

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Sumter County

R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JERMAINE ANTONIO HODGE,

APPELLANT

APPELLATE CASE NO 2016-001175

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 25-26, 2016	1
PRE-TRIAL CASTLE DOCTRINE MOTIONS.....	4
TESTIMONY	
LYVONNIA COPELAND (PROFFER)	
Direct examination by Defense Counsel.....	5
Cross examination by Solicitor.....	13
Redirect examination by Defense Counsel.....	17
JERMAINE HODGE (PROFFER)	
Direct examination by Defense Counsel.....	19
Cross examination by Solicitor.....	32
LEGAL ARGUMENTS.....	44
RULING BY THE COURT.....	46
MOTION TO SUPPRESS INFLAMMATORY PHOTOGRAPH	49
COURT'S RULING	50
OPENING REMARKS BY THE COURT TO THE JURY.....	51
OPENING STATEMENT BY SOLICITOR.....	55
OPENING STATEMENT BY DEFENSE COUNSEL.....	64
TRIAL TESTIMONY	
LAWRENCE COOLEY	
Direct examination by Solicitor.....	68
RENEWED OBJECTION TO PHOTOGRAPH.....	91
COURT'S RULING	91
LAWRENCE COOLEY	
Cross examination by Defense Counsel	94
Redirect examination by Solicitor	106

LYVONNIA COPELAND	
Direct examination by Solicitor	107
Cross examination by Defense Counsel	118
Redirect examination by Solicitor	124
LOIS JOHNSON SMITH	
Direct examination by Solicitor	125
Cross examination by Defense Counsel	133
Redirect examination by Solicitor	141
WESLEY GARDNER	
Direct examination by Solicitor	143
Cross examination by Defense Counsel	147
LAWRENCE COOLEY (RECALLED)	
Direct examination by Solicitor	151
Cross examination by Defense Counsel	152
WAYNE DUBOSE	
Direct examination by Solicitor	153
Cross examination by Defense Counsel	175
Redirect examination by Solicitor	180
STATE RESTS	180
REQUESTS FOR JURY CHARGES	181
MOTION FOR DIRECTED VERDICT	194
RULING BY THE COURT	194
TESTIMONY	
JERMAINE HODGE	
Direct examination by Defense Counsel	196
Cross examination by Solicitor	211
Redirect examination by Defense Counsel	231
DEFENSE RESTS	233
DIRECTED VERDICT MOTION RENEWED	234
COURT'S RULING	234
CLOSING ARGUMENT BY DEFENSE COUNSEL	235

CLOSING ARGUMENT BY SOLICITOR	245
OBJECTION TO SOLICITOR'S ARGUMENT ON SYMBOLIC VERDICT.....	265
COURT'S RULING	265
CHARGE ON THE LAW	266
VERDICT	286
SENTENCING	290
INDICTMENT.....	291
CERTIFICATE OF COUNSEL	293

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #5 (PHOTOGRAPH)**

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF GENERAL SESSIONS

Jermaine Hodge,
PLAINTIFF,

v.

State of South Carolina,
DEFENDANT.

TRANSCRIPT OF TRIAL
C/A No. 2015-GS-43-0710

Sumter County Courthouse
May 25-26, 2016

VOLUME ONE

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE

APPEARANCES:

Assistant Solicitor John Meadors
Attorney for State of South Carolina

Sumter County Public Defender Jacob McFadden, Esquire
Attorney for Jermaine Hodge

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

<u>VOLUME ONE</u>	<u>PAGE</u>
Jury Voir Dire	3
Jury Selection Begins	6
Motions	13-16
 <u>PROFFER TESTIMONY</u>	
Lyvonnia Copeland	
Examination by Mr. McFadden	16
Cross Examination by Mr. Meadors	24
Redirect Examination by Mr. McFadden	28
 Jermaine Hodge	
Examination by Mr. McFadden	30
Cross Examination by Mr. Meadors	43
 Motions	55-59
 Wayne DuBose	
Examination by Mr. Meadors	60
Cross Examination by Mr. McFadden	68
 Motions	72-89
 Judge to Jurors	90-94
Opening by Mr. Meadors	94-103
Opening by Mr. McFadden	103-107
 <u>WITNESSES:</u>	
Lawrence Cooley	
Examination by Mr. Meadeors	107
 Certificate of Service	108

(There were no Exhibits marked during this portion)

1 Bailiff: All rise.

2 The Court: Thank you. Solicitor, are you ready to
3 call your first case?

4 Mr. Meadors: Yes, sir. May it please the Court?

5 The Court: Yes, sir.

6 Mr. Meadors: Your Honor, the State calls Sumter
7 County true billed indictment 2015-GS-43-0710. The State
8 of South Carolina vs. Jermaine Antonio Hodge. The
9 Defendant is here with his attorney, Mr. Jacob McFadden.
10 I'm John Meadors on behalf of the State. He has been
11 indicted for attempted murder and possession of a weapon
12 during the commission of a violent crime.

13 The Court: Okay. Ladies and Gentlemen of the jury
14 if you'll give me your attention. We're about to begin
15 the trial of State vs. Jermaine Hodge. Any member of the
16 jury panel connected by blood or marriage, close personal
17 friends or social relations with the Defendant in this
18 case, Mr. Hodge. If so, please stand.

19 Potential witnesses in this case are Investigator
20 Wayne DuBose, Captain Misty Lee, Sergeant Jeffrey
21 Richardson, Corporal R. Elmore, Lawrence Cooley, Lyvonnia
22 Copeland, Darron Solomon, Wesley Gardner, Meme Johnson.
23 Any members of the jury connected by blood or marriage,
24 close personal friends or social relations with any of
25 those potential witnesses, if so, please stand.

1 from Ms. Copeland a couple of months after this happened.
2 He provided that to me. I didn't notice he wasn't on the
3 witness list. I guess they don't plan on calling him if
4 she changes what she told the investigator. Anyway, she
5 has given two statements. She will be here. We don't
6 think there is an issue with the --- we'll alleviate any
7 problems he has as far as getting that statement in of
8 Ms. Copeland, if that is his concern.

9 The Court: Anything else?

10 Mr. McFadden: No, sir.

11 The Court: I will respectfully deny your motion for
12 continuance. I think we can resolve that at trial. If
13 it becomes critical, the Court will attempt to get the
14 officer in. It's my understanding that he may be back to
15 work on Friday, so if we need him in this case, we can
16 continue it into Friday if his testimony becomes
17 critical. Okay. Anything else?

18 Mr. McFadden: Your Honor, we do have a few more
19 pretrial matters. Our next and most significant would be
20 a Motion to Dismiss under the South Carolina Protection
21 of Persons and Property Act. We have a motion here and
22 we'd request that hearing. We have a copy of the motion
23 for the Court and counsel. May I approach?

24 The Court: All right. Are y'all ready to proceed
25 under this motion?

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

16

1 Mr. McFadden: Your Honor, the defense is prepared.

2 Mr. Meadors: The State is ready.

3 The Court: All right. Call your first witness.

4 Mr. McFadden: Your Honor, the Defense would call Ms.
5 Lyvonnia Copeland.

6 Mr. Meadors: Your Honor, she is downstairs. I
7 didn't know he was going to call her first.

8 Bailiff: Raise your right hand. Do you swear to tell
9 the whole truth, nothing but the truth so help you God?

10 Ms. Copeland: Yes, sir.

11 Bailiff: Have a seat. Please state your full name
12 and spell your last name for the record.

13 Ms. Copeland: Lyvonnia Copeland, C-O-P-E-L-A-N-D.

14 Proffer Testimony Ms. Copeland - Examination by Mr.

15 McFadden:

16 Q Good-morning Ms. Copeland.

17 A Good-morning.

18 Q Ms. Copeland, my name is Jacob McFadden. I
19 represent Jermaine Hodge. I'm going to ask you a
20 few questions today. I'm going to start by asking
21 Ms. Copeland, where do you live?

22 A 38 Oak View Drive, Sumter, South Carolina.

23 Q: How long have you lived there, Ms. Copeland?

24 A: Since 2011. I don't know exactly, up until now.

25 Q: Since November 2011, you said. Do you own the home?

- 1 A: I rent.
- 2 Q: Say it again?
- 3 A: I rent.
- 4 Q: What do you do for a living?
- 5 A I'm a homemaker.
- 6 Q Ms. Copeland, are you acquainted to the Defendant,
- 7 Mr. Jermaine Hodge?
- 8 A: Acquainted?
- 9 Q Do you know Mr. Jermaine Hodge?
- 10 A Yes.
- 11 Q How do you know him?
- 12 A We use to date.
- 13 Q Now, Ms. Copeland, I'd like to direct your attention
- 14 back for April of last year. Where were you living
- 15 in April of last year?
- 16 A 38 Oak View Drive.
- 17 Q What was your relationship with Mr. Hodge back in
- 18 April of last year?
- 19 A He was my boyfriend.
- 20 Q Where was he staying ... who was living ...
- 21 A I was living there. He'd come and stay a couple of
- 22 nights and then he'd leave and come back and forth
- 23 like that because he has children, so.
- 24 Q How many nights a week - so you and he were dating
- 25 back then?

1 A Yes.

2 Q You were boyfriend and girlfriend and he would stay
3 with you occasionally at 38 Oak View Drive, is that
4 correct?

5 A Yes.

6 Q How many times per week, just estimate, would you
7 say he stayed there?

8 A It could be two or three.

9 Q Would he ever be there when you weren't there?

10 A No, unless I be to the store or something like that.

11 Q Did he have access to your house, could he get in?
12 Did you allow him to have access to your house?'

13 A No, he don't have no keys. He ain't never had no
14 keys.

15 Q He doesn't have a key?

16 A No.

17 Q But when you were there you welcomed him there?

18 A (Nods head affirmatively).

19 Q How long had you been seeing Mr. Hodge since April
20 of 2015?

21 A Since 2013.

22 Q So for about two years then?

23 A (Nods head affirmatively)

24 The Court: You can't shake your head. You need to
25 respond verbally where I will have a record.

1 Ms. Copeland: Okay.

2 The Court: When he ask you a question be sure you
3 speak up.

4 Mr. McFadden: Excuse me, Ms. Copeland. The court
5 reporter has to take down everything that you say.

6 Q: You said you had been dating him for about two years
7 at that point?

8 A Yes, sir.

9 Q During those two years, how often would he visit you
10 while you were at 38 Oak View Drive? How regularly?

11 A It could be every week or two three times a week,
12 like I said.

13 Q Okay. Now, Ms. Copeland now, I'd like to address
14 your attention to April 21st, 2015.

15 A Yes.

16 Q Where were you that day?

17 A April, what was ...

18 Q April 21, 2015. Where were you living on that day?

19 A 38 Oak View Drive.

20 Q Do you recall seeing Mr. Hodge anytime that day or
21 that evening?

22 A No, I don't.

23 Q Ms. Copeland, do you remember the evening when your
24 cousin came over?

25 A Yes, sir.,

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

20

- 1 Q Would you agree that was April 21, 2015?
- 2 A Yeah, around the time when our aunt passed away.
- 3 Q Okay. We're talking about that evening.
- 4 A Yes.
- 5 Q Was Mr. Hodge over there that evening?
- 6 A Yes, sir.
- 7 Q What had y'all been doing, how long had he been
- 8 there?
- 9 A Well, we hung out that day. Had a few drinks, came
- 10 home late, got into an argument. So, I called my
- 11 cousin to come over to, you know, talk with him.
- 12 Q Okay. I want to take it step by step.
- 13 A Oh, I'm sorry.
- 14 Q So you said that Mr. Hodge had been there at your
- 15 house at 38 Oak View all day on April 21st?
- 16 A No, not the whole day. We was out earlier.
- 17 Q Oh, y'all were out earlier?
- 18 A Yeah.
- 19 Q And then you came back to 38 Oak View Drive?
- 20 A Yes.
- 21 Q Okay. Would he have stayed the night there?
- 22 A He was supposed to go with me to my aunt's funeral.
- 23 Q Okay. You mentioned an argument.
- 24 A Yes.
- 25 Q At some point in the evening you got into an

- 1 argument, you and Mr. Hodge?
- 2 A Yes, sir.
- 3 Q A verbal argument, right?
- 4 A Yes, sir.
- 5 Q At some point, during that argument, you said you
- 6 called your cousin?
- 7 A Yes.
- 8 Q Who is your cousin?
- 9 A Lawrence.
- 10 Q First and last name.
- 11 A Lawrence Cooley.
- 12 Q What did you tell him?
- 13 A That Jermaine was --- that we was getting into it.
- 14 That he was getting on nerves because you couldn't
- 15 talk to him.
- 16 Q Where was your cousin staying during this time? Is
- 17 your cousin from South Carolina?
- 18 A No
- 19 Q Was he visiting?
- 20 A Yes, for the funeral.
- 21 Q And was he staying in Sumter?
- 22 A I don't know where he was coming from.
- 23 Q You don't know where he came from that evening?
- 24 A No.
- 25 Q After your call how long between your call and when

1 did he arrive?

2 A Let me see, could be about twenty, twenty five
3 minutes somewhere around there.

4 Q So after your call to him, there's about twenty five
5 minutes before he arrived at your home at 38 Oak
6 View.

7 A Yes.

8 Q Ms. Copeland, I'd like for you to describe what
9 happened after he arrived. What, if anything, you
10 saw?

11 A Well, it was two in the morning. Around two in the
12 morning, so it was dark. He pulled up. I'm coming
13 out the house and then I'm just about to talk to
14 him. Hey cuz, real quick and then he was like, he
15 was stabbed. You were stabbed, what? Like it
16 happened so quick. Wow.

17 Q Ms. Copeland, did you witness a physical
18 altercation between Mr. Cooley and your cousin?

19 A No.

20 Q Where were you?

21 A Like I said, I was just coming out the house and I
22 went towards, you know, I went towards my cousin to
23 speak to him because I saw his vehicle coming up so
24 I was coming out the house to, you know, I'm getting
25 ready to talk with him and that's when he told me,

1 you know, that he was stabbed.

