottle.
4 I think that's the second trip.

5 Well what happened then. Is that when you
6 got like this. Did you all start to fight. And I
7 think that's when he pushed him outside. Well where
8 you in fear of suffering serious bodily or death.
9 Because that's what we have to prove for
10 self-defense. Well it was then. Right then. Then.
11 So then he leaves.

12 MS. COOKE: Your Honor, I think he just
13 said we have to prove self defense.

14 MR. MEADORS: They have to establish self
15 defense. We have to prove beyond a reasonable
16 doubt that there isn't self defense. But they
17 establish and show those three little prongs. There
18 must be evidence of it. We have to disprove it
19 beyond a reasonable doubt. The judge will tell you
20 that law. There's got some showing that he was in
21 was in fear. There has to be. That's the law. Was
22 the defendant in fear of suffering immediate bodily
23 death or injury. This is no evidence whatever.
24 That's why there is no self defense, Ladies and
25 gentlemen. Oh, and by the way, she said well you'll

1 be able to consider voluntary. Voluntary, I thought
2 it self defense. And you'll be consider voluntary.
3 Well that's a lesser included. I'll tell you about
4 that. And I hope to go over that real quick and get
5 that out of the way. But we'll going over that in a
6 minute. Immediate danger of suffering seriously
7 bodily injury or death.

8 Well when did you have that. Well the
9 second time when he had the bottle. The second time
10 when he had the bottle. Well what happened then.
11 Well he left. What happens next. He comes back.
12 The words, I thought that's when he said was cussing
13 him outside, and said I'm going to kill you. Come
14 on outside and used the N word. I'm not sure quite
15 frankly, but I think that's what he said the third
16 time there. I don't think there was a fourth time
17 or a third time. I think there was one time. He's
18 trying to get at you all that all this happened. It
19 didn't happen.

20 And you know how you do it? You judge it
21 on his credibility, his believability. And by the
22 way, and I didn't say this. He said well you can
23 believe my opinion. You know he didn't -- he can't
24 see. So he even disproved his own witness right
25 after his dad testified. And I'm not, Mr. Andrew is

1 fine, I'm not saying one word about him bad or good.
2 But he brought that out. And on the tape, right at
3 the first of the tape, you hear Mr. Robert Andrews
4 saying, I didn't even know they were fighting. I
5 didn't see anything. And then he went and hid the
6 gun.

7 Even if somehow you believe it, but
8 please don't; that he was in danger of suffering
9 seriously bodily injury or death. Shamar left after
10 his story or second visit. Comes back, and I think
11 that's when he's cursing. And isn't it funny Shamar
12 is outside. If somehow he's yelling and said come
13 outside. He's not saying, I'm coming in. He said
14 well if you want to fight come on out. I don't
15 believe he said that. He sure didn't tell nobody
16 that until yesterday. Until yesterday. But if
17 somehow he's yelling, he's saying come out, he's not
18 acting like he's charging in.

19 MS. COOKE: objection, Your Honor.

20 THE COURT: The jury can listen to the
21 evidence. They heard the evidence.

22 MR. MEADORS: Your Honor, can we approach?
23 What was her objection?

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

1 THE COURT: Overruled. Continue, counsel.

2 MR. MEADORS: He never said that to the
3 any of the officers at the scene. You first heard
4 it yesterday. He never said it. And then he says
5 he comes back, I guess, the fourth time. And at
6 that point is when he shuts the glass door, he says.
7 Locks it, and then closes then wooden door. Now if
8 it had been that bad, how come Mr. Robert,
9 Mr. Gardner, him, anybody hadn't called the police.
10 Just come over here, there's a disturbance. Come
11 over and get him. Maybe take him to jail. Maybe
12 lock him up for 30 days. God don't put him in the
13 ground for eternity. If it was that bad, why didn't
14 somebody call the police then. He shuts the door.
15 And that's where this incredible story comes in.
16 And he went back, saying he's looking for the phone.
17 He can't find it. Well he's the one who testified
18 he'd made a call earlier that day. He said his dad
19 had the phone. He comes back here and he's looking
20 for a gun. He's ticked off. He's mad. Robert's
21 outside. Robert is gone, under his story.

22 This ain't true. I'm trying to show you
23 how this can't make sense. And then he goes in and
24 gets a gun. I submit he gets it out of the drawer.
25 He says he gets it off the top. And then he says, I

1 believe I sense she's opening the door. And then
2 you remember he said he heard him yelling. He
3 thought he heard him yelling. Well he is outside.
4 He probably heard them talking. It doesn't make
5 sense. He's making it up as he goes. And he comes
6 out, and he sees him coming in and he shoots him.
7 There's no blood inside at all. Nothing. It
8 doesn't make sense. Why would she not just say,
9 yeah, it's happened right here. Who cares. She's
10 not just sitting thinking about the law. Does that
11 make sense. Erika said yeah, he shot him right
12 here. Why would you not say that. Why won't you
13 say it's out here instead of in here. You see her.
14 She's angry, frustrated. Why is she going to make
15 it up where he got shot. Do you think she's
16 thinking about that. Does that make any common
17 sense. If he was shot here, how would he get back
18 over here. Why doesn't she say that under her
19 condition. That doesn't make sense.

20 He's trying to explain blowing him away,
21 because he was either scared of him, or tired of him
22 or he was still angry about him outside his house,
23 and he's got to try to get him inside. Try to get
24 him on that threshold. Who uses that word
25 threshold. Trying to get him inside. Imminent fear

1 of suffering great bodily injury or death. You've
2 got to actually believe that. Or if you weren't
3 actually in fear, which he wasn't, a reasonable
4 person under the circumstances would believe they
5 were in imminent danger of suffering serious bodily
6 injury; such that, they had to pull the trigger and
7 protect themselves and kill him. That's not here.
8 Shamar was leaving. And you bring it down on
9 credibility, believability, that's what every case
10 comes down to.

11 They're fighting. They're arguing.
12 Mr. Robert says leave. Shamar starts to leave. He
13 says he tells Jeffrey to go into his room, and
14 Jeffrey says, well my dad didn't say that. That's
15 not true. Shamar is leaving. Erika is starting to
16 leave. Shamar is behind him. And that's when
17 Erika, and I'm not going to say bam again, but
18 that's how quick it happened. He's out the door.
19 Shamar is behind him. And she hears the shot, and
20 then sees his arm extended with this gun. And she's
21 going to make her whole case about the fact, well
22 she said she saw what she did. Well she didn't
23 actually see it, but she saw his arms extended. He
24 killed him. He's admitted to that. You all know
25 that. He's admitted to it.

1 She says they're going outside. She hears
2 and looks and there he is. I don't know if he had
3 it cocked first or not. It sure was cocked again
4 when he found it in that drawer. I don't know if he
5 was fixing to shoot it again, but he went down. He
6 didn't have to shoot it again. That's
7 circumstantial evidence. Mr. Scott said. Mr. Scott
8 Mathews said. That is great circumstantial
9 evidence. He shot him. She heard it, and then he's
10 standing there. And he's outside. He's outside,
11 which means the victim is outside. You know
12 otherwise, you know, he said he hears her fixing to
13 open the door. Erika is over here. Hell, she'd
14 been shot. Excuse me for cussing. He's got her
15 opening the door. He comes out just blasting away.
16 How come she ain't shot?