2 Q Okay.

3 Mr. McFadden: Beg the court's indulgence for just a
4 moment.

5 The Court: Okay.

6 Q Where were you and Mr. Hodge earlier?

7 A In the bedroom.

8 Q In the bedroom?

9 A Yeah, that's where it started.

10 Q That's where it started?

11 A Yes, sir.

12 Q Where were you when your cousin arrived?

13 A Inside the house.

14 Q Where was Mr. Hodge?

15 A Inside the house.

16 Q Did Mr. Hodge join you outside thereafter?

17 A No.

18 Q He remained inside the house?

19 A I guess because when I went outside he wasn't out
20 there. Until my cousin told me he was stabbed, so
21 he had to come from around the back of the kitchen
22 or something because he didn't come out the front
23 door.

24 Q Ms. Copeland, you mentioned that it was late at
25 night. How late again did you say it was?

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

24

1 A About two in the morning.

2 Q You mentioned you had been out earlier, is that
3 correct?

4 A Yes, sir.

5 Q Y'all had been drinking that evening at all?

6 A Later.

7 Q Later. Had you personally had anything to drink?

8 A Yes.

9 Q How much would you say you had, just an estimate?

10 A Probably, I say about a pint of gin.

11 Mr. McFadden: Thank you, Ms. Copeland, I have
12 nothing further at this time. Please answer any
13 questions Mr. Meadors may have.

14 Mr. Meadors: May it please the Court.

15 PROFFER TESTIMONY OF MS. COPELAND - CROSS EXAMINATION BY

16 MEADORS:

17 Q Good morning, Ms. Copeland.

18 A Good morning.

19 Q Is it fair to say that Mr. Hodge, y'all were dating
20 in April of 2015, but is it fair to say that he was
21 a visitor to your house?

22 A Yes.

23 Q Or a social quest on occasion?

24 A Yes.

25 Q He didn't live there?

- 1 A No, he didn't.
- 2 Q And he didn't have a key?
- 3 A No, no key. Definitely no key.
- 4 Q Are y'all no longer dating now?
- 5 A No, sir.
- 6 Q Back in April 2015, I think it was your aunts
7 funeral, that day, wasn't it?
- 8 A Exactly.
- 9 Q Okay. When I say that day, the morning of the 21st
10 of April?
- 11 A Yes.
- 12 Q Okay. And you called - is this your cousin back
13 here, Mr. Lawrence? You said Larry but is Cooley
14 also his name?
- 15 A Yes.
- 16 Q You called your cousin, Mr. Cooley, to come to your
17 house?
- 18 A Yes.
- 19 Q And you asked for him to come over to because there
20 was something going on there between you and Mr.
21 Hodge?
- 22 A Yes.
- 23 Q And he did?
- 24 A Yes.
- 25 Q And I believe Mr. McFadden got there - once your

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

26

1 cousin got there, you said there was no physical
2 altercation whatsoever between the defendant, Mr.
3 Hodge, and Mr. Cooley? Correct?

4 A Yes, I didn't see anything.

5 Q Okay. And shortly after your cousin got there, he
6 told you that I've been stabbed?

7 A Yes.

8 Q And did you hear him say that?

9 A Yes.

10 Q And was that right after he got there?

11 A It was - it happened so fast that I didn't even see
12 it. I'm like what? I was - I'm like oh my
13 goodness. We went to the hospital.

14 Q You say we went to the hospital. You went to
15 Tuomey?

16 A Yes.

17 Q Okay and who all went to Tuomey?

18 A Me and my cousin.

19 Q Was there somebody else there?

20 A My cousin -

21 Q Was there a lady named Ms. Johnson?

22 A Yes.

23 Q I just found - what's her first name?

24 A I don't know her first name. We just always used to
25 call her Meme.

1 Q Does she have anything to do with the fight between
2 you and Mr. Hodge or anything?

3 A No.

4 Q Okay.

5 A No, not at all.

6 Q Alright. Was she involved at all in what happened
7 with Mr. Cooley that Mr. Hodge did?

8 A No.

9 Q And Meme's your what?

10 A Cousin.

11 Q Okay. First cousin?

12 A In the family.

13 Q Okay.

14 Mr. Meadors: Thank you, that's all. Beg the
15 court's indulgence.

16 The Court: Okay.

17 Q And the defendant ran away afterwards, right? Mr.
18 Hodge? Did he run?

19 A Actually ... he had to, obviously, but I didn't see
20 him.

21 Q Okay. He wasn't there ...

22 A No.

23 Q ... after you heard Mr. Cooley say I've been
24 stabbed?

25 A Right.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

28

1 Mr. Meadors: Thank you Ms. Copeland.

2 Mr. McFadden: I have one question redirect Your
3 Honor.

4 The Court: Okay.

5 MS. COPELAND REDIRECT BY MR. MCFADDEN:

6 Q Ms. Copeland, I just want to clarify something we
7 talked about on direct and you were asked about on
8 cross, on cross examination. You did not witness
9 with your eyes or hear anything for that matter a
10 physical altercation between ...

11 A No.

12 Q ... Mr. Hodge? You just, if it happened, you didn't
13 see it?

14 A Exactly.

15 Q And you didn't hear it?

16 A No.

17 Q You got outside and something had already happened.

18 A No, it hasn't when I was coming out the door because
19 I seen the car pull up, the truck pull up. I went
20 over to speak to my cousin. I was like hey cousin,
21 what's up. And then, I'm like, it happened so
22 quick. It happened so fast. I didn't see anything.
23 I didn't see no stabbing or nothing.

24 Q Okay.

25 Mr. McFadden: Thank you Ms. Copeland. I don't have

1 anything further.

2 The Court: You can step down.

3 Mr. Meadors: Your Honor, I'm just talking about,
4 she's under subpoena. I'm trying to give her guidance on
5 ...

6 The Court: Okay.

7 Mr. McFadden: Your Honor, I'd ask that she be
8 sequestered.

9 The Court: I mean, I assume does the State have a
10 position. Do you want to argue that?

11 Mr. Meadors: No sir, he hadn't made the motion.
12 That's why I was trying to --- I have no problem with
13 that.

14 The Court: Okay. Go ahead and call your next
15 witness.

16 Mr. McFadden: Thank you Your Honor. At this time,
17 defense calls Jermaine Hodge.

18 Bailiff: Place your left hand on the Bible and raise
19 your right hand. State your name sir.

20 Mr. Hodge: Jermaine Hodge.

21 Bailiff: Do you solemnly swear or affirm the
22 testimony to this court shall be the truth, the whole
23 truth, and nothing but the truth so help you God?

24 Mr. Hodge: Yes sir.

25 Bailiff: Thank you. State your full name, spell

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

30

1 your last name for the record.

2 Mr. Hodge: Jermaine Hodge.

3 Bailiff: Spell your last name please.

4 Mr. Hodge: H-O-D-G-E.

5 PROFFER TESTIMONY OF MR. HODGE EXAM BY MR. MCFADDEN:

6 Q Morning Mr. Hodge.

7 A How you doing?

8 Q Mr. Hodge, I just want to start off with some ...

9 Mr. McFadden: Your Honor, I beg the court's
10 indulgence for a moment.

11 Q I want to start off with some very basic questions.
12 How old are you?

13 A Thirty-three.

14 Q Are you from Sumter?

15 A Yes sir.

16 Q Where do you live right now?

17 A I stay in Mayesville right now with my grandmomma.

18 Q What do you do for a living?

19 A I do body work at a mechanic shop.

20 Q Where is that? Here in Sumter?

21 A Yeah.

22 Q Alright Mr. Hodge, I kind of want to shift gears and
23 talk about stuff relevant to why we're here today.

24 A Okay.

25 Q You just heard Ms. Lyvonnia Copeland testify. Are

1 you acquainted with Ms. Copeland?

2 A Not anymore.

3 Q Do you know Ms. Copeland?

4 A Yeah. I know her, yeah.

5 Q How do you know her?

6 A That was --- well we was dating, that was my
7 girlfriend.

8 Q How long did you and Ms. Copeland date for?

9 A About two and a half years.

10 Q And just a rough estimate, what were the - what was
11 the kind of time frame of y'all's relationship?

12 A You mean like how long we been together?

13 Q Between what years?

14 A From thirteen to --- from 2013 til around 2016;
15 probably beginning of 2016. No, matter of fact, I'm
16 sorry. Oh yeah, fifteen. From thirteen to right
17 around fifteen.

18 Q Okay. Now Mr. Hodge, I'd like to direct your
19 attention back to April of 2015. What was the
20 relationship between you and Ms. Copeland at that
21 time?

22 A We had a good relationship. It was alright.

23 Q Were you boyfriend and girlfriend?

24 A Yeah, we was boyfriend and girlfriend.

25 Q That's what I'm asking, a little confusing. Tell

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

32

1 me, Mr. Hodge, where were you living back in April
2 2015?

3 A I was living with Lyvonnica.

4 Q You were living with Lyvonnica?

5 A Yeah.

6 Q Where --- at what address?

7 A [REDACTED].

8 Q And when you say living, how many nights per week
9 did you stay there?

10 A Every night.

11 Q Every night?

12 A Every night.

13 Q Did you have a key to the residence?

14 A No, ain't had no key.

15 Q Who paid the bills at [REDACTED] back in April
16 of 2015?

17 A We did. We did it together. We paid together.

18 Q Could you go and come freely?

19 A Yeah.

20 Q Over there at [REDACTED]?

21 A Yeah.

22 Q Because you said it was your home with her.

23 A Yeah.

24 Q Now specifically, Jermaine, I want to talk about
25 April 21st, 2015. Where were you staying April 21st

1 of 2015?

2 A With Lyvonnia.

3 Q At [REDACTED]?

4 A [REDACTED], yes, sir.

5 Q Now, I want to talk to you about that day in
6 particular. What - if you can recall; what had you
7 done that day on April 21st?

8 A I went to work that day and Ms. Copeland, she been
9 at my job with me for a little minute before we got
10 and then ...

11 Q When did you finish work that day?

12 A I finished work at 5:30 that afternoon.

13 Q Where did you go after work?

14 A To Lyvonnia's house. She came and picked me up from
15 the job, my job.

16 Q She picked you up from your work?

17 A Yeah.

18 Q At the body shop?

19 A She used to pick me up every day.

20 Q About what time do you think you got back to her
21 house that day?

22 A Probably around --- because after she picked me up,
23 we didn't went straight to the house. We went to my
24 boss man house because he had a little fish fry so
25 we stay over there for a minute. Then after that,

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

34

1 we went to her house.

2 Q So about what time, if you can estimate, did you
3 return to Ms. - to your, to y'all's house that
4 evening?

5 A It was around about 10:30, 11.

6 Q At night?

7 A Yeah, night.

8 Q What did y'all do once y'all returned?

9 A Well, we went in the house. She --- I was watching
10 TV and then because it was - see, it was this girl
11 that be at the shop and stuff right. And she used
12 to ... me and the girl used to talk so she got mad
13 at me on the way to the house. So we got to the
14 house, soon as we got to the house, I started to put
15 my CD - the tape in, the little DVD. Then after
16 that, she came in the room, she started arguing with
17 me for no reason right.

18 Q If I could just interrupt you. If you can speak up
19 and clearly into the mic.

20 A Okay. When we got to the house, she just started
21 arguing with me with no reason. She was like cut
22 the TV off and things like that so then she dragged
23 me out the bed and then we started arguing. And
24 then she was like I'm going to call my cousin and
25 he's going to come over here and beat your ass and

1 all kinds of shit like that. I'm like it is what it
2 is you know. And ...

3 Q The argument between you and her ever become
4 physical?

5 A No, never got physical.

6 Q And tell me about when she called her cousin. Were
7 you in the room for that? Did you see her pick up
8 the phone?

9 A Yeah, I saw when she called her cousin.

10 Q Tell me what you heard.

11 A I just --- she just said ... I didn't heard them
12 talking.

13 Q What did you hear? Her say, I guess?

14 A I heard her say I'm going to call my cousin and he's
15 going to come over here and beat your ass like that.

16 Q And then you just saw her on the phone. You didn't
17 hear the conversation?

18 A Yeah, I didn't hear no conversation or nothing.

19 Q And about how long after that did Mr. Cooley, did
20 her cousin come over?

21 A Well, he came over after that probably about fifteen
22 minutes, fifteen, twenty minutes later.

23 Q Where were you - where were you in between that
24 time?

25 A I was outside on the porch.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

36

- 1 Q Were you alone?
- 2 A Yes sir.
- 3 Q Where was Ms. Copeland?
- 4 A She was in the house.
- 5 Q So tell me where were you --- well, who, if anyone,
- 6 came to y'all's house? Were you --- well, was it
- 7 just you and her at [REDACTED] that evening?
- 8 A It was me, her, and her daughter.
- 9 Q And her daughter?
- 10 A Yeah.
- 11 Q What's her daughter's name?
- 12 A Emoney (sic).
- 13 Q Okay, how old is --- at the time?
- 14 A She about fifteen or sixteen. Sixteen, something
- 15 like that.
- 16 Q Did anyone else arrive that evening?
- 17 A No.
- 18 Q Let me ask you this, did Ms. Copeland's cousin
- 19 arrive at some point?
- 20 A Yeah, her cousin arrived.
- 21 Q Where were you when he arrived?
- 22 A I was on the side of the house, like in the front on
- 23 the side. At first I was in the back of the house
- 24 and then I walked around the front. And when I got
- 25 by the front, he was pulling up.

- 1 Q So you were in the front yard?
- 2 A Yeah. I walked from around the back. I was - we
- 3 was on the side of the house, like in the front
- 4 side.
- 5 Q Where was Ms. Copeland?
- 6 A She was coming out, I think she was coming out the
- 7 house at the time.
- 8 Q About what time was this, estimate?
- 9 A About two, 2:00 in the morning.
- 10 Q What had happened with y'all's argument? Were you
- 11 still arguing?
- 12 A No, we wasn't arguing no more after that. Because I
- 13 had walked outside. I was on my way to walk down
- 14 the street to clear my mind. And then when I was
- 15 walking in front, that's when Cooley pulled up.
- 16 Q What did he pull up in?
- 17 A It was a truck. I think it was a truck, a SUV.
- 18 Q Where did he park?
- 19 A In the front. Right there in the driveway in the
- 20 front yard.
- 21 Q Where were you in relation to his car when he pulled
- 22 up?
- 23 A How close I was to the car?
- 24 Q Yes.
- 25 A Probably about from here to that desk right there.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

38

1 Probably a little closer though. Probably a little
2 bit closer.

3 Q Did he get out of his car?

4 A Yeah.

5 Q What happened next?

6 A When he got out he pushed me.

7 Q From here on out, I want to just go second by second
8 here.

9 A Yeah.

10 Q Did he say anything when he got out the car?

11 A Yeah he just like what the f is going on and stuff
12 like that. I was like you need to talk to your
13 cousin. She the one with the problem.

14 Q I want you to try to remember exactly what he said.
15 If you can't, that's okay. Just don't paraphrase.

16 A That's how he said.

17 Q Okay. Did you respond to him?

18 A I was like - that's when I say you need to talk to
19 your cousin, you know what I'm saying like that.

20 Q Did he go talk to his cousin?

21 A No.

22 Q Just for the record, who is this cousin?

23 A Lyvonnica.

24 Q Okay. Where was Ms. Copeland during this time?

25 A She was - she was - it look like she had just came

1 out the house.

2 Q So who all was in the front yard when Mr. Cooley
3 drove up?

4 A It was just me, him and I think --- it was Meme got
5 out of the truck.

6 Q Okay. Now, you mentioned he got out of the car and
7 spoke to you. Can you describe for the court his
8 demeanor, what did he look like?

9 A He was big, he was tall. That's all I -

10 Q Well, let me --- I guess we can start there.
11 Physically, describe him.

12 A Physically?

13 Q About how tall is he?

14 A Say about 6, about 6'2".

15 Q Okay. How much would you estimate he weighs?

16 A About 300.

17 Q Let me just ask this to make it a little bit easier.
18 Is he bigger or smaller than you?

19 A He's bigger than me.

20 Q Now I want you to describe once he got out of the
21 truck, what was his demeanor? As in was he happy,
22 was he calm? How did he look in terms of his
23 expression?

24 A He didn't look to happy.

25 Q Say it again?

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

40

- 1 A He didn't look too happy.
- 2 Q So you mentioned you told him you better talk to
- 3 your cousin.
- 4 A Yeah.
- 5 Q What, if anything, did he say next?
- 6 A He didn't say nothing after that.
- 7 Q What did he do?
- 8 A He pushed me.
- 9 Q Did you push him first?
- 10 A No, I didn't touch him.
- 11 Q Did you do any - did you say anything else to him?
- 12 A No.
- 13 Q And you mentioned he pushed you. How did he push
- 14 you?
- 15 A As soon as he got out, he just what the hell is
- 16 going on, shit like that and I was like man, you
- 17 need to talk to your cousin, you know what I'm
- 18 saying. She the one with the problem, whatever it
- 19 is. And I been like don't do that no more man and
- 20 he did it again.
- 21 Q How hard did he push you the first time?
- 22 A Like a little shove.
- 23 Q Okay. And then what did you tell him after he
- 24 pushed you the first time?
- 25 A I told him don't do it again.

1 Q And then what happened next?

2 A And he did it again.

3 Q How hard did he push you that time?

4 A He did it hard that time. I almost fell.

5 Q And how quick did all this happen between him
6 getting out of the car and him pushing you the
7 second time?

8 A How did it happen?

9 Q Was it fast, was it slow?

10 A It was kind of fast. Yeah, it was kind of fast.

11 Q And after he pushed you the second time, what did
12 you do next?

13 A I just responded. I was in fear for my life. I
14 thought he was going to beat me down.

15 Q Why did you think he was going to beat you down?

16 A I don't know because when she called him and his
17 demeanor when he got out, you know, he wasn't really
18 happy. Like he was ready to do something and stuff
19 like.

20 Mr. McFadden: Beg the court's indulgence for just a
21 moment.

22 The Court: Okay.

23 Q With regard to your argument with Ms. Copeland, were
24 you charged with anything relating to that, to any
25 kind of dispute between her and you? Were you

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

42

1 charged with domestic violence?

2 A Talking about at the time?

3 Q Or after. With regard to that event, April 21st,
4 2015. Were you charged with disorderly conduct?

5 A No, talking about according to that time?

6 Q Yes.

7 A No.

8 Q And that evening, on April 21st of 2015, were you
9 allowed to be at [REDACTED]?

10 A Yeah.

11 Q Okay. And did you --- you never called Mr. Cooley
12 at any point during that?

13 A No.

14 Q And when he got there, did you provoke him in any
15 way?

16 A No.

17 Q Did you threaten him?

18 A No. I didn't say nothing to him.

19 Q Other than don't do that again after he pushed you?

20 A Yeah.

21 Q Thank you, Mr. Hodge.

22 Mr. McFadden: I don't have any further questions.

23 Mr. Hodge, please answer any questions the solicitor has
24 for you.

25 A Alright.

PROFFER TESTIMONY OF MR. HODGE CROSS BY MR. MEADORS:

1 Q Morning Mr. Hodge.

2 A How you doing?

3 Q Mr. McFadden asked you, you knew Mr. Cooley was
4 coming.

5 A Yep.

6 Q Based on Ms. Copeland telling you I'm going to call
7 him and then you saw her on the phone.

8 A Yeah.

9 Q So from that, you deduced he's coming?

10 A Yeah.

11 Q And you knew him before, didn't you?

12 A Yeah, I knew him. I seen him a couple of times.

13 Q Y'all seen each other at social gatherings or -

14 A No, we don't really talk. I've seen him a couple
15 times.

16 Q But would it be around family events because he's
17 not from here is he?

18 A Yeah, sometime he around family.

19 Q Okay. Because he's up from New Jersey?

20 A Yeah, I believe so.

21 Q And you and --- y'all have never had any bad blood
22 at all have you?

23 A No.

24 Q Okay, never had any beef or anything?

25

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

44

1 A No.

2 Q And tell the judge after you --- or tell us, after
3 you knew he was coming, when did you get the knife?

4 A I had the knife. I had the knife.

5 Q And that's my question. When did you get the knife?

6 A Yeah.

7 Q No, I'm asking. When did you get the knife?

8 A When did I get it? That was like about a minute
9 before he came.

10 Q And where did you get it from?

11 A The kitchen.

12 Q Was it in a drawer?

13 A No, it was on the table.

14 Q And why did you get the knife?

15 A I don't know. No reason at all. Just got it for no
16 reason. I didn't intend to do nothing with it
17 really.

18 Q And when you ---

19 Mr. Meadors: Your Honor, can we offer this as
20 State's one for ID at this point?

21 The Court: Yes.

22 **(State's Number One was marked for I.D)**

23 Q This is the knife you got right?

24 A Yes sir.

25 Q No question about this is the knife you got in the

1 early morning hours of April 21st, 2016? After Ms.
2 Copeland had called and you knew Mr. Cooley was
3 coming?

4 A Yes sir.

5 Q And where did you put it on your body? Where did
6 you --- after you got it, what did you do with it?

7 A I just had it in my pocket.

8 Q Okay and what kind of pants were you wearing?

9 A Some jeans.

10 Q So you took this knife and put it in which pocket?

11 A My right pocket.

12 Q So you put it in your pocket like that? So if I was
13 to look at you, I wouldn't be able to see that you
14 had the knife right?

15 A Probably could but ...

16 Q But you weren't holding it out right?

17 A No.

18 Q Then why did you put it in your pocket?

19 A I don't know. I just did. I ain't intended to do
20 nothing with it. I wasn't going to do anything with
21 it.

22 Q But you did, didn't you?

23 A Yeah.

24 Q I think that's still some of Lawrence on the knife
25 there. I mean, you stabbed him didn't you?

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

46

- 1 A Yeah. Not intentionally though. I just knew - I
2 knew he was a big guy and I knew, you know, I knew
3 he was coming over to try and harm me so.
- 4 Q Well you didn't know what was in his mind. He'd
5 never had any bad beef with you.
- 6 A No.
- 7 Q You just knew he was coming over because your
8 cousin, I mean your girlfriend at the time asked him
9 to come over.
- 10 A Yes, she said he's going to come over here and beat
11 your ass and stuff like that.
- 12 Q And y'all had been fighting?
- 13 A Yeah.
- 14 Q I mean, that's what people when they together do,
15 they fight.
- 16 A Yeah.
- 17 Q Wasn't physical you're saying?
- 18 A No, it wasn't physical.
- 19 Q He asked you earlier, you said this night. Had you
20 been charged later with CDV on her? Because in
21 response to this question, you said "that night".
- 22 A Yeah, that night I wasn't charged with CDV.
- 23 Q Was there something later you were charged with?
- 24 A No, one time before.
- 25 Q Against her?

1 A Yeah.

2 Q Did the police - the police came then, obviously.

3 A Yeah, they came.

4 Q Now, when you - when Mr. Copeland pulled up, and I
5 believe you told Mr. McFadden you were in the front
6 when the victim pulled up and Ms. Copeland was
7 coming out of the house at the time.

8 A Yeah.

9 Q So, he's pulling up, she's coming out, you're coming
10 around the side of the house?

11 A Yeah.

12 Q Basically.

13 A Yeah. See I was fixing to walk away. I was fixing
14 to walk down the street.

15 Q And you could've done that couldn't you?

16 A Yeah.

17 Q You could've just walked on away.

18 A Yeah.

19 Q And you said that he got out of the car and what did
20 he do first, according to you? Your testimony -

21 A Soon as he got out, he pushed me.

22 Q So he didn't even say anything, he just pushed you?

23 A Yeah he was like what the hell's going on. And I
24 was like you need to talk to your cousin. She the
25 one with the problem right.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

48

1 Q But - so did you come up to his car?

2 A

3 Q So he pushes you before he says anything?

4 A No he - yeah, he pushed me at the same time he said
5 that.

6 Q Okay. And that's when you said you need to talk to
7 your cousin?

8 A Yeah.

9 Q And what happened after that?

10 A After that, I told him don't do that no more and he
11 pushed me again.

12 Q And then you said you almost fell down.

13 A Yeah.

14 Q Okay, so you didn't fall down?

15 A No, I almost fell.

16 Q And at that point, you stabbed him?

17 A Yeah.

18 Q What point did you pull the knife out of your
19 pocket?

20 A When I almost fell.

21 Q The second time?

22 A Yeah.

23 Q So you almost fell. You pulled it out and just come
24 right back and stab him?

25 A Yeah.

- 1 Q Is that right?
- 2 A Yes, sir.
- 3 Q He didn't have any guns?
- 4 A I don't know.
- 5 Q I mean, you didn't see any.
- 6 A No, I didn't see none.
- 7 Q Didn't have any weapon of any kind that you know of.
- 8 A I ain't see nothing.
- 9 Q Now, were you on the lease of this house? Were you
- 10 on the lease?
- 11 A No. I was just living there with her.
- 12 Q You didn't have a key though, did you?
- 13 A No.
- 14 Q But you didn't stay there all the time, did you?
- 15 A Stayed there every night.
- 16 Q You never stayed anywhere else?
- 17 A No. I stayed there every night. Every single
- 18 night.
- 19 Q And what did you do after you stabbed him, Mr.
- 20 Cooley?
- 21 A I panicked.
- 22 Q What did you do?
- 23 A I panicked. I ran.
- 24 Q Okay. Where did you go?
- 25 A Went to my aunt house over, over on Miller Road.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

50

1 No, not Miller Road, Manning Road.

2 Q Did you call the police there?

3 A No.

4 Q And did you tell anybody there what happened?

5 A Yeah, I told my aunt. I told my aunt and my cousin
6 what happened.

7 Q Nobody said call the police?

8 A No.

9 Q You just stabbed a guy with this knife?

10 A Yeah.

11 Q I mean, it went all the way in him didn't it? I
12 mean, you stabbed him.

13 A I didn't - I didn't even know. I didn't even -

14 Q You weren't holding up. I mean, you put this in the
15 man's gut, didn't you?

16 A Yeah, but I didn't know, I didn't know if it went in
17 him or not.

18 Q What did you think you did?

19 A I ain't know.

20 Q Alright well you didn't --- did you call the police
21 the next day?

22 A No.

23 Q Okay. Matter of fact, you never called the police
24 did you?

25 A No, I did not.

1 Q Matter of fact ...

2 A I turned myself in.

3 Q They came looking for you several times. One time
4 you were at --- were you back at [REDACTED] and when
5 they were looking for you and you went out the back
6 way when you knew they were there?

7 A Yes, sir.

8 Q I mean you evaded their arrest then, didn't you?

9 A Yes, sir.

10 Q Alright and you could've turned yourself in then
11 couldn't you?

12 A Yes, sir.

13 Q I mean, they were right there looking for you?

14 A Yeah.

15 Q And then afterwards, they got some information that
16 they knew where you were and did come finally arrest
17 you on May 7th, correct?

18 A Yes sir.

19 Q And is that point where you told Investigator Dubose
20 I was going to turn myself in, after you'd already
21 been caught, right?

22 A Yeah.

23 Q Okay.

24 A I was going to do it that same day.

25 Q That same day that they caught you, you were going

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

52

1 to turn yourself in?

2 A Yep. Because my aunt, my auntie and them told me I
3 had need to do that. I need to do that.

4 Q Now, Investigator Dubose, and we're going to get
5 into it I don't know for these purposes, but at some
6 point he took a, I guess, it's that same day, May
7 7th when they finally arrested you. You remember
8 talking to him?

9 A Yeah.

10 Q On tape?

11 A Yeah.

12 Q And you understood your rights then didn't you?

13 A Yeah.

14 Q Okay. And at that point, you told him that when the
15 defendant, strike that, excuse me. I apologize to
16 everybody. When the victim pushed you the second
17 time, he knocked you to the ground.