17 This does not make sense. This does not
18 fit the projection of the bullet. This does not fit
19 the angle. He had to shoot from over here. It
20 won't go in the head with this thing. Well the
21 bullet goes straight. I will not work. Please talk
22 about that. It couldn't have happened. I think
23 lost track a little bit. I do that every now and
24 then. But the DNA. Do you remember he said the
25 defendant was hitting on him at some point. Hitting

1 on his head. Trying to explain some injuries.
2 Erika was hitting. Erika was pounding him. It's on
3 that tape. She was hitting him about the head. She
4 was angry. She was hitting him where? Outside by
5 the body, after he said, awe, it ain't nothing but a
6 bug bite. He wasn't doing CPR. He's over there
7 saying it's a bug bite after he shot him in the
8 head. I mean, what kind of action is that. What
9 kind, what does that. He didn't have to plan it.
10 He didn't have to be thinking about it all day.

11 I tell what he was, he was thinking about
12 that liquor all day. When he got angry and they're
13 arguing about, and he comes outside. He didn't want
14 to fight him, but he was going to kill him. And he
15 did outside his home. You've got a right, if
16 you're there and somebody there voluntarily, if they
17 become a trespasser and you tell them to leave, they
18 can leave. You've got a right to tell them to
19 leave. But you ain't got a right to kill them.
20 You've got to be in danger of suffering serious
21 bodily injury or death, or believe you are. And a
22 reasonable person has got to believe that. A
23 reasonable person -- Shamar is gone. Let him go.
24 It's over. You said you've got another bottle of
25 liquor.

1 Shamar was the one in danger of suffering
2 immediate bodily injury or death. And he did. He's
3 the one that ought to claim self defense, but he's
4 dead. He didn't have time. He's the attacker.

5 Please, folks, this isn't like stranger,
6 burglary, coming in. These are family, visiting
7 each other. Knowing each other. This isn't like a
8 stranger coming into your home. And then
9 Mr. Andrews said, leave. You quit arguing. Shamar
10 leaves. Now she tries to tell you that all this
11 time when Erika was saying well he was shot right
12 here. She told you, right here. She's inside
13 pointing. Listen to that tape in the end. You even
14 hear Corporal Kelly at the end said, well he told me
15 he shot him right here, at the end of the tape. He
16 told me he shot him out here. This comes down to
17 what's real.

18 My mom gave me a book when I started
19 college called the Velveteen Rabbit. Maybe you've
20 all read it. Putting it inside there, always
21 remember what is real. And be real. And that's
22 what this case is about. You got to see the
23 defendant, he was lying. Trying to cover his
24 tracks. Not sure how many times things come up.
25 Setting up a scenario that doesn't make sense,

1 because he's got no excuse. This was an
2 unjustified. He wasn't in danger of dying or
3 suffering serious bodily injury or death. He has to
4 be without fault in bringing on the difficulty. The
5 went over there looking for him about the liquor to
6 start with you. You've got t decide on his
7 credibility. And you can't consider his prior
8 convictions. Not that he's more likely to do this,
9 but that's he not telling the truth that there were
10 010, 08 and 05, with the last being an aggravated
11 assault in 010.

12 You can consider those for his
13 credibility, his believability. Please do. Well
14 what's real. What's raw. What's real and what's
15 raw. Erika is real and raw. It's real and raw as
16 you get. May too raw sometimes on it. But it's
17 real. And it's real reactions when you see a loved
18 one shot in the head. You walk there and see the
19 gun pointed. And you run to his body outside.
20 Jeffrey shot my boyfriend. Cussing. Yelling. You
21 all know it. He shot my -- that's real reactions to
22 something.

23 Did she get arrested? She got arrested.
24 They told her, you better calm down, you're going to
25 get arrested for breach of peace. One of my

1 favorite quotes of all time, there was no peach to
2 breach there. There was no peach there to. The
3 peace was gone. Ended by that man. Credibility.
4 Believability. She goes down that night and gives
5 an audio statement. You all have got it. And you
6 heard it. Tells what happened. And then says, I
7 heard it. Well I saw it. Dadgummit. That's the
8 exact on circumstantial evidence in her audio. I
9 saw it. Well I heard it. That's circumstantial
10 evidence. You can't say it any better. Did she
11 really see him shoot him, I don't know, but by God
12 he did. He's admitted to it. I mean that's not an
13 issue.

14 She wants to take that which is incredibly
15 powerful, direct and circumstantial evidence and try
16 to make that look like she's not credible. Are you
17 kidding me. If her story was exactly the same, and
18 was about everything, then you would worry. When
19 she tells it raw and real at the scene, on that
20 dashcam, that night on her audio, he was leaving. I
21 was leaving. While they are warming this up, I
22 want to talk to you about voluntary manslaughter.
23 Voluntary manslaughter. You are going to have a
24 right to consider.

25 Voluntary manslaughter is the killing in

1 the sudden heat of passion, upon sufficient legal
2 provocation. It's without malice. The law says at
3 times if your passions are so riled, and you
4 temporarily lose your ability to think clearly. It
5 doesn't excuse a killing, but there are times it
6 might mitigate it to an extent, if you have
7 sufficient legal provocation. And you've got to
8 have both of those. You've got to have the sudden
9 heat of passion, and the sufficient legal
10 provocation existing the same time. I've got these
11 passions. I'm angry. I'm enthralled. And it's
12 based on sufficient legal provocation.

13 Now words alone are not enough no matter
14 how bad or vile or mean to cause sufficient or be a
15 sufficient legal reason to kill somebody. The judge
16 will tell you words with hostile acts, could be
17 under circumstances enough to be sufficient legal
18 provocation. That's not here. He's got that on the
19 second or third visit. She tried to make it look
20 like it was the last one. That ain't what it was.
21 You don't hear him saying he was cussing coming in.
22 He just saw him and blew him away. So that's
23 not here. But they've got to exist at the same
24 time.

25 The classic is if you come home and you

1 find your spouse in bed with somebody else, you
2 actually catch them, it doesn't justify it. You
3 shouldn't do it, but if you killed somebody in that
4 moment, the law would say you lost your cool
5 reflection, and there is this sufficient legal
6 provocation. Not to excuse you, but that would an
7 example of voluntary manslaughter. That's not here,
8 Ladies and gentlemen. I submit that's what they
9 want. It's not here. And I submit there's no issue
10 in this case. But if there is, that's the only
11 issue. But it's not an issue whether it's murder or
12 manslaughter. Clearly it's not self defense,
13 without fault in bringing on the difficulty. He
14 started it.

15 Immediate danger of suffering serious
16 bodily injury or death, no, ma'am, no, sir. A
17 reasonable person will believe it. No, sir. If
18 this happened, a reasonable person calls the police,
19 a reasonable person doesn't open -- closes and locks
20 both doors. He didn't close that second door. He
21 didn't do that. He didn't. Shamar didn't come back
22 in. Go ahead.

23 MR. MATHEWS: Judge, I think we have the
24 videos. The screen is turned on.

25 (Whereupon, Playing video.)

1 MR. MEADORS: That's real. The good and
2 the bad. All over a bottle of liquor. That's real
3 time. How else do we know that we've proved to you,
4 beyond a reasonable doubt this didn't happen?
5 Corporal Kelly arrives at the scene. The defendant
6 admits, read him his rights. Well conviction. And
7 any of that, you see the hesitations. And not sure
8 or exactly the story. And looking and hesitating
9 and pausing. Well did he read you your rights. And
10 finally, I think he agreed he did. He understood
11 him then. What's the first thing he told him. He
12 took something from me. And then he said well, I
13 think he said that's not in my record. Do you
14 remember that. It's not in my record. But then he
15 said well I could have said that. He didn't want to
16 admit that now.

17 And what did Corporal Kelly say. He got
18 up there, and he said, well who's that up there on
19 the porch. Well, that's my cousin. The girl. Who
20 does she extended on. You want to talk about real,
21 the first one on the scene who gets to see
22 everybody. Gets to see the body. Gets to see the
23 body of Ms. Cooke (sic) and where it was, and where
24 the lady was. Gets to talk to her. And gets to
25 talk to the defendant. You want to talk about real

1 right at the time when it's happening, and what
2 happened. Who's the girl. That's my cousin. Well
3 who is she standing over. That's her boyfriend.
4 And what officer do. He's read him his rights.
5 What happened. Why did you shoot him. He took
6 something from me. He what. He took something from
7 me. What did he take. He took some liquor. And
8 what does Kelly say? You shot him over liquor.

9 That's the first words out of his mouth.
10 And this is a reasonableness. What do you do? Your
11 home is broken into. You've been threatened. You
12 say you are in fear of suffering serious bodily
13 injury or death. If you don't call the police, what
14 do you do when they said, somebody came back in my
15 door. Pulled it open, came at me. I didn't have
16 any choice. Kill him. He came in to my house, he
17 charged in, I didn't have any choice but to shoot
18 him. Jerry Kelly, I didn't have any choice, but to
19 shoot him. I was in danger of my suffering, fears.
20 I was scared. I had to shoot him. No, sir, no,
21 ma'am. He took something from me.

22 Now that may be the most honest statements
23 the defendant made in this whole thing, when he
24 tells Kelly right there, he took something. And it
25 was in response. And this just isn't -- sometimes I

1 miss the forest for the tress. It was in response,
2 you all think about this. Don't forget this. It
3 was in response to the question, why did you shoot
4 him. And do you realize how simple that is. It
5 just knocked me down coming over here this morning.
6 That's why I shot him. He summed it up right
7 there. In real live time. I shot him because he
8 took my liquor. He said it then right after it
9 happened. If that's the case, that's the case.

10 And now it has become four times and he
11 busted in the door. No, ma'am, no, sir. That was
12 credibility. It's believability. And that night he
13 confessed to that man. He said, I did it because
14 he took something from me. And that's malice.
15 That's not heat of passion. You've got the right to
16 come back with voluntary manslaughter, and nobody
17 has got a right to question you, and we certainly
18 will. We submit not guilty is out the door. But
19 you've the right to come back with voluntary
20 manslaughter. I submit to you it's not there. It
21 is not a heat of passion. It is not a sufficient
22 legal provocation. He decided he would kill him,
23 because he was mad, because Shamar was leaving.

24 You'll have that option, and we
25 respectfully say it's not. This is murder. This is

1 malicious over liquor. And he told Corporal Kelly
2 that's why I killed him. I'm about through, and I
3 apologize. He took something from me. Took
4 something from me. You know what he took. He took
5 the 2nd, the 3rd, the 4th, the 5th, the 6th, the
6 8th birthdays of his son, for the rest of his son's
7 birthdays for the rest of his life. That's what he
8 took. He took a son's love and companionship from
9 his mama and his daddy.

10 He took an opportunity for families to
11 get together for Christmas, Thanksgiving, 4th of
12 July. That's what he took. And he took the
13 opportunity for that beautiful lady to be able to
14 have more children. He Took everything. And maybe
15 Shamar took a bottle of brandy, I don't know. But
16 he took it all, and he didn't need to, and he wasn't
17 justified in doing it. The final thing I want to
18 say is the presumption of innocence. Your Honor is
19 going to charge you that the defendant is presumed
20 innocent. As we all would be here on trial. It's
21 like a robe of righteousness. You're presumed
22 innocent unless and until the State proves you
23 guilty beyond a reasonable doubt.

24 And Your Honor is the law. After he gives
25 you the law, you're going to go back there and as

1 you were start listening to evidence or talking
2 about the evidence, viewing the documents, you will
3 start taking that robe of righteousness off the
4 defendant. We ask you do. Don't throw it away.
5 Keep it. Keep symbolically that robe back there.
6 Keep it. And when come back in here, respectfully
7 we believe when you decide that we've proved our
8 case beyond a reasonable doubt that he's guilty of
9 murder. Murder. Bring that robe of righteousness
10 back in here with you. Hand it to Mr. Bradley
11 today. Finish with that guilty verdict. And send
12 that robe to Erika, to his mamma, to his daddy, to
13 help warm for the rest of their life. Save at robe,
14 and give it to the true wisdom.

15 Ladies and gentlemen, thank you for being
16 here. Each and everyone of you. It don't get more
17 serious than this. But it is time. Our greatest
18 power in our power to choose. He chose on March
19 25th 2014, to end Shamar's life and he is dead.
20 Because he was mad. He chose to put a bullet in his
21 brain, and he told that man why he did it. And see
22 this smoke screen now. Hold him accountable.
23 Please make your choice. It's time for you to
24 choose. It's time. please return a verdict of guilty
25 of murder. Thank you.

1 THE COURT: Do you need a break or are you
2 okay?

3 THE JURY: A break.

4 THE COURT: We'll take a 10 minute recess,
5 and right at 10 minutes and come back in and then I
6 will charge you the law. Do not discuss anything
7 about this case while you are back there. Thank
8 you.

9 (Whereupon, the Court Breaks.)

10 THE COURT: Let's bring our jury in.

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

13 THE COURT: Ladies and gentlemen, all the
14 testimony and the other evidence in this case has
15 been presented to you. The attorneys have given you
16 their summations. Now is the time where I will
17 charge you the law that is applicable to this
18 particular case.

19 Now, Ladies and gentlemen, I remind you
20 that during this trial you and I have certain duties
21 to perform. As the trial judge it is my
22 responsibility to preside over the trial of this
23 case. And I also have the duty to rule on the
24 admissibility of evidence that has been offered
25 during this trial. You are to consider only

1 competent evidence before you. If there was any
2 testimony ordered stricken from the record in this
3 case, and during this trial, you must disregard that
4 testimony. Ladies and gentlemen, you are you
5 consider only the testimony that has been presented
6 from this witness stand and any exhibits which have
7 been made a part of the record in this case, and any
8 stipulations of counsel.

9 Now, Ladies and gentlemen, I have the
10 additional duty to charge you the law that is
11 applicable to this case. As the presiding judge, I
12 am the only -- I am the judge of the law, and it is
13 your duty as jurors to accept and apply the law
14 exactly as I now state it to you. If you already
15 have some idea as what the law is or what the law
16 ought to be, and it does not agree with what I now
17 tell the law is, you must abandon that idea.
18 Because, Ladies and gentlemen, you are sworn to
19 accept and apply the law exactly as I state it to
20 you.

21 Now, Ladies and gentlemen, in every case
22 tried in this court before a jury, you the jury,
23 become the sole and exclusive judges of the facts.
24 As a trial judge I cannot intimate, state, comment
25 on or make any statement to a trial jury about the

1 facts in a case. You are, since you are the jury,
2 you are the sole judges of the facts. And you are
3 not to infer by anything that I've said during the
4 progress of this trial in ruling upon the
5 admissibility of evidence or otherwise or anything
6 that I say now during the course of this instruction
7 to you. Ladies and gentlemen, anything that I say
8 you should not infer that I have any opinion about
9 the facts of the case. The law simply does not
10 allow me to have an opinion about the facts in a
11 case. It's a matter solely for you as jurors to
12 determine. You are to determine the effect, the
13 value, the weight and the truth of the evidence that
14 has been presented during this trial.