18 A Yeah.

19 Q Okay. But he didn't knock you to the ground?

20 A Yeah, almost, almost did. Almost knocked me down.

21 Q And you'd been into trouble with some - just within
22 the last ten years hadn't you?

23 A The last ten years, yes, I did.

24 Q Larceny in 2006, May 2006.

25 A Yes, sir.

- 1 Q Breaking and entering May 2006.
- 2 A Yes sir.
- 3 Q That was in Greenville?
- 4 A Yeah, Virginia.
- 5 Q Giving false information conviction in 2013.
- 6 A Yes sir.
- 7 Q That was in Sumter correct?
- 8 A Yeah.
- 9 Mr. Meadors: Beg the court's indulgence.
- 10 Q Was anybody else with Cooley when he came there?
- 11 A Yeah, I think this girl named Meme was with him.
- 12 Q Meme. And you know Meme.
- 13 A Yeah, I know her, yeah.
- 14 Q Okay, have you seen her recently?
- 15 A I saw her about a month ago.
- 16 Q Okay, in what context, how did you run into her?
- 17 A She came to my job.
- 18 Q What for?
- 19 A Because she came up there with her father. Her
- 20 father be up there sometime.
- 21 Q What did y'all talk about? Did you talk about this?
- 22 A No, we didn't talk about this ...
- 23 Q Have you talked about -
- 24 A At first, I didn't even knew she was there. She
- 25 told me that day she was there.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

54

1 Q You know, I don't think anybody realized it to tell
2 you the truth, that she was there til recently.

3 A Yeah.

4 Q Well, did you ever talk to her about this? Since it
5 happened?

6 A No.

7 Q Never talked to her?

8 A No.

9 Q Now, did you and Ms. Copeland talk about this since
10 it happened? When did y'all break up?

11 A Broke up this year right here.

12 Q Okay, but I mean how recently til today did y'all
13 break up?

14 A About a few months now.

15 Q So fairly recent?

16 A Yeah.

17 Q So y'all talked about this case coming up on and off
18 for the last year?

19 A No, we never really talked about it any.

20 Q Really?

21 A No.

22 Mr. Meadors: Okay. Mr. Hodge, thank you.

23 The Court: Anything further?

24 Mr. McFadden: Nothing further.

25 The Court: Okay. You can step down.

1 Mr. McFadden: Your Honor, that concludes the defense
2 presentation.

3 The Court: Okay.

4 Mr. Meadors: Can we take a five-minute break.

5 The Court: Sure. I need one too. We'll take a
6 break.

7 (Court break)

8 Mr. Meadors: May it please The Court?

9 The Court: Yes sir.

10 Mr. Meadors: I know we're still breaking ground with
11 these cases so to speak, the laws changing. Before we
12 present, I don't know if it's appropriate but some of the
13 young legal scholars in office think it is to move for a
14 directed verdict. They haven't met their burden at this
15 point. We are prepared to go forward if, Your Honor,
16 denies it. We've got an invited guest that comes over to
17 the house. Questionable whether or not the defendant is
18 a resident there or an invited guest himself. Stays
19 there for twenty minutes after he knows he's coming. Has
20 a knife, arguably with his prior record, that's weapon,
21 he shouldn't have a knife. He's obviously got it waiting
22 for the defendant to get there in his pants. So, I guess
23 as far as, there's no forcible entry. He knows he's
24 coming over there just to intervene in an argument. But
25 he sits there and waits on him, gets out of his car, and

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

56

1 I guess, the argument would go to C then. Then I know,
2 Your Honor's, rule previously that it still would apply.
3 I always thought C death with no duty to retreat. Not
4 the presumption. Anyway, we move for that. If not,
5 we're prepared to go forward.

6 The Court: Okay. Do you want to respond?

7 Mr. McFadden: Just that we don't believe that a
8 directed verdict motion is proper. Purposes of a Duncan
9 hearing in that we bear the burden of proof by a
10 preponderance, a showing satisfying a portion of the act,
11 specifically here. We would submit that what controls
12 then (11-440©), standing ground provision. We would
13 submit that the defense has presented as of yet
14 un rebuttal testimony that Mr. Hodge was not engaged in
15 unlawful activity. He was attacked in a place where he
16 had a right to be, [REDACTED] and that based on how
17 the interaction with Mr. Cooley arose, that he did what
18 he did because he reasonably believed it necessary to
19 prevent death or bodily injury. And, Your Honor, we
20 would submit that in turn also satisfies the elements of
21 self-defense minus the duty to retreat. We suggest that
22 testimony has shown so far he was without fault in
23 bringing on the difficulty. That he actually believed he
24 was in danger. He'd been shoved down twice or shoved
25 hard twice. We'd suggest that a reasonably prudent

1 person would have the same belief. And that the duty to
2 retreat is not necessarily proven under subsection C.

3 Mr. Meadors: I'll agree with that. I always thought
4 C meant that there was no duty to retreat. If you
5 weren't in your home, place of business, or a car, you
6 weren't entitled to a presumption but you didn't have to
7 retreat. But I may well be wrong on that.

8 The Court: Now, I understand that it's not that
9 clear. Clearly, if you're in your own home or your own
10 property, your place of business, you do not have a duty
11 to retreat. If you're out walking down the sidewalk, you
12 know, the question is whether you have some duty to
13 retreat. My problem in this case, he was potentially a
14 guest on this property, as well as, the victim in this
15 case. He was an invited guest as well. So I've got two
16 invited guests. The victim is not on that property
17 unlawfully. It's not like he's on the property and
18 someone is breaking into the house or doing some unlawful
19 activity. He has a right, you know. The question in
20 this case is the force. You know, would a reasonable
21 person believe that at that point, they have a right to
22 use deadly force. And based on his own testimony, he
23 shoved him one time kind of lightly with one hand. He
24 told him not to do it again, he did it again. But he
25 didn't shove him to the point of knocking him down. And

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

58

1 that after he shoved him a second time, he stabbed him,
2 you know, with a kitchen knife. Based on his own
3 testimony, he did not see a weapon, there was no, the
4 victim in this case had no weapon whatsoever. He had not
5 accelerated to the point that a reasonable person would
6 believe that their life was in danger and that deadly
7 force was warranted in this case. I just don't think
8 that under any standard that he had a right at that point
9 to stab him. He had not accelerated and his life had not
10 been put in fear that he could've used deadly force.
11 Now, and if this, when this case goes to the jury, you
12 want to use the defense of self defense, then I think at
13 that point, you would've had a duty to retreat before he
14 could in fact --- the avenue was not locked, he was not
15 on his own property. If he's on his own property, he
16 doesn't have to retreat under self defense. But he's not
17 on his own property so at that point before he could use
18 a knife, he would've had to retreat. And he didn't make
19 any effort to retreat. He basically told him not to do
20 it again, he stabbed him because he did it again. But I
21 don't think under any standard that a reasonable person
22 would believe that their life was in danger and use of
23 deadly force was warranted at that point. If he'd have
24 been on top of him beating him to a pulp to a point that
25 he almost lost consciousness, a concern that he probably

1 would have had an obligation to use deadly force. But I
2 don't think any reasonable person would think at that
3 point in the altercation that their life was in danger.
4 And clearly no one else is likely to think that they had
5 a right to use deadly force. So, I mean, I understand
6 you want a directed verdict, but you made your best case
7 no matter what the State puts up. I just don't think
8 you've got that. Because I don't think he has a right at
9 this point in the game that a reasonable person believe
10 that they would have a right to use deadly force. Simply
11 shoving somebody to the point that they knock him down
12 doesn't put, any reasonable person believes that their
13 life was in danger or sever injury at that point. It
14 just hadn't gotten there. Okay?

15 Mr. McFadden: Thank you Your Honor. So that motion
16 is denied?

17 The Court: Well, yes your motion is denied. I mean,
18 so we can proceed to trial. You certainly have a right
19 to argue self defense upon a jury. I think you've got a
20 serious problem with that as far as retreat issues are
21 concerned. But we'll see.

22 Mr. Meadors: We're ready to go ... I don't know if
23 we're going to offer it or not, but we are ready to go
24 forward with the Jackson vs. Denno.

25 Mr. McFadden: We certainly don't object to that.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

76

1 The Court: As far as the seizure is concerned.

2 Mr. McFadden: Your Honor, a few more brief matters
3 that I would submit, a significant one. Our next motion
4 would concern or suspect that photographic evidence of
5 the alleged victim's injuries will be offered and we
6 would make a motion under Rules 403, 401 to allow, if
7 they are presented to --- presented for admission into
8 evidence that they be black and white copies so as to
9 minimize their inflammatory effect on the jury and that's
10 in these full color, graphic injury photos would
11 needlessly inflame the jury.

12 The Court: Okay. Now I'll have to look at the
13 pictures to rule on them.

14 Mr. Meadors: Your Honor, we'll offer these as, we
15 have them marked as State's 5 and 6 I think with the
16 court reporter. Actually, it's just 5 for ID would be
17 what The state would propose to offer would be stomach
18 area of Mr. Cooley taken from the hospital.

19 **(State's Exhibit Number Five for identification)**

20 The Court: Okay and is this photograph allegedly
21 taken prior to any surgical intervention by police? This
22 is how he arrived and not after some medical procedures,
23 is that correct?

24 Mr. Meadors: Yes sir. We could show Your Honor -

25 The Court: I don't find that the color pictures are

1 inflammatory. I mean, it's, you know, I don't think the
2 probative value would outweigh any prejudicial.

3 Mr. McFadden: Thank you, Your Honor. Our remaining
4 two motions, I guess, two motions regard another subject
5 that was touched on during the Duncan Hearing that is
6 we'd like to have The Court settle the defendant's record
7 to establish which convictions, if any, the State would
8 be allowed to use against him should he choose to testify
9 during the trial.

10 The Court: Okay.

11 Mr. McFadden: And incorporated into that, we would
12 request at this time also to have that same ruling upon
13 the criminal histories of Lyvonnia Copeland and Lawrence
14 Cooley.

15 The Court: Alright, I need to see those records at
16 least what the State contends is admissible under the
17 rule.

18 Mr. Meadors: Do you want to see them or do you want
19 me to go over them ...

20 The Court: I don't care. Either way you want it.

21 The Court: I just need to know that the State
22 contends that it's admissible under our rule.

23 Mr. Meadors: I am just going to address the last ten
24 years or ...

25 The Court: Okay.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

90

1 Mr. Meadors: Yes, sir.

2 Mr. McFadden: Yes, sir.

3 The Court: Okay. If you'll bring me the jury,
4 please, sir.

5 Bailiff: Yes, sir.

6 (Jury enters the courtroom 2:42)

7 Bailiff: Your Honor, all the juries are in the jury
8 box.

9 The Court: Ladies and Gentlemen, I'm going to
10 explain to you how this procedure is going to follow and
11 basically what your responsibilities are. And I'm not
12 charging you on the law. At the end of this case I will
13 charge you completely on the law that applies to this
14 case. This Defendant has been indicted for the crime of
15 attempted murder and possession of a weapon during the
16 commission of a violent crime. I will explain to you the
17 elements of those two charges when I charge you on the
18 law. But to this indictment he has entered a plea of not
19 guilty, therefore it places the burden upon the State of
20 South Carolina to prove each and every element of this
21 indictment to you beyond a reasonable doubt. So,
22 basically your responsibilities are to listen to the
23 evidence in this case and determine what the true facts
24 are. The evidence is going to come to you in three forms
25 for the most part.

1 First of all, through sworn testimony. Witnesses
2 will come before you under oath and testify as to what
3 they saw or did not see, what observations that they
4 made. The other way that you may receive evidence is
5 through documents or photographs or things that I allow
6 under our rules to be introduced to you. And the third
7 way that you may receive evidence is through the
8 stipulations of the attorneys. Your job is to determine
9 the guilt or innocence of this defendant based on the
10 evidence that comes before you. Yours is a factual
11 determination as to what happened and if the State has
12 been able to prove to you beyond a reasonable doubt that
13 he's, in fact, guilty of the charges he's been indicted.

14 I will explain to you later the indictment is not
15 evidence in this case it is simply the formal document
16 that gets us into this court.

17 And what I'm looking for is a fair open minded jury
18 who is going to listen to the evidence and determine
19 guilt or innocence. It is important for you to get it
20 right because if you make a mistake it is very difficult
21 to correct that mistake. If I make a mistake, at some
22 other time and some other place it will be reviewed. It
23 is very difficult to overturn a juries verdict in this
24 case. It's your job to determine what the truth facts are in
25 this case.

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

92

1 I will try to take a break every hour, hour and a
2 half in this case. Now, I try not to break a witnesses
3 testimony. If somebody gets on the stand, I try to let
4 that person finish, if possible. Sometimes it's not
5 possible. Sometimes the testimony of a particular
6 witness goes on so long we have to take a break. Having
7 said that, at any time, during this trial, you need a
8 break, just simply raise your hand and we will take one.
9 Because I need all thirteen of you to pay close attention
10 and if you're not comfortable, for any reason, it's hard
11 for you to pay attention. So, if you need a break in the
12 meantime, just simply raise your hand and we'll take a
13 break. When we do take a break I'm going to instruct you
14 that you can't talk about this case, you can't talk about
15 the case until I tell you you can and that's going to be
16 at the end after I instruct you on the law. Now, I know
17 many times you say well why can't we at least go back
18 there and talk about it amongst ourselves after we've
19 heard testimony from one witness or a couple of
20 witnesses. Why can't we at least go try to talk about
21 what they said. The reason I don't want you to do that
22 is because if you do do that at the end of the trial you
23 are going to want to defend that opinion you had at the
24 beginning of the trial to your fellow jurors. Because
25 you came up with some theory early and you're going to

1 want to defend that. I don't want you to start forming
2 opinions until you've heard all of the evidence as well
3 as the law that I am going to instruct you. Then and only
4 then will it be proper for you do discuss this case. Our
5 system is not perfect but it's the best anybody has ever
6 come up with and most of the time it works. So, both
7 sides of this case are looking for a fair and impartial
8 jury who is going to get it right. I need you to keep an
9 open mind and to listen carefully and use your common
10 sense to determine who is telling you the truth and who
11 is not. I remind you that the State has the burden of
12 proving his guilt beyond a reasonable doubt and in a few
13 minutes the lawyers are going to get up and make opening
14 statements to you. The opening statements of the lawyers
15 are not evidence in this case. They are simply going to
16 tell you what this case is about and where the evidence
17 is going to carry you in this case or not carry you.