15 Now, Ladies and gentlemen, the indictment
16 in this case, alleges two different offenses against
17 the defendant. The charges are under indictment
18 2014-GS-43-725 Count 1, is murder. And Count 2,
19 possession of a weapon during the commission of a
20 violent crime. And each indictment charges a
21 separate and distinct offense. And you must decide
22 each indictment separately on the evidence and the
23 law applicable to it, uninfluenced by your decision
24 as to any other charge in the indictment. However
25 if the defendant is found not guilty by you for the

1 murder or the voluntary manslaughter, he cannot be
2 found guilty for the possession of a weapon during
3 the commission of a violent crime, because there
4 would be no crime. You will be asked to write a
5 separate verdict of guilty or not guilty for each
6 charge in the indictment.

7 Now Ladies and gentlemen, I do remind you
8 the fact that the defendant was arrested, charged
9 and indicted, is not evidence in this case, and
10 cannot be considered by you as evidence of guilt nor
11 does it create any presumption or inference of
12 guilt. The indictment is simply the formal written
13 document which contains the charges made against the
14 defendant. It is the formal document by which this
15 case is brought into this court.

16 Now, Ladies and gentlemen, the defendant
17 has pled not guilty to the charges in the
18 indictment, and that plea puts the burden on the
19 State to prove the defendant guilty. A person
20 charged with committing a criminal offense in South
21 Carolina is never required to prove himself
22 innocent. And I charge you that is an important
23 rule of law that a defendant in a criminal trial no
24 matter trial no matter a serious charge might be,
25 will always be presumed to be innocent of the crime

1 for which the indictment was issued unless guilt has
2 been proven by evidence satisfying you of that guilt
3 beyond a reasonable doubt. And the presumption of
4 innocence does not end when you begin your
5 deliberations, but it accompanies the defendant
6 throughout the trial until you reach a verdict of
7 guilt based on evidence satisfying you of that guilt
8 beyond a reasonable doubt.

9 The presumption of innocence is like a
10 robe of righteousness that is placed about the
11 shoulders of the defendant which remain with the
12 defendant until it has been stripped from the
13 defendant by evidence again satisfying you of the
14 defendant's guilt beyond a reasonable doubt. The
15 presumption of innocence is not just a mere legal
16 theory. It's not just a legal phrase that we use,
17 but it is a substantial right to which every
18 defendant is entitled unless you the jury are
19 satisfied from the evidence that has been presented
20 of the defendant's guilt beyond a reasonable doubt.

21 Now, Ladies and gentlemen, the State has
22 the burden of proving the defendant guilty beyond a
23 reasonable doubt. Some of you may have served as
24 jurors in civil cases where you were told that it is
25 only necessary prove a fact more likely true than

1 not true; such as, by the greater weight or the
2 preponderance of the evidence. In criminal cases
3 however, the State's proof must be more powerful
4 than that. It just be beyond, as I said a
5 reasonable doubt. But proof beyond a reasonable
6 doubt is proof that leaves you firmly convinced of
7 the defendant's guilt.

8 Ladies and gentlemen, there are very few
9 things in this world that we know with absolute
10 certainty. And in a criminal case the law does not
11 require proof that overcomes every possible doubt.
12 If based upon your consideration of the evidence
13 that's been presented, you are firmly convinced of
14 the defendant or the defendant is guilty of the
15 crimes charged, you must find the defendant guilty.
16 If on the other hand you think there is a
17 possibility that the defendant is not guilty, then
18 you must give the defendant the benefit of the doubt
19 and find him not guilty.

20 Now, Ladies and gentlemen, there are two
21 types of evidence, which are generally presented
22 during a trial. There is direct evidence and
23 circumstantial evidence. And direct evidence is the
24 testimony of a person who claims to have actual
25 knowledge of a fact such as an eye witness. It is

1 evidence which immediately establishes the main fact
2 to be proved. Circumstantial evidence is proof of a
3 chain of facts and circumstances indicating the
4 existence of a fact. It is evidence which
5 immediately establishes collateral facts from which
6 the main fact may be inferred. Circumstantial
7 evidence is based on inference and not on personal
8 knowledge or observation. But the law makes
9 absolutely no distinction between the weight or
10 value given to either direct or circumstantial
11 evidence nor is a greater degree certainty required
12 of circumstantial evidence than of direct evidence.

13 Ladies and gentlemen, you should weigh all
14 the evidence in this case, and after weighing all
15 the evidence if are not convinced of the guilt of
16 the defendant beyond a reasonable doubt, you must
17 find the defendant not guilty.

18 Necessarily, Ladies and gentlemen, you
19 must determine the credibility of witnesses of who
20 have testified in this case. And credibility simply
21 means believability. And it becomes your duty as
22 jurors to analyze and to evaluate the and determine
23 which evidence convinces you of its truth. In
24 determining the believability of witnesses who have
25 testified in this case, you may believe one witness

1 over several witnesses or several witnesses over
2 one witness. You may believe a part of the
3 testimony of a witness and reject the remaining
4 parts of the testimony of that same witness. You
5 may believe the testimony of a witness in its
6 entirety or reject the testimony of a witness in its
7 entirety. You may consider whether any witness has
8 exhibited to you any interest, bias, prejudice or
9 other motive in this case. You may also consider
10 the appearance and manner of a witness while on the
11 witness stand.

12 Now, Ladies and gentlemen, rules of
13 evidence ordinarily do not permit witnesses to
14 testify to opinions or conclusions. There's an
15 exception to this rule however for witnesses we call
16 expert witnesses. A witness who by education and
17 experience, has become expert in some art, science,
18 or profession or calling may state an opinion as to
19 relevant and material matter in which the witness
20 claims to be an expert and may also state the reason
21 for the opinion.

22 Now, Ladies and gentlemen, you should
23 consider any expert opinion received in evidence in
24 this case, and like any other evidence give it the
25 weight that you think it deserves. If you decide

1 that the opinion of an expert witness is not based
2 on sufficient education and experience or if you
3 conclude that the reasons given in support of the
4 opinion are not sound, or that the opinion is
5 outweighed by other evidence, you may disregard the
6 opinion entirely. An expert witness' testimony is
7 to be given no greater weight than that of any other
8 witness simply because the witness is an expert.
9 Further you are not required to accept an expert's
10 opinion even though it is not contradicted.

11 Now, ladies and gentlemen, the defendant
12 is charged with murder. The State must prove beyond
13 a reasonable doubt, that the defendant killed
14 another person with malice aforethought. Malice is
15 hatred, ill will or hostility towards another
16 person. It is the intentional doing of a wrongful
17 act without just cause or excuse, and with an intent
18 to inflict an injury or under circumstances that the
19 law will infer an evil intent. Malice aforethought
20 does not require that malice exist for any
21 particular time before the act is committed, but
22 malice must exist in the mind of the defendant just
23 before and at the time the act is committed.
24 Therefore there must be a combination of the
25 previous evil intent and the act. And Malice

1 aforethought may be express or inferred. And these
2 terms express or inferred do not mean different
3 kinds of malice but merely the manner in which the
4 malice may be shown to exist; that is, either by
5 direct evidence or by inference from the facts and
6 circumstances which are proved. And express malice
7 is shown when a person speaks words which express or
8 ill will for another or when the person preparing
9 beforehand to do the act which was later
10 accomplished; for example, lying in wait for a
11 person, or any other act or preparation going to
12 show that the deed was within the defendant's mind
13 would be express malice. And malice may be inferred
14 from conduct showing a total disregard for human
15 life.

16 Now, Ladies and gentlemen, the defendant
17 is also charged with possession of a weapon during
18 the commission or attempt to commit a violent crime.
19 The State must proof beyond a reasonable doubt that
20 the defendant was in possession of a firearm or
21 visibly displayed what appeared to be a firearm
22 during the commission of a violent crime. A firearm
23 means a machine gun, automatic rifle, revolver,
24 pistol or other weapon which is designated or may be
25 readily converted to expel a projectile.

1 In order to find the defendant guilty of
2 possession of a weapon during the commission of a
3 violent crime, you must first find the defendant
4 guilty of either committing a violent crime, or
5 attempting to commit a violent crime. And murder
6 is a violent crime. The State must also prove
7 beyond a reasonable doubt that the weapon further
8 advanced or helped in the commission of the crime.
9 Now, Ladies and gentlemen, if you find the State has
10 failed to prove beyond a reasonable doubt that the
11 defendant committed murder, you may consider whether
12 the State has proven beyond a reasonable doubt that
13 the defendant committed voluntary manslaughter. To
14 prove voluntary manslaughter, the State must prove
15 beyond a reasonable doubt that the defendant took
16 the life of another in the sudden heat or passion
17 based on sufficient legal provocation both heat of
18 passion and sufficient legal provocation must be
19 present at the time of the killing to constitute
20 voluntary manslaughter. And sudden heat of passion
21 may for a time affect a person's self control and
22 temporarily disturb a person's reason. And the
23 sudden heat of passion must be the type that would
24 make an ordinary person unable to coolly reflect on
25 his actions and would produce an uncontrollable

1 impulse to do violence. Sufficient legal
2 provocation must be the type that would make a
3 person of ordinary reason and caution become enraged
4 to lose control temporarily, and the provocation
5 needed for voluntary manslaughter must come from
6 some act or other -- or related to the victim. And
7 words alone however vulgar or insulting are not
8 enough to be a legal provocation where death is
9 caused by the use of a deadly weapon. Words must be
10 accompanied by some overt act threatening act which
11 could produce the heat of passion.

12 And the exercise of a legal right no
13 matter how offensive it is to another is never
14 sufficient legal provocation for voluntary
15 manslaughter. If the heat of passion had cooled or
16 if there was enough time between the provocation if
17 any for the killing for the passion of a reasonable
18 person to cool, the killing would not be voluntary
19 manslaughter. And in deciding whether a reasonably
20 person would have had enough time to cool off, you
21 should consider all the situations surrounding the
22 killing. And you may consider the nature of the
23 provocation if any, the defendant's mental and
24 physical state and the circumstances and
25 relationships between the parties.

1 Now, Ladies and gentlemen, the defendant
2 has raised the defense of self-defense. Self
3 defense is a complete defense, and if established,
4 you must find the defendant not guilty. The State
5 has the burden of disproving the defense by proof
6 beyond a reasonable doubt. If you have a reasonable
7 doubt of the defendant's guilt after considering all
8 of the evidence, including the evidence of self
9 defense, then you must find the defendant not
10 guilty. On the other hand if you have no reasonable
11 doubt of defendant's guilt after considering all of
12 the evidence including the evidence of self-defense,
13 then you must find the defendant guilty.

14 And the following elements are required to
15 establish self defense. One, without fault. First
16 the defendant must be without fault in bringing on
17 the difficulty. If the defendant's conduct was the
18 type which was reasonably calculated to and did
19 provoke a deadly assault, the defendant would be at
20 fault in bringing on the difficulty, and would not
21 be entitled to an acquittal based on evidence self
22 defense. Two, is imminent danger. The second
23 element of self defense is that the defendant was
24 actually in imminent danger of death or serious
25 bodily injury, or that the defendant actually

1 believed he was in imminent danger of death or
2 serious bodily injury. And if the defendant was
3 actually in imminent danger it must be shown that
4 the circumstances would have warranted a person of
5 ordinary firmness and courage to strike the fatal
6 blow to prevent serious -- prevent death or serious
7 bodily injury. And if the defendant believed he was
8 in imminent danger of death or serious bodily
9 injury, it must be shown that a reasonable prudent
10 person of ordinary firmness and courage would have
11 had the same belief.

12 And in deciding whether the defendant
13 actually was or believed he was imminent danger of
14 death or serious bodily injury, you should consider
15 all the facts and circumstances surrounding the
16 crime, including the physical condition and
17 characteristics of the defendant and the victim.
18 And three, no other way to avoid danger. The final
19 element of self defense is that the defendant had no
20 other probable way to avoid the danger of death or
21 serious bodily injury other than to act as the
22 defendant did in this particular instance.

23 Now, Ladies and gentlemen, if the
24 defendant was on his own premises, the defendant had
25 no duty to retreat before acting in self defense.

1 The intoxication of the victim may be considered in
2 deciding whether the defendant's fear of death or
3 bodily injury was reasonable.

4 The defendant does not have to wait until
5 his adversary fires, aims, or gets to drop on him to
6 act in self defense. And a person cannot be
7 required to make an exact calculation as to the
8 degree of amount of force which may be needed to
9 avoid death or serious bodily harm. Therefore, in
10 self defense the defendant has a right to use the
11 force needed to avoid death or serious bodily injury
12 or bodily harm. And the force used in self defense
13 does not have to be limited to the degree or the
14 amount of force used by the victim. The defendant
15 has the right to use as much as force as appeared to
16 be necessary for complete self protection and in
17 which a person ordinary reason and firmness, would
18 have believed to be needed to prevent death or
19 serious body harm.

20 Now, Ladies and gentlemen, there are two
21 possible verdicts which you may consider in this
22 case on the charges under indictment 2014-GS-43-725.
23 On Count 1, of murder not guilty or guilty. And if
24 you find the State has not met the burden for
25 murder, you may charge, you may find the defendant

1 guilty of the lesser included charge of voluntary
2 manslaughter of being not guilty or guilty. And if
3 you find the defendant guilty for murder or
4 voluntary manslaughter, you may then decide on Count
5 2, possession of a weapon during the commission of a
6 violent crime, not guilty or guilty.

7 And, Ladies and gentlemen, there is no
8 significance whatsoever in the order which I state
9 the possible verdicts. It is simply that one must
10 be stated first. And, Ladies and gentlemen, your
11 verdict must be unanimous. And all 12 of you, of the
12 primary jurors must agree. And your verdict cannot
13 be based on sympathy, prejudice or any other
14 emotion, or any other consideration that is not in
15 evidence in this case. Mr. Foreman, when the jury
16 reaches the verdict, and as I have said, you've got
17 this verdict form and it says as to the charge of
18 murder, we find the -- the jury unanimously finds
19 the defendant not guilty or guilty. And then you
20 can go on if you find not guilty there, you can
21 consider the voluntary manslaughter. If you find
22 not guilty on both of those, then you would stop.
23 If you find him to be guilty on either one of those,
24 then you may go further down as to the charge of
25 possession of a weapon during the commission of a

1 violent crime.

2 But once the jury reaches a verdict,
3 please sign your name, knock on the jury room door,
4 and then you will let the bailiff know that you've
5 reached a verdict, and then you will received back
6 here in the courtroom for the publication of your
7 verdict.

8 Now, Ladies and gentlemen, I ask that you
9 return to your jury room, but please do not begin
10 your deliberations until you are told to do so by
11 the clerk or the bailiff. We still have some things
12 we need to take care of here in the court. Now I
13 have taking the liberty of going ahead and ordering
14 your lunch. It should be here shortly. And nothing
15 fancy. But it is pretty good pizza though. And we
16 also have some for he alternate jurors if you would
17 like to stay. But, Ladies and gentlemen, I am going
18 to ask that you now go to your jury room. But
19 again, please don't begin your deliberations until I
20 instruct to you to do so.

21 (Whereupon, the following takes place
22 outside the presence of the jury.)