18 At the end of the case, after you've heard all of
19 the evidence, the attorneys are going to get up and make
20 a closing argument to you and at the time they are going
21 to argue to you as to what they think the case showed or
22 didn't show in this case. Then I will charge you on the
23 law and give you this case to decide. In all probability
24 we want finish this case today but we should finish it
25 tomorrow. So, when I send you home tonight, I'm going to

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

94

1 tell you that you can't talk about this case and you
2 can't tell your family at the supper table what it's all
3 about and I know you are going to want to but if your
4 family is like my family they are going to have an
5 opinion as to what you ought to do, well they haven't
6 been here and they don't know so you've got to decide
7 this case solely on what you hear in this courtroom and
8 you can't go home and do any research independently. You
9 can't go home and Goggle anybody or get on the internet
10 and try to figure any of this out. Everything you know
11 about this case, you need to learn in this courtroom.
12 That way both sides will insure that they get a fair and
13 impartial trial from a jury who is deciding this case
14 solely under the rules of evidence in our court system.

15 If you'll pay close attention, the attorneys will
16 make an opening statement.

17 Mr. Meadors: May it please the Court?

18 The Court: Yes, sir.

19 Mr. Meadors: He stabbed me, cuz. He stabbed me,
20 cuz. Those are the words that Lawrence Cooley yelled out,
21 screeched out to his cousin. As soon as he got to her
22 house, at her request when he got out of his car, he
23 stabbed me, cuz. The evidence will show that the he is
24 the Defendant, Jermaine Hodge. And that on the early
25 morning hours of April 21, 2015, we believe that the

1 evidence will show shortly after Lawrence Cooley got to
2 38 Oak View, got out of his car, the defendant thrust
3 this into his gut. He stabbed me cuz and that's what
4 this case is about.

5 Ladies and Gentlemen, good afternoon.

6 Jurors: Good afternoon.

7 Mr. Meadors: Thank you for being here. I work for
8 your elected solicitor, The Honorable Ernest A. "Chip"
9 Finney, III. You all saw him Monday, I believe, in jury
10 qualifications. My name is John Meadors, I'm here with
11 Investigator Dubose, Ron Sullivan and Tom Miller, our
12 investigator with the Solicitor's Office and we're
13 representing the State, the people of the State of South
14 Carolina, the people of Sumter against the Defendant,
15 Jermaine Hodge, who is here with his attorney Mr. Jacob
16 McFadden. And that's how the system works. The State
17 has a representative, the Defendant has a representative
18 and we come in here in this court before a Jury of
19 everybody's peers and we present evidence and you all
20 decide what happens and what the verdict is. It's as
21 pure a system as there can be. And, I want to thank you
22 for being here. What's my role? It's to present the
23 evidence. To present the evidence so that you can make a
24 decision. You all know this as good or better than I do,
25 the burden on the state, in this case, is the same burden

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

96

1 that's on every state representative, prosecutor in this
2 great country. It's beyond a reasonable doubt. We must
3 prove that on April 21, 2015, the Defendant Jermaine
4 Hodge attempted to kill, attempted to murder Lawrence
5 Cooley beyond a reasonable doubt. That's it. We don't
6 have to prove beyond all doubt. There is no way to prove
7 beyond all doubt. If that were the burden, we didn't
8 need to build this beautiful court house. We must prove
9 the Defendant guilty beyond a reasonable doubt and that's
10 y'all's decision.

11 What's he charged with? He's charged with attempted
12 murder. As, Your Honor, told you it's been indicted by
13 the Sumter County grand jury, that's just a charging
14 paper. It has to go through the grand jury for us to get
15 here. That's not evidence that it was indicted, but he
16 was indicted for attempted murder. Attempted murder, and
17 what we must prove, is that on April 21, 2015, Jermaine
18 Hodge did, with the intent to kill, attempt to kill
19 Lawrence Cooley. That means he tried to. He took a step
20 in that direction. He thrust his knife into his gut.
21 That he intended and attempted to kill Lawrence Cooley
22 and that he did it with malice aforethought either
23 expressed or implied or inferred. Now, that's a term.
24 Malice, you probably know what that means too. Malice is
25 one of those words that you know it when you see it. You

1 know it when you feel it or hear it. It's a meanest, a
2 evilness, a spitefulness, one person shows to another,
3 expresses. It's malicious. Malice aforethought.
4 Aforethought is a term we don't have to prove that he
5 decided to do this anytime before the exact thrusting
6 into the gut. That means at the moment. It doesn't have
7 to be planned. He doesn't have to be I'm going to put
8 this knife in him. We don't have to show that. It
9 doesn't have to be premeditation in this state. But, I
10 tell you, in this case, the evidence is going to have him
11 with that knife about twenty minutes before the Defendant
12 came over there. And we believe the evidence will show
13 that he was ready. But that's malice aforethought. It
14 can be expressed, I'm going to kill you. We don't
15 usually have that in cases or it can be inferred under
16 the circumstances and surrounding and events, which
17 you'll hear from here. We submit to you thrusting this
18 knife into his gut is malice aforethought.

19 As the Judge has most eloquently and much better
20 than I could ever do told you what the types of evidence
21 are, I can't help myself, but I'll do it briefly. First,
22 there's what's called direct evidence. It's evidence
23 that a witness experiences with one of their senses.
24 They see it, they hear it, they feel it, they touch it.
25 They come in here and take the stand, put their hand on

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

98

1 that Bible. Mr. Bradley reads them the oath to tell the
2 truth and they tell you what I saw, what I felt, what I
3 heard, what I touched. Mr. Cooley is going to do that in
4 just a few minutes. He's going to get up here and tell
5 you what happened to him. That's direct evidence.

6 There's also circumstantial evidence which the law
7 says is just as good. It's just as powerful. One is just
8 as strong as the other if you believe it. It's a fact or
9 different facts which lead to the fact (coughing).

10 There's also documentary evidence, which may or may not
11 come in as pictures. We are going to submit a picture of
12 Mr. Cooley and show you the stab wound, where he was
13 stabbed. Pictures of the house, where it happened. But,
14 all that evidence really relies just on one thing. It's
15 what is critical in this case and it's critical in every
16 case that is tried. Every case comes down to what I'm
17 going to tell you right now, every single case.

18 Credibility. The judge will instruct you that you are to
19 determine who's credible and what the truth is. That is
20 your job. You now have a job. We've all got our roles
21 here. His Honor, is the law. Judge Cothran tells us
22 what the law is, he knows the law, he is the law in this
23 courtroom. Mr. McFadden and I have our roles and our
24 jobs. You also have your job and you're the judge. You
25 judge the facts, you're the judge of the facts. You

1. decide what is credible and what is believable and that's
2. pure. You don't know anything about them. You don't
3. know the parties. You said so when we were qualifying
4. you. You said we don't know anything, we're going to be
5. fair. You've all promised to be fair and we know you
6. will. So, you come in here and you listen to these facts
7. and all of you decide this is what happened. This is
8. what's credible. Because the only evidence that you're
9. going to hear is what comes from this witness stand.
10. That's pure, isn't it. People that come in and know
11. nothing about the case can listen to it and say, you know
12. what, we are the judge, we're a judge, too. We're the
13. judge of the facts. This is what we believe happened.
14. Once you all do that, and you will, you will then take
15. the law that the Judge of the courtroom, His Honor,
16. gives you, says this is the law, and you'll say here are
17. the facts that I've decided and we're going to come up
18. with a verdict. And that is the way the system was
19. designed to be and it works. And it's up to you what the
20. truth is. How do you do it? How do you decide
21. credibility? Well, Mr. Campbell, did not put you in a
22. school, our wonderful Clerk, to teach you how to be a
23. jury, but you've been to that school your whole life.
24. It's living, it's raising kids, it's being a kid, being a
25. grand kid, interacting with people your whole life. You

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

100

1 kind of know who is full or it and who isn't but you make
2 that decision. What's the truth. And you'll make that
3 decision judging people who take the stand. This sounds
4 credible, this isn't. That's up to y'all. You make that
5 decision based on your life experiences in evaluating
6 people. That's all you can do and that's all we ask. We
7 ask you to be fair. Be fair to the Defendant, be fair to
8 the State and be fair to Mr. Cooley and decide what the
9 truth is.

10 April 21, 2015, I'm going to take you back in time.
11 I believe the evidence will show that Lawrence Cooley,
12 raise your hand Lawrence (witness complies) back here.
13 Lawrence Cooley got ties from here, he's going to tell
14 you. His family is here but he was living up in New
15 Jersey. On April 20, the day before this incident, he
16 comes to Sumter for a funeral. That's why he's coming.
17 I'm coming to Sumter for a funeral. One of his aunts
18 died. He gets here, April 20th, he's at one of his
19 father's place in Lynchburg, I think. His testimony will
20 tell where it is. And, at some time, the late evening of
21 April 20, 2015 into the early morning hours of April 21,
22 2015, he gets a call, Mr. Cooley gets a call from his
23 cousin, Ms. Lyvonnia Copeland. Ms. Copeland, as you will
24 hear was dating the defendant at the time. They had a
25 relationship. There may be an issue of whether or not he

1 was staying over there on a full time basis or not,
2 you'll hear the testimony that comes in. Ms Lyvonnia
3 Copeland, first cousin to the victim in this case,
4 Lawrence Cooley, calls him and says would you please come
5 over here we're having issues, yelling, there's some
6 other stuff. Will you please just come over here. Mr.
7 Cooley gets in his car with another lady, I believe, a
8 Ms. MeMe Johnson. The testimony will be, I believe, he
9 doesn't know exactly where 38 Oak View is, where his
10 cousin is, and he goes to 38 Oak View. And he'll testify
11 that the funeral was just a few hours earlier in the
12 morning. He'll testify, I believe, the evidence will
13 show I was going over to say let's knock this off and get
14 ready for the funeral. We believe his testimony will be
15 that he drives to 38 Oak View at his cousin's request to
16 come and calm things down. Gets out of his car, maybe
17 goes just a little bit, if at all, sees the Defendant and
18 he says, he stabbed me, cuz. He stabbed me, cuz. His
19 testimony will be no altercation, no fighting, no
20 pushing, the Defendant came up and stabbed him. Lawrence
21 is standing there with this knife in his gut, we believe
22 the evidence will show. And maybe he doesn't even
23 realize it at first, but then the evidence will show that
24 he pulls it out and drops it. The Defendant runs, flees.
25 After he pulls the knife out of his gut, Mr. Cooley, says

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

102

1 his cousin was hysterical, she couldn't drive, the other
2 lady apparently couldn't drive, Mr. Cooley drives himself
3 to the hospital, to Tuomey, where he is operated on and
4 he'll tell you about his injuries and his recovery and
5 how long he stayed in jail.

6 Law Enforcement gets involved, Wayne Dubose. It's
7 not a issue of identification, Mr. Hodge is identified.
8 He stabbed me. He did it. It's not an identification
9 case and then they start looking for him, law enforcement
10 does. They look for him, put out a be on the lookout for
11 him, a BOLO. Try to go to a house where he is. Go back
12 to 38 Oak View a few days later. The testimony will be
13 that he was there but then he left the scene when he saw
14 law enforcement there. That's going to come out. That
15 will be the testimony. And he evaded law enforcement and
16 fled until May 7, 2015 when Investigator Dubose received
17 some information, hey he's here and he goes and arrested
18 him at that point.

19 That's the case, Ladies and Gentlemen. Thank God
20 he's alive. The case is and we believe the evidence will
21 show that on April 21, 2015, Lawrence Cooley came to his
22 cousin's house at her request and was stabbed as soon or
23 shortly after he got there with no provocation and no
24 reason by the Defendant. That's the case and that's what
25 you are going to hear about today and tomorrow. And, I

1 agree with, His Honor, it's however long he says it will
2 go, but I believe we'll finish this tomorrow. All we can
3 ask you for is your patience and your attention and your
4 common sense as you listen and evaluate testimony you
5 will hear from the stand today and tomorrow. After you
6 have heard that, after His Honor, has told all of us what
7 the law is, you will adjourn to your jury room to reach a
8 verdict. Verdict simply means to speak the truth and
9 respectfully the state believes that the only verdict
10 here that speaks the truth is the verdict of guilty for
11 attempted murder. Thank you.

12 The Court: Mr. McFadden.

13 Mr. McFadden: Thank you, Your Honor, may it please
14 the Court?

15 The Court: Yes.

16 Mr.. McFadden: The Supreme Court Justice Oliver
17 Wendall Holmes, he was quoted as saying that jury service
18 is the highest service that a citizen can perform before
19 during his lifetime. Judge Cothran, just told you about
20 what your role will be here today as jurors and I would
21 like to just spend a little bit of time talking about
22 what that means. I'd like to do that by way of a brief
23 example. I like to read the newspaper, just the news. I
24 like to read the physical actual newspaper but I admit
25 like a lot of other folks these days via phone or tablet

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

104

1 computer, that's secondary but I love the news and maybe
2 by virtual of my job I love to read stories about crime.
3 Headlines about people charged with crimes. Warrants
4 being sought, charges, indictments being offered, you
5 heard some of this language here today. Bold black print
6 saying some heinous crime against somebody. That
7 unflattering mug shot. It may be a blur about what's
8 alleged to have occurred. Folks, sitting there at my
9 breakfast time with my coffee, it's a time in the morning
10 where I really treasure just some quiet moments to
11 prepare for the day. You read those stories and you
12 think they got him. I'm glad this person is off the
13 street. What they are alleging, this sounds horrible.
14 Who would do that. Here's the person's name, the
15 picture, the headline, they must have done something.
16 Their picture wouldn't be in the paper if they didn't do
17 something. Well, folks, I think that is a totally
18 normally healthy reaction to have sitting at the
19 breakfast table.

20 Ladies and Gentlemen, your obligations went way up
21 as soon as you entered this court room and took the oath
22 that you just swore. You swore to become jurors in this
23 case and to decide this case today, these criminal
24 charges according to the evidence provided to you. I
25 submit to you folks, if you bring in any of that

1 rationale, If you think for a moment sitting here today
2 we've got everything lined up, the judge, the court
3 reporter, State's attorney, defense attorney, all this
4 time and effort, it's already been expended he's got to
5 be guilty of something, we wouldn't be here if he wasn't.
6 Folks, if you allow those thoughts to enter your mine you
7 are violating the oath you just took.

8 Judge Cothran will be the source of all the law you
9 apply to this case. The solicitor has spent a lot of time
10 talking about the preview of the law, what he thinks it
11 is going to say, how he thinks it's going to apply to the
12 evidence that he is going to approve. The only source of
13 law in this case that you are duty bound to apply is that
14 which Judge Cothran applies. The only source of evidence
15 that you are entitled to consider is that which comes
16 from that witness stand right there. He told you want the
17 State hopes to prove. But what they will actually prove
18 will be what is determined through that stand. Nothing
19 that comes from anywhere else. Inside or outside of this
20 courtroom. Nothing he says, nothing I say, nothing that
21 you may hear or see from anywhere else but from the
22 source that is allowed.

23 Now, Judge Cothran also mentioned a few phrases, few
24 terms that everybody is familiar with. Everybody is
25 familiar with, of course, jury duty. Everybody I'm sure

JERMAINE HODGE VS. STATE OF SOUTH CAROLINA

106

1 is familiar with some of the phrases that the judge
2 mentioned. Beyond a reasonable doubt, innocent until
3 proven guilty. Folks, the judge will tell you that those
4 are not just legal phrases, not just tag lines that you
5 hear on your favourite cop drama shows. They are
6 substantial legal rights that every defendant that enters this
7 court room is entitled to. Substantial constitutional
8 guarantees that you are charged with upholding as jurors.

9 Folks, the judge said that the system is not perfect but
10 it is the best system that has ever been created. I
11 wholeheartedly agree and I would submit that it is your job as
12 jurors to make that system work. To not render a verdict of
13 guilty in this case unless and until the state has satisfied
14 each and every one of you beyond a reasonable doubt of the
15 defendant's guilt.

16 The solicitor asked you bottom line to remain pure
17 just, just to remain pure, to remain free from outside
18 influences or receiving any information from outside
19 sources or talking about the case outside of here. That's
20 all I would ask on behalf of Mr. Hodge. To take your
21 roles as jurors seriously. Folks, I submit to you that
22 once everything is said and done. Once the actual
23 evidence is presented and that under your role in
24 furtherance of duty as jurors in this case that you will
25 be compelled to return one verdict, that is not guilty to

1 both charges that has been leveled against Mr. Hodge.
2 Attempted Murder and Possession of a Weapon during a
3 violent crime. Thank you.

4 The Court: Mr. Solicitor, I'm going to give the
5 evidence to my court reporter. Okay. You may call your
6 first witness.

7 Mr. Meadors: May it please, Your Honor. The State
8 would call Lawrence Cooley.

9 The Court: Would you come around, please, sir.
10 Place your left hand on the Bible and raise your right.

11 Bailiff: State your name, please. :

12 Witness: Lawrence Cooley.

13 Bailiff: Do you solemnly swear or affirm the
14 testimony to the court shall be the truth, the whole
15 truth and nothing but the truth, so help you God?

16 Witness: Yes, sir.

17 Bailiff: Have a seat up here, please.

18 (Witness complies)

19 Bailiff: State your full name please and spell your
20 last name for the Court.

21 Witness: Lawrence Cooley, C-O-O-L-E-Y.

22 Mr. Cooley - Examination by Mr. Meadors:

23 Q: Good afternoon, Mr. Cooley.

24 A: How you doing.

25 Q: I think you've got a pretty strong voice but just to

CERTIFICATE

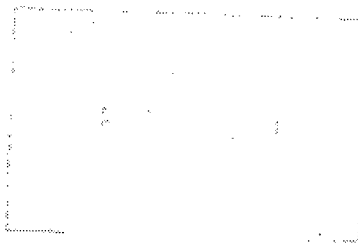
This is to certify that VOLUME ONE of the transcript of the trial in the matter of Jermaine Hodge vs. State of South Carolina, consisting of One Hundred Seven (107) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 15th day of December, 2016

Melissa R. Singletary

Melissa R. Singletary
Certified Court Reporter



STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF GENERAL SESSIONS

Jermaine Hodge,

PLAINTIFF,

v.

State of South Carolina,

DEFENDANT.

TRANSCRIPT OF TRIAL
C/A No. 2015-GS-43-0710

Sumter County Courthouse
May 25-26, 2016

VOLUME TWO

BEFORE:

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE

APPEARANCES:

Assistant Solicitor John Meadors
Attorney for State of South Carolina

Sumter County Public Defender Jacob McFadden, Esquire
Attorney for Jermaine Hodge

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

	<u>PAGE</u>
<u>WITNESSES:</u>	
Lawrence Cooley	
Examination by Mr. Meadors	107
Cross Examination by Mr. McFadden	129
Redirect Examination by Mr. Meadors	141
Lyvonnia Copeland	
Examination by Mr. Meadors	142
Cross Examination by Mr. McFadden	153
Redirect Examination by Mr. Meadors	159
Lois "Meme" Johnson	
Examination by Mr. Meadors	163
Cross Examination by Mr. McFadden	171
Redirect Examination by Mr. Meadors	179
Wesley Gardner	
Examination by Mr. Meadors	182
Cross Examination by Mr. McFadden	185
Recall Lawrence Cooley	
Examination by Meadors	189
Cross Examination by Mr. McFadden	190
Wayne DuBose	
Examination by Mr. Meadors	191
Cross Examination by Mr. McFadden	213
Redirect Examination by Mr. Meadors	218
Jermaine Hodge	
Examination by Mr. McFadden	249
Cross Examination by Mr. Meadors	264
Redirect Examination by Mr. McFadden	284
Closing by Mr. McFadden	299
Closing by Mr. Meadors	309
Verdict Read	355
Sentence of Court	359
Certificate of Service	361
<u>Exhibit Marked During this Hearing</u>	
Exhibit Number 1	125
Exhibit Number 2 and 3	117
Exhibit Number 4	210
Exhibit Number 5	126
Exhibit Number 7	213
Court's Number 1	348
Court's Number 2	352

1 both charges that has been leveled against Mr. Hodge.
2 Attempted Murder and Possession of a Weapon during a
3 violent crime. Thank you.

4 The Court: Mr. Solicitor, I'm going to give the
5 evidence to my court reporter. Okay. You may call your
6 first witness.

7 Mr. Meadors: May it please, Your Honor. The State
8 would call Lawrence Cooley.

9 The Court: Would you come around, please, sir.
10 Place your left hand on the Bible and raise your right.

11 Bailiff: State your name, please.

12 Witness: Lawrence Cooley.

13 Bailiff: Do you solemnly swear or affirm the
14 testimony to the court shall be the truth, the whole
15 truth and nothing but the truth, so help you God?

16 Witness: Yes, sir.

17 Bailiff: Have a seat up here, please.

18 (Witness complies)

19 Bailiff: State your full name please and spell your
20 last name for the Court.

21 Witness: Lawrence Cooley, C-O-O-L-E-Y.

22 Mr. Cooley - Examination by Mr. Meadors:

23 Q: Good afternoon, Mr. Cooley.

24 A: How you doing.

25 Q: I think you've got a pretty strong voice but just to

1 make sure the court reporter and everybody hears.

2 A: Okay.

3 Q: I think you're fine. Mr. Cooley, will you please
4 tell the ladies and gentlemen of the jury about
5 Lawrence Cooley. Where are you from?

6 A: I'm originally from New York City.

7 Q: Where you born there?

8 A: Yes.

9 Q: Were you raised there?

10 A: Yes.

11 Q: Where did you graduate high school?

12 A: I graduated from Manhattan Censor(sp) High School in
13 Manhattan, New York.

14 Q: What year did you graduate?

15 A: 1988.

16 Q: After that what did you do?

17 A: I had several jobs. I worked with my father. I did
18 maintenance when I was young. I had several jobs,
19 restaurant jobs, you know, growing up I had several
20 jobs.

21 Q: Maybe the job or the job of your choice or expertise
22 has been what for the last couple of years?

23 A: Well, for the past years, I've been working with
24 cable technician insulation. I've been with Time
25 Warner. Now, presently working for ComCast Cable.

1 Q: So you have been on and off with cable for numerous
2 years?

3 A: Yes, about 8 years.

4 Q: And you worked with Time Warner where?

5 A: I was living in New York, I mean, North Carolina for
6 about five years. That's when I started working with
7 them and then I relocated to New Jersey where I
8 presently live and I've been with ComCast Cable with
9 them.

10 Q: What do you do, I mean, it's cable, but what does
11 that mean, what do you do?

12 A: Well, I do installs, you know, someone request, you
13 know, cable or internet I go and install the cable
14 or internet into their residence.

15 Q: Now, what are your ties to Sumter specifically?

16 A: My father he resides in Sumter. He originally was
17 born in Lynchburg, South Carolina. He moved to New
18 York when he was young and retired from New York and
19 bought a house and moved back to South Carolina,
20 Sumter, South Carolina.

21 Q: What kind of business was he in?

22 A: He was in maintenance, supervisor and construction
23 for over forty years.

24 Q: So, he's been back here in Sumter for how long?

25 A: I would say close to ten years. He's been back

1 since he retired.

2 Q: Is this your father here?

3 A: Yes, sir.

4 Q: Is this your mother?

5 A: Yes, sir.

6 Q: And I guess for relevance purposes, when you came
7 back that is where you were going to stay?

8 A: Yes, sir.

9 Q: Other than your mother and your father, do you have
10 other relatives here in Sumter?

11 A: Yes, sir.

12 Q: How many?

13 A: Wow, I have about five or six uncles, three or four
14 aunts, several cousins, a lot of cousins.

15 Q: Mr. Cooley, prior to April 21, 2015, how often would
16 you come back and visit your folks in Sumter?

17 A: At least every summer.

18 Q: Okay. Why were you coming to Sumter the week of
19 April 20, 2015?

20 A: My father's sister. Baby sister, actually, she
21 passed away, she had cancer. So, me and, I have a
22 lot of cousins in New York, also. We all got
23 together. I rented a large SUV and approximately
24 seven of us got together, chipped in for the rental
25 and we drove down to Sumter South Carolina.

1 Q: If April 20th was a Monday, of 2015, when did you get
2 here?

3 A: I think the day prior or it was the 20th. I think I
4 got there the 19th. It was sometime that night. It
5 was probably on the 19th, sometime that night on the
6 19th.

7 Q: Where were you staying, were did you stay when you
8 came?

9 A: At my father's house.

10 Q: And, again, that's where?

11 A: In Sumter, South Carolina.

12 Q: I'd like to ask you about your activities on the
13 20th, which is the day --- it your testimony that
14 this incident happened in the early morning hours of
15 April 21st?

16 A: Yes.

17 Q: So, I want to go back to that Monday, the day before
18 this early morning incident.

19 A: Okay.

20 Q: Would you agree with me that April 20, 2015 was a
21 Monday?

22 A: Yes.

23 Q: What did you do that day when you were Sumter?

24 A: I was with my fiancée at the time and my father and
25 my step mother we all was out earlier that day and

1 we had planned to have a little, you know, they were
2 going to throw something on the grill and some of my
3 cousins that rode down with me from New York, I had
4 to drop at other family members house which is in
5 Lynchburg, South Carolina, and they called me and
6 said, you know, I want to get out the house, you
7 know, come get me. So, I left my father's house and
8 I drove to Lynchburg to come get them and take them
9 to where they wanted to go. So, we ended up at one
10 of our family members house in Lynchburg.

11 Q: Had you been to a nursing home prior to that, that
12 day?

13 A: Yes, I failed to mention that, I'm sorry. Earlier
14 that day, me, my fiancée at the time, my father, my
15 stepmother, we went to one of my, my aunts she's in
16 the funeral home, I mean, a retirement home. She
17 can't walk and yes, that's what we did earlier.

18 Q: So, you visited another aunt?

19 A: Yes.

20 Q: Later on that day you went to Lynchburg?

21 A: Yes.

22 Q: Who did you go with?

23 A: I went by myself to Lynchburg.

24 Q: And these other folks that had wanted to go
25 somewhere, where did they go?

- 1 A: We went to another family member house in Lynchburg.
- 2 Q: Where was that?
- 3 A: Ashley was one of my cousins, she was staying there.
- 4 The cousins that I brought down we was at one of my
- 5 cousins house in Lynchburg.
- 6 Q: And was that a gathering just family?
- 7 A: Yeah, we was basically sitting around just basically
- 8 taking about our aunt that passed. She was our aunt
- 9 but she was more closer to our age.
- 10 Q: How long were you in Lynchburg?
- 11 A: Probably three hours.
- 12 Q: At some point that evening did you hear from your
- 13 cousin, Ms. Copeland?
- 14 A: Yes.
- 15 Q: Do you know when that was?
- 16 A: It had to be real late because actually I was on my
- 17 way back to my father's house when she called. It
- 18 had to have been after midnight.
- 19 Q: So, this would have been April 21st then?
- 20 A: Yes, sir.
- 21 Q: And you were back on your way to where?
- 22 A: When I got the call, I was on my way back to my
- 23 father's house.
- 24 Q: Where did she live?
- 25 A: Who?

1 Q: That was a terrible question. Where did Ms.
2 Copeland live?

3 A: She lived in Sumter but I didn't know where she
4 lived at, at the time.

5 Q: Why did she called?

6 A: When she called me, she said that ...

7 Mr. McFadden: Objection, hearsay. It calls for
8 speculation.

9 Mr. Meadors: Your Honor, she's going to be the next
10 witness.

11 The Court: Well, ask him as a result of the call
12 what did he do?

13 A: I went to her residence.

14 The Court: Okay. Go ahead.

15 Q: As a result of her calling you?

16 A: Yes.

17 Q: You went to her residence?

18 A: Yes.

19 Q: Were you planning on going there?

20 A: No.

21 Q: Did you want to go there?

22 A: No.

23 Q: What time of the night was it?

24 A: It was after 12, maybe between 12 and 12:30 at
25 night.

1 Mr. Meadors: Your Honor, may we approach?

2 The Court: Yes.

3 (Counsels approach bench without court reporter)

4 Q: Why did Ms. Copeland ask you to come over there,
5 what did she say?

6 A: She said her and her boyfriend was getting into it
7 and she wanted me to come over there and talk to
8 him. That's what she told me on the phone.