23 THE COURT: Are there any other objections
24 to the charge that was made to the jury? From the
25 State?

1 MR. MEADORS: Nothing from the State.

2 MS. COOKE: No, Your Honor.

3 THE COURT: You all want to get together
4 and make sure the right evidence goes back. And you
5 can look at the verdict form and make sure that it's
6 correct in your mind. Other than that, the court
7 will be at ease pending the call of the case.

8 (Whereupon, at 12:04 p.m. jury
9 deliberates.)

10 THE COURT: Margaret, do you want to mark
11 this?

12 (Jury note marked Court's Exhibit No. 1
13 for Id.)

14 THE COURT: Court's 1, a question from the
15 jury, and I know how I'm going to resolve it over
16 your objections Mr. Meadors. It says we need the
17 law definition of murder and they write, involuntary
18 manslaughter and self-defense. So, Mr. Prince, if
19 you would please deliver to them a copy of
20 everything that I stated to them. It's verbatim, so
21 I am going to send a copy of the charge.

22 MR. MEADORS: Is that just those three
23 things and not the whole charge?

24 THE COURT: I am going to hand the whole
25 charge, because I don't want more questions down the

1 road.

2 MR. MEADORS: We respectfully do object.

3 THE COURT: That's fine.

4 (Whereupon, at 1:44 p.m. jury commences
5 deliberations.)

6 (Whereupon, at 3:21 p.m. jury reached
7 verdict.)

8 THE COURT: I have been informed that the
9 jury has reached a verdict. But before I bring the
10 jury out let me warn everyone in here that I will
11 not tolerate any emotional outburst that would make
12 this jury feel bad. So if anybody doesn't think
13 that they can hold their emotions in now is the time
14 to leave, otherwise they will be going through some
15 jail time for contempt of court. So let's bring our
16 jury in.

17 (Whereupon, the following takes place
18 within the presence of the jury.)

19 THE COURT: Has the jury reached a
20 verdict, Mr. Foreman?

21 THE FOREMAN: Yes, Your Honor, we have.

22 THE COURT: Is it unanimous?

23 THE FOREMAN: Yes, sir, it is.

24 THE COURT: Please pass it to, Mr. Prince.

25 Please publish the verdict. The defendant will

1 stand.

2 THE BAILIFF: State of South Carolina,
3 County of Sumter, in the Court of General Sessions,
4 Docket No. 2014-GS-43-0725, as to charge of murder,
5 we the jury unanimously find the defendant not
6 guilty. As to the charge of voluntary manslaughter,
7 we the jury unanimously find the defendant guilty.
8 As to charge of possession of a weapon during the
9 commission of a violent crime, we the jury
10 unanimously find the defendant guilty. Signed
11 foreperson James R. Glass, Jr.

12 Ladies and gentlemen of this jury, is this
13 your verdict, so say you all. Signify by raising
14 your right hand. Thank you.

15 THE COURT: Thank you. Does the defense
16 request polling of the jury?

17 MS. COOKE: No, sir Your Honor.

18 THE COURT: Then the verdict stands.
19 Ladies and gentlemen, let me take this opportunity
20 to thank you for your service as jurors. I think
21 you now see it's never easy holding the life of a
22 fellow citizen in your hands, but you take an oath
23 to listen to the evidence and apply the law. And
24 you have done that, you have reached a verdict.

25 Now I would say the same thing no matter

1 what your verdict was, because you came to a
2 verdict. It's not easy for my wife and I to agree
3 on things. And to take 12 people from the community
4 to come together and agree on something can be
5 difficult.

6 Now let me remind you that this counts as
7 your jury service. So you can't be a jury for the
8 next year. And you don't have to be a juror if you
9 don't want to for the next 3 years. And, Ladies and
10 gentlemen, throughout this trial, I told you, you
11 couldn't talk to anybody the trial. Well that
12 prohibition is lifted. You can talk to anybody for
13 as long as want or as little as you want. You don't
14 have to justify your position to anybody. And what
15 went on in the jury room that's up to you all to
16 disclose, and if you don't want to, you certainly
17 don't have to.

18 Ladies and gentlemen, there were a lot of
19 important things going on in Sumter County over this
20 past week, but I can assure there was nothing more
21 important going on than basically having this trial
22 and letting justice be done. And you have spoken
23 what you believe to be the truth as far as your
24 verdict.

25 Ladies and gentlemen, we often wonder

1 what makes America great. It's not judges. It's
2 not politicians. It's people like you all who come
3 from your day to day activities and are willing to
4 sacrifice a week to come in here so that a situation
5 can be resolved. And I tell people I have the best
6 job in the world, because I get to sit between these
7 two flags. Now, Ladies and gentlemen, these flags
8 from are just pieces of cloth. But what they
9 represent is so much greater. People have died and
10 shed blood so that the ideas that we have as
11 Americans that only citizens can determine whether
12 another citizen is guilty or not.

13 Like I said, you didn't have to shed
14 blood. You didn't have to die, but you did all that
15 you could possibly do. So, Ladies and gentlemen,
16 let me commend you. Now you've done your job. Now
17 it's my turn to do my job. So in about in 15
18 minutes, I am going to sentence the defendant
19 according to you verdict. Ladies and gentlemen,
20 after I will dismiss you, you will be a regular
21 citizen. And you are welcome to come back into the
22 courtroom as your alternates did. So while you all
23 were back there working they've been sitting here
24 waiting to see what happened as well.

25 So, Ladies and gentlemen, thank you for

1 your service. You are now dismissed. You are
2 welcome to stay.

3 (Whereupon, the following takes place
4 outside the presence of the jury.)

5 THE COURT: Are there any post-trial
6 motions?

7 MS. COOKE: Judge, I would just like to
8 make a motion for a new trial on all the objections
9 that were overruled.

10 THE COURT: Okay. Anything from the
11 State?

12 MR. MEADORS: No, sir.

13 THE COURT: In approximately 15 minutes,
14 the officers will take the defendant and put him in
15 a position to be sentenced. That means shackled and
16 everything like that. Then in 15 minutes, I will
17 sentence the the defendant.

18 MS. COOKE: Can I have a few minutes to
19 speak to him about?

20 THE COURT: Yeah, you can speak to him,
21 but he needs to come back out dressed appropriately
22 for sentencing. Ms. Cooke, I'm respectfully denying
23 your motion for a new trial. Solicitor.

24 MR. MEADORS: May it please the court.

25 THE COURT: Yes, sir.

1 MR. MEADORS: Your Honor, obviously you've
2 heard his prior record of 2010 conviction for
3 aggravated domestic violence. A 2005 conviction for
4 aggravated assault. Both of those are out of
5 Arizona. And then a 2008 shoplifting conviction.

6 Judge, first I want to publicly thank the
7 Sumter County Sheriff's Office for their work on
8 this case, and how they handled the scene and
9 responded. And I Certainly want to thank them.
10 Obviously we would have felt strongly about the
11 case, what we presented to the jury. But we
12 certainly respect the jury's verdict and thank them
13 for their victim. Judge, I have some victims at the
14 appropriate time and they would like to address Your
15 Honor.

16 THE COURT: Now would be a good time.

17 MR. MEADORS: Judge, I don't know what
18 order we want to go in. We'll start with the father
19 Mr. Joseph Howell, who would like to address Your
20 Honor.

21 THE COURT: Good afternoon, sir.

22 MR. HOWELL: Good afternoon, Your Honor.
23 My name is Chief Master Sergeant Joseph A. Howell,
24 Jr. United States Air Force, retired. I want to
25 start off by thanking you for the opportunity to

1 speak to you and come before you today.