9 Q: Had you met Mr. Hodge before?

10 A: Yes.

11 Q: On how many occasions?

12 A: I would say at least twice.

13 Q: What type of occasions were they?

14 A: Just times when I would come down here to visit
15 family, you know, that was her boyfriend, so, you
16 know, I was sociable with him. We never spent any
17 time together together, but I met him once or twice.

18 Q: Had you ever have any bad blood with Mr. Hodge?

19 A: No, no, sir.

20 Q: Have you ever had any confrontation at all with him?

21 A: No, sir.

22 Q: What was your intend for going to your cousin,
23 Lyvonnia Copeland's house early that morning?

24 A: When I was at the rest home for my aunt earlier that
25 day, I seen Lyvonnia Copeland and she asked me to

1 take her to the funeral that next day, her and her
2 boyfriend and her daughter, so when I went to her
3 house, when she called me and told me they were in
4 to it my intentions was look we're have a funeral to
5 go to early in the morning. It's late at night.
6 Why don't you guys calm down, get some rest and I'll
7 be early to pick you guys up for the funeral. And
8 that was my whole intension.

9 Q: What time was the funeral?

10 A: Approximately 9:00 in the morning.

11 Q: And you were going to pick them up?

12 A: Yes.

13 Q: Prior to that, the defendant and Ms. Copeland?

14 A: Yes.

15 Q: Prior to this happening, you were going to pick them
16 up and take them to the funeral the next morning?

17 A Yes.

18 Q: Did you know how to get to [REDACTED]?

19 A: I'm not too familiar with Sumter so that's why I
20 asked a family member to take me over there.

21 Q: And that's Ms. Johnson?

22 A: Yes.

23 Q: Meme Johnson.

24 A: Meme Johnson.

25 Q: What car were you in?

1 A: I was in a SUV that I rented.

2 Q: Do you remember how long it took you to get from
3 Lynchburg to [REDACTED]?

4 A: About 25 minutes.

5 Mr. Meadors: Beg the court's indulgence. Your
6 Honor, I've got State's 2 and State's 3 without
7 objection.

8 The Court: Okay. Is that correct?

9 Mr. McFadden: That's correct, Your Honor.

10 The Court: Okay. They are in without objection.

11 **(State's Exhibit Numbers Two and Three were marked)**

12 Q: This is State's Two, Mr. Cooley.

13 A: Okay.

14 Q: It depicts [REDACTED] Would by be consistent with
15 where you went early that morning?

16 A: Yes, sir.

17 Q: State's 3 is a close up picture of [REDACTED], do
18 you recognize that?

19 A: Yes, sir.

20 Q: That's all I need right now. You were driving?

21 A: Yes, sir.

22 Q: Tell the Ladies and Gentlemen of this jury, did you
23 have any weapons on you?

24 A: No, sir.

25 Q: Describe to the jury as you are reaching [REDACTED],

1 tell them where you went?

2 A: When I pulled up to the resident from the street, I
3 just pulled into, I made a right into her driveway,
4 which means I was parallel to the house in which
5 she, my cousin live.

6 Q: What happened, what did you do after you pulled in
7 to your cousins driveway, [REDACTED] [REDACTED]?

8 A: I got out the car.

9 Q: What next?

10 A: Well, my cousin, she was already outside of the
11 house. I got out, I said, hey cuz, you know, how
12 you doing - I , said, are you okay, those are my
13 words, are you okay? She said, yeah. Not even two
14 seconds after that I noticed the defendant walking
15 from behind the side of the house. He walked up to
16 me, he said, what's up. I said, what's up. You
17 know he walked like he was walking in front of my
18 cousin, stabbed me and took off and started running.

19 Q: I'm going to show you what's marked State's 1 at
20 this point for identification. Does this appear to
21 be the knife that he stabbed you with?

22 A: Yes, sir.

23 Q: Now, tell the Ladies and Gentlemen of this jury, did
24 you - had you touched the defendant?

25 A: No, sir.

1 Q: Did you push him?

2 A: No, sir.

3 Q: Did you yell at him?

4 A: No, sir.

5 Q: Did you have a confrontation with him at all?

6 A: No, sir.

7 Q: Tell the Ladies and Gentlemen, what did you say to
8 him?

9 A: He walk up he said, what's up. I said, what's up.
10 He walked like he was walking into my cousin and
11 that's when he lunged the knife in me. He left the
12 knife in me and took off and started running.

13 Q: Did you say, he stabbed me?

14 A: Yes, you know, when he stabbed me, I seen him
15 running and I looked down and I see the knife in me.
16 You know, I feel the pain but it wasn't real
17 excruciating until I pulled the knife out myself. I
18 looked at my cousin and I said, you know, he just
19 stabbed me and she was hysterical after that.

20 Q: I've never been stabbed, thank God, in the gut. Did
21 you realize that you had been stabbed at first?

22 A: It happened, it really did happen fast. He stabbed
23 me. I noticed he was running and then I felt the
24 pain, you know, and like I said, it really wasn't
25 until I pulled the knife out that I really felt the

1 excruciating pain.

2 Q: What did you do with the knife?

3 A: I just dropped it.

4 Q: Which way did the defendant run?

5 A I was facing the streets, I mean, yeah, facing the
6 streets and he was running towards the streets but
7 at an angle to the right of the streets.

8 Q: Now, I'm going to ask you to come down and if you
9 would face Ms. Melissa, the Court Reporter, so she
10 can be sure - with the Judge's permission, briefly?
11 The Court: Yes, sir.

12 Mr. McFadden: Your Honor, I'd ask to be able to
13 reposition in the courtroom to be able to see.

14 The Court: Certainly. You move wherever you need
15 to.

16 Q Mr. Cooley, come over on this side so everybody can
17 see you. Make sure she can see your mouth. Make
18 sure she can see your mouth.

19 A Oh, okay.

20 Q Now, this is State's 3 and you said this is ■
21 ■■■■?

22 A: Yes, sir.

23 Q: The residence of your cousin?

24 A: Yes, sir.

25 Q: Her name is Ms. Lyvonnia Copeland?

1 A: Yes, sir.

2 Q: I asked somebody to bring me my tape measure and
3 they didn't and I don't have a tape measure but can
4 you show the jury where, on State's 3 where your car
5 was?

6 A: I pulled in the driveway, I pulled in the driveway
7 right here and I stopped, I stopped as soon as I got
8 sort of level with the house.

9 Q: And you said your cousin was there.

10 A: She was already standing outside, both of them.

11 Q: Then you said the defendant ...

12 A: Yes ...

13 Q: Came?

14 A: He must have been around back, because he came
15 around the back of the house.

16 Q: When he came up to you, can you show on State's 3,
17 approximately, where you were?

18 A: I was approximately somewhere right here. Right in
19 front of my vehicle.

20 Q: The question was where were you when the defendant
21 came up, can you put like a number one where you say
22 you were when he came up, approximately?

23 A: Yeah. Approximately, right here (indicating).

24 Q: How close did you get to the defendant? If I'm the
25 defendant, stop me when ...

1 A: When he first walked up, he was, approximately,
2 yeah, this close (indicating).

3 Q: Let's get an estimate for the record then.

4 A: Two feet.

5 Q: For the record, two feet between the victim, Mr.
6 Cooley and Mr. Hodge? When he stabbed you ...

7 A: Right. He stopped in front of me and he said what's
8 up and I said what's up and he walked like this
9 (indicating) and that's when he lunged.

10

11 Q: And when he stabbed you

12 A: Right. He stopped in front of me and he said what's
13 up, I said what's up and he walked like this and he
14 lunged.

15 Q: Show, show, not totally hard, but ...

16 A: Right. He stopped and he said, what's up and I said
17 what's up and my cousin was standing right next to
18 me but on this side and he walked like he was going
19 to talk to her and that's when he lunged a knife in
20 me and started running.

21 Q: Show the jury on State's 3, which way did he run?

22 A: When he came up he stabbed me here and he started
23 running this direction (indicating).

24 Q: And you dropped the knife?

25 A: Yes. I pulled the knife out and I dropped it somewhere

1 in this area.

2 Q: What was going on in your mind at that point?

3 A: It was just like I couldn't believe it, it was like why
4 would he stab me, why would he stab me. We didn't have an
5 argument, we wasn't fighting. I had basketball shorts
6 and slippers on.

7 Q: Basketball shorts and slippers?

8 A: That's what I had on. I was hanging out with
9 family. We were having hotdogs and franks. I didn't
10 come for a confrontation, especially with slippers
11 on.

12 Q: Did you have any other cousins or anybody else with
13 you that you brought from New York. Did you get them
14 to come over with you?

15 A: This is an important part because I left all my male
16 cousins at home. When she called me, all us was at
17 my other cousins house in Lynchburg. When she called
18 me, I could have got four male cousins. All cousin,
19 Lyvonnia have a problem, let's get in the car and
20 go. I told a female cousin to come with me just
21 because it wasn't, I didn't think it was a problem.
22 I thought I could reason with them, hey you guys
23 take it easy, y'all go to sleep.

24 Q: Because the funeral was coming up. Did you have any
25 intent there to fight Mr. Hodge?

1 A: No, none at all. For what?

2 Q: I mean, you weren't ...

3 A: No.

4 Q: You didn't have anything in your hands?

5 A: Nothing.

6 Q: Have a seat back.

7 A: (Witness complies)

8 Q: How did you get to the hospital?

9 A: Well, my cousin she was hysterical. She seemed
10 worse than I was, so I drove myself to the hospital.

11 Q: So, you drove yourself to the emergency room?

12 A: Yes, sir.

13 Q: Did you go in the ER?

14 A: Yes, sir.

15 Q: Were you treated?

16 A: Yes, sir.

17 Q: Can you tell the ladies and gentlemen of the jury
18 about your injuries, Mr. Cooley?

19 A: Well, my stab wound it went through my stomach, of
20 course, it went through my small intestines and I
21 had to have surgery and I was in the hospital for
22 five days. I have permanent nerve damage in my leg
23 today. I was out of work for six months. It was
24 just bad. It was a bad situation.

25 Q: Did it puncture your small intestines?

1 A: Yes, sir.

2 Q: Was that repaired through surgery?

3 A: Yes.

4 Mr. Meadors: Your Honor, I don't remember if I did
5 or not, but we'd offer State's Number 1, the knife, that
6 he's identified.

7 The Court: Was says the defense?

8 Mr. McFadden: Your Honor, I'd object on the grounds
9 that custody hasn't been proven.

10 The Court: Okay. I'll overrule your objection.

11 It's a non-fungible item and the chain doesn't need to be
12 proven. So, I allow it.

13 (State's Exhibit Number 1 was admitted)

14 Q: That's the knife that went in side of you, isn't it?

15 A: Yes, sir.

16 Q: When you get to the hospital, do you remember or at
17 some point did you talk to this man right here,
18 Wayne Dubose?

19 A: Yes, sir.

20 Q: Did you tell him what happened?

21 A: Yes, sir.

22 Q: And that was either that day or the next day?

23 A: That was the same day. Yes, the same day.

24 Q: Did you make it to the funeral?

25 A: No.

1 Mr. Meadors: Beg the court's indulgence.

2 Q: Were y'all arguing?

3 A: No, sir.

4 Q: Mr. Cooley, is the individual in this courtroom who
5 put Exhibit Number 1 in your stomach, well, I tell
6 you ... let me show you State's Five, is that you?

7 A: Yes, it is.

8 Q: Was that your condition after you were stabbed?

9 A: Yes, sir.

10 Mr. Meadors: Your Honor, we'd offer State's 5.

11 The Court: What says the defense?

12 Mr. McFadden: I renew my objection made at pretrial.

13 The Court: Okay. I'll allow it in subject to your
14 objection.

15 (State's Exhibit Number 5 was admitted)

16 Q: Please tell the ladies and gentlemen, what is
17 State's 5, Mr. Cooley?

18 A: My actual stab wound.

19 Q: Was this, it sounds like a crazy question, but was
20 this pre-operation or post-operation?

21 A: Post.

22 Q: So, you had already had the operation?

23 A: No, I'm sorry, it was pre-operation, I'm sorry,
24 before I got operated on, I'm sorry.

25 Q: Was it after the stabbing?

1 A: Yes, after the stabbing.

2 Q: Before your operation?

3 A: Yes, sir. I'm sorry.

4 Q: Now, if I asked you to take your shirt off now,
5 which I'm not, but would you see the results of the
6 surgery afterwards?

7 A: Yes.

8 Q: What did that consist of?

9 A: After the surgery they repaired my small intestines
10 and I had 43 staples.

11 Q: Which are shown on your body now. You don't have to
12 show them but that's underneath your shirt, right?

13 A: Right.

14 Q: In State's 6, is that the same knife you said that
15 ...

16 A: Yes.

17 Mr. Meadors: Your Honor, we'd offer State's 6.

18 The Court: Let me see State's 6.

19 Mr. Meadors: It's a picture of the knife.

20 The Court: Oh, okay. Do you have any objections?

21 Mr. McFadden: Your Honor, I would object that this
22 is an improper witness to offer that through. It can't
23 testify that that is a fair and accurate representation
24 of what it depicts.

25 The Court: Okay. I mean ...

Mr. Cooley - Cross Examination Mr. McFadden

128

1 Mr. McFadden: I believe any foundation has been laid
2 saying who took the photo ...

3 Q: Is that the same knife that was inside of you?

4 A: Yes, sir.

5 Mr. Meadors: I can do whatever you want. I can call
6 somebody later, that's the same knife that he's
7 identified ...

8 The Court: I understand. The criteria is whether
9 that is a fair and accurate representation of that knife.

10 Q: Does that appear to be a fair and accurate
11 representation of the knife that stabbed you in that
12 picture?

13 A: Yes, sir.

14 The Court: I'll allow it in over defense counsel's
15 objection.

16 Mr. McFadden: Your Honor, can I ask what exhibit
17 number that was?

18 Mr. Meadors: Six.

19 Mr. McFadden: Thank you.

20 (State's Exhibit Number 6 was admitted)

21 Q: You actually dropped it, didn't you?

22 A: Yes, sir.

23 Q: Is the individual in this room that put a knife in
24 you after your drove over to [REDACTED], is that
25 person that stabbed you and put State's 1 in your

1 gut in this courtroom?