2 THE COURT: Yes, sir.

3 MR. HOWELL: I'd also like to thank the
4 jury for their service. And I truly understand that
5 they were given a very difficult task, and I along
6 with my family, greatly appreciate that. I want to
7 start off by saying the past 16 months since the
8 death of my son, have been truly tough for my family
9 and I. It has been -- it has not only been tough,
10 for me emotionally, but after Shamar's death, the
11 stress and everything has affected me physically. I
12 have developed a sleeping disorder. And I was just
13 recently diagnosed with depression. And I am taking
14 medication for both.

15 And I will tell you that over the past
16 16 months, the only thing that has kept me going on
17 on the days that it's really been tough is just
18 seeking justice for my son Shamar.

19 Shamar was many things to many people. He
20 was a father. He was a son. He was a good friend,
21 a boyfriend. Excuse me, I'm sorry.

22 THE COURT: Yes, sir. Take your time.

23 MR. HOWELL: And many people loved him,
24 including myself. My son's life was ended far too
25 early. My son just happened to die, was killed, 25

1 days after his 26th birthday, which happened to be
2 5 days before his older son's 7th birthday. And
3 before his younger son had turned 2 years old. Now
4 my two grandboys are faced with having to grow up
5 without their father. Also my son passed away
6 before he had an opportunity to see his niece, who
7 at the time was less than one years old. And now
8 that he's gone, he'll never have an opportunity to
9 hold her, which is truly ironic when I consider how
10 close he and my daughter were. They were truly like
11 peanut butter and jelly. They went together. And I
12 think you can see by her emotion what the loss is
13 doing to her.

14 During this trial, my family, people in
15 court, including the Andrews family, and I won't
16 forget them. My heart goes out to them, because
17 this impacted their lives greatly as well. We had
18 to listen to some very disturbing testimony, and my
19 prayers go out to them. And, Your Honor, I'd like
20 to say this respectfully, when accessing the
21 demeanor and the actions of the defendant and now
22 the convicted Mr. Jeffrey Andrews, all during this
23 trial, he never took responsibility for his actions.
24 During his testimony it was clear to me and I think
25 many others, that his testimony was full of lies,

1 mistruths and self indulgence. And at no time did I
2 ever see him show any remorse.

3 Shamar's family will never have an
4 opportunity to talk to him again. We'll never be
5 able to see my son smile. I'll never be able to
6 pick up the phone and call him. He'll never be able
7 to talk to me and get advice. I'll never be able to
8 take my son fishing again. These are all the
9 things we used to love to do. Once again, we've
10 heard about the violent past of Mr. Andrews. And he
11 definitely shouldn't be allowed to injure anyone
12 else. So therefore I ask you, Your Honor, I beg
13 you, to strongly consider the maximum penalty when
14 you make your judgment.

15 THE COURT: Thank you.

16 MR. HOWELL: Once again, Your Honor, I
17 thank you for the opportunity today, and God bless
18 you.

19 THE COURT: Does anyone else in the
20 family want to say anything?

21 MR. MEADORS: I don't believe that so that
22 Your Honor can see her, his sister that was
23 referred to, Ms. Kenyatta Howell, is in the back and
24 did not want---

25 THE COURT: Yes, sir.

1 MR. MEADORS: ---to address. I just want
2 to make sure. And, Judge, here is mom, Ms. Howell.
3 Katrina Howell wants to talk to the court,
4 respectfully.

5 THE COURT: Good afternoon, ma'am.

6 MS. HOWELL: Good afternoon. On this
7 week, I've had to live the really of the most
8 catastrophic moments of my life. The moment when I
9 received the devastating call that my child was
10 killed, I've had to sat and watch Mr. Andrews the
11 murderer, day in and day out in this courtroom. I
12 watch him live and I watch him breath, and even have
13 a right to a fair trial. I've watched him talk.
14 I've watched him drink. I've watched him even
15 smile. These are things that I don't get to see my
16 son do anymore, because Mr. Andrews decided to take
17 his life.

18 I sit and I listen to him say he took
19 something from him, but he took something from me.
20 I'm disgusted with the arrogance that he have no
21 regard for human life. And I as I sit and ponder in
22 my heart, the thoughts towards this man, the man
23 that take away one of the most important people in
24 my life, my son, Shamar O'Brien Howell. I think
25 about the joy he took and he replaced with sorrow.

1 The laughter is now replaced with mourning, the hurt
2 and the pain. And there is not a day that goes by
3 that I don't think of him. How I long to see him,
4 to hold him, to touch him, to call him, to tell him
5 I love him. But because of Mr. Andrews, I will
6 never get that opportunity again. I will never hear
7 him say, mommie, I love you. Mommie, I miss you.
8 Because he took that from me. See Mr. Andrews took
9 something away from me that was more valuable than a
10 liquor bottle.

11 Not only did he take away my oldest child,
12 my only son, he took a part of me. And I sit and I
13 fight back the tears, the tears of a mother who
14 loved her child more than life itself. Mr. Andrews
15 will never know the sleepless nights, the
16 loneliness, the emptiness, the heart pain that we
17 have to endure. And even though Shamar's life
18 didn't mean anything to him, it might a lot to us.
19 You see unlike Mr. Andrews, Shamar will never see
20 the age of 51. He will not see his sons go to
21 school. He will not see them play sports, nor go to
22 the prom, graduate high school or college. He won't
23 even live to see them get married. He'll never see
24 grandchildren, because Mr. Andrews took that away.
25 And I try hard to love this man. But honestly, I

1 don't like him. And I hate the act of what he did
2 to me and my family, and to my son. But God does
3 command me to like him but to love. And every day
4 that I rise, I ask God help me get through the day.
5 I am sorry. Because I miss him more and more each
6 day, which is why I pray that I can truly forgive
7 him despite of, so that I can live again and not
8 just exist. And even though I didn't pull the
9 trigger, I, we as his family was caught in the
10 crossfire. Our lives are forever changed. And my
11 prayer is that he goes to prison for life. And
12 honestly that's not enough. Because at the end of
13 the day, his family will see him. They can hold
14 him. They can talk to him. He can see the sun
15 shine again.

16 However, I have listened to him. No
17 remorse. No regret. And I feel behind bars he too
18 will think of Shamar, because he will know that's
19 why he is behind those bars. And maybe then he will
20 have some compassion for another person's life. An
21 hour before he took my son's life, I talked to my
22 son. And the last words that I ever will hear my
23 son say is that he knew that I loved him. And I
24 did. But I pray that on today, that on today,
25 because I have fought to the end, I did that; that

1 I can have some type of resolution. Thank you, Your
2 Honor.

3 THE COURT: Yes, ma'am.

4 MR. MEADORS: Your Honor, now Investigator
5 Wayne Dubose would like to have some comments --
6 have some comments to present to the court.

7 THE COURT: Yes, sir.

8 INVESTIGATOR DUBOSE: Judge, I will be
9 brief. Just on behalf of the State and of the
10 family, we're here today because a young man lost
11 his life for absolutely no reason. We lost another
12 citizen of Sumter County. Mr. Andrews took that
13 life. The justice system worked today. He was
14 allowed to pick a jury of his peers. That jury
15 found him guilty. Regardless of the sentence you
16 impose today, it is not going to bring Mr. Howle
17 back or the family or anyone else. But we would ask
18 that when you consider that sentence, Mr. Andrews
19 took Mr. Howle from his family. And we are asking
20 that you take Mr. Andrews' freedom for the next 30
21 years.

22 No matter what you impose is not going to
23 bring that young man back for his family. Okay.

24 MR. MEADORS: Very briefly, Your Honor,
25 Carol Miller. Doesn't want to speak. This is their

1 pastor and close friend who has helped them through
2 all of this. One other person who I think is here
3 in spirit, quite frankly, is not here right now.
4 But over my 30 years of prosecuting, I don't think
5 I've had more real and raw testimony that was
6 presented by Erika Andrews just quite frankly. For
7 the good and the bad, it to pure, and it was what
8 she was feeling at the time. And I want to think
9 that is one of the reasons the jury came back with
10 their victim. I got to know her just in preparation
11 for this, and she was truly hurting as you can tell
12 on the the 911 and the dashcam. But she was here
13 this morning; had to get back with her parents back
14 to where they live. But she too suffered a loss as
15 a victim, and I just wanted to acknowledge that and
16 thank her along with the Howell's for their patience
17 with us in dealing with this.

18 Judge, you heard how I feel in my closing.
19 I'm not going to do no it. And I truly think, and I
20 think he was mad yesterday. I think the defendant
21 killed him over a bottle of liquor. I just think he
22 was that mad. And that's what he told Corporal
23 Kelly. Judge, we just ask that you sentence
24 accordingly. Thank you.

25 THE COURT: Ms. Cooke.

1 MS. COOKE: Your Honor, Mr. Andrews is 51
2 years old. He's a mortician. He was in the
3 military, in the Marine Corps for a short time
4 before he was honorably discharged for a medical
5 reason.

6 His mother and father have been here all
7 week supporting him, and his aunt as well and some
8 other family members have been in and out. He is
9 married with a 23-year-old daughter; attends Jehovah
10 Baptist Church. He has been Involved in the
11 mentoring programs in Sumter. And he has told me
12 that he would like to address Your Honor.

13 THE COURT: Yes, sir.

14 THE DEFENDANT: Your Honor, this is a very
15 difficult time You Honor. First, I am humbly bow, I
16 cannot bring Shamar back. We talked. We heard
17 statements that I didn't have any remorse.

18 Fortunately as a mortician sometimes I have to hold
19 it in and try not to get emotional. I have been
20 trained to do that. But no one is hurting more than
21 I hurt. I picked Shamar up from work. I had Shamar
22 working with me. Your Honor, it was just a heat of
23 the moment situation. And I regret -- I regret it
24 deeply. But again, I stand humbly by asking the
25 family, will you please just have a little talk with

1 Jesus. And maybe he can make everything all right.

2 I can't replace it.

3 Your Honor, that man lost a son. That
4 lady lost a son. I am not that cruel, vicious
5 person. I have ties to this family for the rest of
6 my life. The fourth generation Andrews for the rest
7 of my life is with these people. I can't explain to
8 you how hurt I am about this. I too had to get
9 psychiatric help. I too had to go and sit in Tuomey
10 Hospital, because I was hurting. I too was
11 diagnosed with depression. I can't bring him back.
12 But I promise you family, I will serve God. And I
13 will continue to pray. And I ask that you pray for
14 me, just as I pray for you.

15 Your Honor, this is my family. This is my
16 mother. This is my aunt. This is my two aunts. My
17 wife unfortunately couldn't be here. They're losing
18 me as well. Your Honor, again, I don't have the
19 words to say. But I ask in your sentencing, will
20 you please have mercy on me, just as I ask God to
21 have mercy on my soul. I have done some monitoring
22 work here in Sumter. I'm active in my church. I
23 can tell you the countless kids that I coached.
24 Kids that looked up to me. And I really want to
25 talk about the relationship that I had with Shamar,

1 but I wouldn't do that because that's not going to
2 be fair to the family. But no, I have stand up and
3 say I was not that angry. It was just a heat of the
4 moment situation.

5 Family again, please forgive me. I stand
6 humbly bow on my knees, asking you to please forgive
7 me, Regina. Please forgive me, Katrina. Thank you,
8 Your Honor.

9 THE COURT: Anything further from the
10 State---

11 MR. MEADORS: No, sir.

12 THE COURT: ---or the defendant? How much
13 time has he been in jail.

14 MS. COOKE: Your Honor, I can look it up
15 really quick. He's been in and out. He's been on
16 GPS monitoring the whole time, Your Honor.

17 THE COURT: That doesn't count. I'll just
18 give him credit. I have got to give him credit for
19 time served. The Department of Corrections will
20 compute that.

21 Let me commend the attorneys first of all,
22 on y'all's handling of the case. You certainly, both
23 side well represented by the solicitor's office, as
24 well as the public defender's office. I know it's
25 never going to go -- it can never go both of your

1 way. But you certainly have upheld civility oaths.
2 And again, even in a hard trial like this, it was an
3 honor to be in the courtroom serving with you all.

4 So you know again, I think this is my
5 probably my 35th to 40th murder trial. None of them
6 make sense. They're all tragedies. Somebody gets
7 angry. Somebody gets drunk. You know there seems
8 to be a commonality between voluntary intoxication
9 and guns around. And it just never ends well. And
10 it always ends with such finality. Be that as it
11 may, this is a very serious charge. And it warrants
12 a very serious sentence. Your lawyer did have a
13 very effective job for you, Mr. Andrews, by
14 requesting the lesser included offense of
15 manslaughter. Because very likely the jury could
16 have come back with a murder conviction, which would
17 have been 30 to life.

18 Now the maximum you can receive is 30,
19 which I certainly believe to be appropriate and
20 hereby the charge of voluntary manslaughter,
21 sentence you to 30 years in the State Department of
22 Corrections. Under the other mandatory charge of
23 possession of a weapon during the commission of a
24 violent crime, I sentence you to 5 years in the
25 State Department of Corrections. Because these two

1 events occurred at one time, I think it's only
2 appropriate that I run them concurrently. So
3 effectively you will serve 30 years in the State
4 Department of Corrections.

5 MR. MEADORS: Thank you, Your Honor.

6 THE COURT: Thank you.

7 --End of Requested Transcript of Record--

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WITNESSES

W. Dubose Sumter County
Sheriff

DOCKET NO. 2014-GS-43-0725

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

August TERM 2014

THE STATE

vs.

JEFFERY DANA ANDREWS

ARREST WARRANT NUMBER

2014A4310100289 2014A4310100290

Indictment for

Murder

ACTION OF GRAND JURY

True Bill

[Signature]

Foreperson of Grand Jury

Date: *8-21-14*

[Signature] III

VERDICT

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury
Date:

CERTIFIED TRUE COPY
OF ORIGINAL FILED

James C. Campbell

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

INDICTMENT FOR

Murder

At a Court of General Sessions, convened on August 21, 2014 the Grand Jurors of SUMTER County present upon their oath:

COUNT ONE

MURDER

CDR: 0116 16-03-0010,0020

That Jeffery Dana Andrews did in Sumter County, on or about March 25, 2014, willfully, feloniously, and intentionally kill the victim, Shamarr Howell, with malice aforethought, either express or implied, by means of hooting, the said victim in the head with a handgun, and the victim did die as a proximate result thereof on or about March 25, 2014 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That Jeffery Dana Andrews did in Sumter County, on or about March 25, 2014, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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

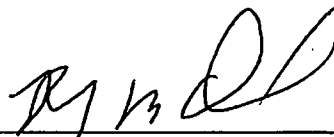
Solicitor

Edward F. III

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

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

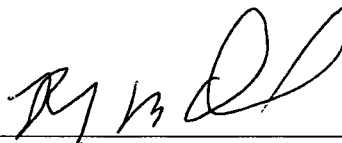
ATTORNEY FOR APPELLANT

This 10th day of March, 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,



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ATTORNEY FOR APPELLANT

This 10th day of March, 2017.