2 A: Yes, sir.

3 Q: Would you please point him out for the ladies and
4 gentlemen of this jury?

5 A: (Points to defendant)

6 Q: You pointed to Mr. Hodge, next to Mr. McFadden?

7 A: Yes, sir.

8 Q: Is there any doubt in your mind that's who did it?

9 A: No, sir.

10 Mr. Meadors: Thank you. That's all, sir.

11 Mr. McFadden: May it please the Court?

12 The Court: Yes, sir.

13 Mr. Cooley - Cross Examination by Mr. McFadden:

14 Q: Good afternoon, Mr. Cooley?

15 A: Good afternoon.

16 Q: Mr. Cooley, I'd like to start at the beginning.

17 Mr. McFadden: I beg the court's indulgence for one
18 moment.

19 The Court: Okay.

20 Q: You said you're from New York, right?

21 A: Yes, sir.

22 Q: But you came down because of your family, you've got
23 a lot of family here?

24 A: Yes.

25 Q: You came down here on April 20, 2015?

- 1 A: Yes.
- 2 Q: And you were staying at your father's?
- 3 A: Yes, sir.
- 4 Q: Okay. And this was all on April 20th?
- 5 A: Right.
- 6 Q: You said you had been to a cookout, a cookout
- 7 earlier. You mentioned you were cooking food?
- 8 A: Yes, at my father's house.
- 9 Q: At your father's house?
- 10 A: Yes.
- 11 Q: About what time was that?
- 12 A: It was 3 or 4 in the afternoon.
- 13 Q: Were you drinking any alcoholic beverages then?
- 14 A: No, sir.
- 15 Q: No, okay. Then you said you left out of there and
- 16 went to Lynchburg?
- 17 A: Yes, sir.
- 18 Q: To another family members house there?
- 19 A: Yes, sir.
- 20 Q: Okay. Then you said, it was when you were leaving
- 21 Lynchburg, coming back to Sumter that you got the
- 22 call from Ms. Copeland?
- 23 A: Well, actually it was before I left there getting
- 24 ready to go home when I received the call.
- 25 Q: Okay. So, where were you physically when you got

1 that call from Lyvonnia Copeland?

2 A: At my cousins house.

3 Q: In Lynchburg?

4 A: In Lynchurg.

5 Q: Lyvonnia Copeland, who is your cousin, correct?

6 A: I wasn't - yes, Lyvonnia is my cousin. Actually, I
7 was at her sister's house.

8 Q: Maybe a geographic region is better. Still in
9 Lynchburg?

10 A: In Lynchburg, right.

11 Q: Okay. About how far is Lynchburg from Sumter?

12 A: I figure 20, 25 minutes.

13 Q: Okay.

14 A: I'm guessing.

15 Q: After you got that call from your cousin, you made
16 the decision to not go back to your father's but to
17 go to [REDACTED]?

18 A: Yes, sir.

19 Q: Which is 25 minutes away?

20 A: Not from my father's house.

21 Q: But you said you made a decision to go when you were
22 still in Lynchburg, correct?

23 A: Yes. From Lynchurg to my cousin's house, yes.

24 Q: So, when you decided to go, it took you 25 minutes
25 to get to her house?

1 A: 20 or 25 minutes; yes.

2 Q: It's just an estimate.

3 A: Okay.

4 Q: 20 to 25 minutes.

5 A: Yes, sir.

6 Q: She called you asking you to come over because her
7 and her boyfriend were arguing, right?

8 A: Right.

9 Q: So, during that 25 minute car ride, you weren't
10 planning on what you would do when you got over
11 there?

12 A: I knew exactly what I wanted to do, which was tell
13 them y'all need to settle down, get some rest so
14 that we can go to the funeral in the morning. That
15 was it.

16 Q: And you mentioned that at the time that you were
17 making this drive, about midnight?

18 A: It was a little after midnight.

19 Q: And we heard that you were at a cookout earlier,
20 what were you doing in Lynchburg?

21 A: I went to my, like, I said, I was the one that had
22 the vehicle.

23 Q: The SUV?

24 A: The SUV. That we all, you know, rode down with from
25 New York. I was in Sumter, at my father's house.

1 My cousins were in Lynchburg at one of our aunts
2 house and they wanted to get out the house and so I
3 went and pick them up and drove them to another
4 cousins house.

5 Q: So, it's night time in Lynchburg with your family,
6 you're drinking ...

7 A: No.

8 Q: ... at all?

9 A: No. Actually, we were sitting around reminiscing
10 about our aunt, to be honest.

11 Q: Okay. During that 25 minute drive, after receiving
12 that call, you made up your mind to intervene, if
13 necessary, when you got there. Is that right?

14 A: I didn't, I didn't see any need for intervention.

15 Q: You wanted to help your cousin, right?

16 A: Of course.

17 Q: And she called you because she was in an argument
18 with her boyfriend?

19 A: Right.

20 Q: Did she sound scared?

21 A: No.

22 Q: She didn't sound scared?

23 A: No.

24 Q: Okay. But, the situation was such that she wanted
25 you over there ...

1 A: Right.

2 Q: ... to resolve it, if necessary?

3 A: Perhaps.

4 Q: Were you ready to resolve it if it needed to be?

5 A: In which way?

6 Q: By whatever means necessary?

7 A: No, no.

8 Q: So, you wouldn't have intervened if it needed to be?

9 A: I mean, if it was anything physical, honestly, I
10 mean, I'm going to be honest. I wouldn't have let
11 her hit him or her get beat up or anything, of
12 course, I would have tried to stop that, right.

13 Q: None of that happened, right?'

14 A: None of that happened.

15 Q: You mentioned that you didn't have any weapons in
16 the car at all?

17 A: No, sir.

18 Q: Nothing you carried with you just for protection,
19 nothing like that?

20 A: No, sir.

21 Q: Let's talk about when you got there.

22 A: Okay.

23 Q: We just saw it, you pulled into the driveway at ■

24 ■

25 A: Yes, sir.

1 Q: That was about 1 a.m. What time?

2 A: It was after 1.

3 Q: So it was dark at night?

4 A: Yes, it was.

5 Q: You pull up and you see Ms. Copeland outside?

6 A: Yes, sir.

7 Q: She's distraught?

8 A: No.

9 Q: No, okay. So, for a moment, it's just you and Ms.
10 Copeland standing by your vehicle, right?

11 A: Yes.

12 Q: Then you said from around the house comes Mr. Hodge?

13 A: Yes.

14 Q: Who approaches you?

15 A: Yes.

16 Q: Doesn't say anything - well, he says, what's up, to
17 you?

18 A: That's what he says.

19 Q: Okay. In a hostile way?

20 A: More like what's up. You know, like - it's hard for
21 me to interpret what he meant by it.

22 Q: That was it, just that one word ...

23 A: That was the whole conversation, really. What's up.

24 And I said what's up, back.

25 Q: There was no combat going on?

- 1 A: No.
- 2 Q: Nothing between him and his, he was dating Lyvonnia,
3 right?
- 4 A: Yes, he was.
- 5 Q: And they stayed together at [REDACTED], was that
6 your impression?
- 7 A: I don't know where ...
- 8 Q: You don't know?
- 9 A: ... he stayed.
- 10 Q: The bottom line is, he comes up, says what's up and
11 out of the blue pulls a knife and stabs you in the
12 stomach?
- 13 A: Yes, sir.
- 14 Q: There was no physical altercation at all?
- 15 A: No, no, sir. None whatsoever.
- 16 Q: You didn't tell him to back off of your sister or
17 your cousin?
- 18 A: No. I didn't know it was a real situation. When
19 she called me she told me, oh, he won't cut down the
20 music and my daughter she has to go to sleep. So,
21 it wasn't like she called me and told me, oh he
22 beating me up or anything. She did not one time told
23 me it was anything physical. So, I'm thinking that
24 it wasn't that serious.
- 25 Q: It was serious enough to warrant a 25 minute drive

1 over there, right?

2 A: Yes.

3 Q: You never touched him?

4 A: Never.

5 Q: You never threw him down?

6 A: No, sir.

7 Q: You never said, don't talk to my cousin anymore?

8 A: No, sir.

9 Q: It was a totally unprovoked attack?

10 A: Very, absolutely, absolutely; yes, unprovoked, for
11 no reason.

12 Q: And you mentioned it happened fast?

13 A: As soon as he approached me, he said what's up, I
14 said, what's up, he took a step to his right, lunged
15 the knife at me and turned around and ran off. That
16 was the whole thing. Nothing verbal, nothing
17 physical. That was it.

18 Q: How tall are you, well, how tall were you back in
19 2015? I doubt it has changed.

20 A: Six one and half.

21 Q: How much did you weigh back then, estimate?

22 A: I'm not as big ... I'm less than I am now. Maybe
23 240.

24 Q: 240?

25 A: Maybe, yeah, 240.

Mr. Cooley - Cross Examination Mr. McFadden

-138

1 Q: How tall would you say Mr. Hodge is? Your best
2 estimation. Let me put it this way. Would you say
3 you're bigger or smaller than he is?

4 A: I'm bigger than he is.

5 Mr. McFadden: Beg the court's indulgence for just
6 one second.

7 The Court: Yes.

8 Q: So, between the time that he walked up and said,
9 what's up and the time that he allegedly stabbed you
10 out of the blue in the stomach, was two seconds,
11 three seconds, one second?

12 A: I would say within 30 seconds from the time that he
13 approached me, within 30 seconds.

14 Mr. McFadden: One more moment.

15 Q: You mentioned that you were in the hospital, right?

16 A: Yes.

17 Q: Do you remember seeing law enforcement at the
18 hospital?

19 A: Yes.

20 Q: And they took a photograph of you?

21 A: Yes.

22 Q: And they asked the questions about what happened?

23 A: Yes.

24 Q: Do you remember who you talked to?

25 A: Officer that's right there. I don't quite remember

1 his name.

2 Q: The officer that is sitting at the State's table?

3 A: Yes, sir.

4 Q: Okay. Would you recognize him as Officer DuBose,
5 Investigator DuBose?

6 A: Yes.

7 Q: Do you remember talking to him about this was 1:15
8 pm. On the afternoon of the 21st?

9 A: I guess.

10 Q: Do you remember describing to him what happened that
11 night?

12 A: Yes.

13 Q: Do you remember telling him that when you arrived
14 that Ms. Copeland and Mr. Hodge were still arguing?

15 A: No, I don't recall saying that.

16 Q: Do you remember saying, hey, why don't you take it
17 easy, when you showed up?

18 A: I told that to my cousin, not to him.

19 Q: Not to Mr. Hodge?

20 A: Right.

21 Q: Do you remember saying, man, we could have talked on
22 the phone about this?

23 A: Yes.

24 Q: Do you remember saying that to Mr. Hodge?

25 A: Yes, yes.

1 Q: So, you did say something else to Mr. Hodge?

2 A: Yes.

3 Q: It wasn't just what's up?

4 A: Well, it's ... he said, what's up, I said what's up.
5 When he walked off, I said we could have talked
6 about this on the phone, you know. Y'all need to
7 calm down. That's like I said he lunged ...

8 Q: He walked off ...

9 A: He walked off like he was walking away and that's
10 when he lunged the knife into me.

11 Q: So, there were words between you and him?

12 A: That was all that was said. He didn't respond to
13 when I said we could have talked about this over the
14 phone.

15 Q: You would agree with me they were arguing when you
16 were there?

17 A: They weren't arguing.

18 Q: There were not?

19 A: No.

20 Q: But you don't remember telling Investigator DuBose
21 that they were?

22 A: When I asked my cousin, what's going on, was she
23 alright. She like, yeah, you know, we still going
24 at it. But they weren't together arguing. She said
25 they were still going at it. I said y'all ain't

1 calm down yet and that's when I seen the defendant
2 walking around the side of the house. This was a
3 short brief conversation that I had with my cousin
4 before he came around the house.

5 Q: Okay.

6 Mr. McFadden: Thank you, Mr. Cooley. I have nothing
7 further for this witness.

8 The Court: Okay. Anything further from the State?

9 Mr. Cooley - Redirect Examination by Mr. Meadors:

10 Q: What were you wearing?

11 A: I had on shorts, basketball shorts and some
12 slippers.

13 Mr. Meadors: Thank you. That's all.

14 The Court: Anything further?

15 Mr. McFadden: No, sir.

16 The Court: You can come down. Thank you.

17 (Witness leaves witness stand)

18 The Court: Okay. Ladies and Gentlemen, we'll talk a
19 ten, fifteen minute break. I'll remind you to please
20 don't discuss this case yet and I'll get you back out in
21 a few minutes and we'll see where we go.

22 (Jury break 4:00 p.m.)

23 Bailiff: All rise.

24 The Court: Thank you. You can be seated. Ready?

25 Mr. Meadors: Yes, sir.

1 The Court: Okay.

2 Mr. Meadors: Will this be okay to end after this
3 witness for the day?

4 The Court: Sure. Suit you?

5 Mr. McFadden: Yes, Your Honor.

6 (Jury enters courtroom 4:21 p.m.)

7 Bailiff: Your Honor, we have all the jurors present
8 in the courtroom.

9 The Court: Thank you, sir. Mr. Solicitor, you may
10 call your next witness.

11 Mr. Meadors: If it pleases, Your Honor. The State of
12 South Carolina would call Ms. Lyvonnia Copeland.

13 The Court: Okay. Come around please ma'am. Place
14 your left hand on that Bible and raise your right.

15 Bailiff: Do you solemnly swear or affirm the
16 testimony to the court shall be the truth, the whole
17 truth and nothing but the truth so help you God?

18 Witness: Yes.

19 Bailiff: Have a seat, please.

20 (Witness complies)

21 Bailiff: State your full name and spell your last
22 name for the record, please.

23 Witness: Lyvonnia Copeland, C-O-P-E-L-A-N-D.

24 **Ms. Copeland - Examination by Mr. Meadors:**

25 Q: Good afternoon, Ms. Copeland.

1 A: Good afternoon.

2 Q: Ms. Melissa, the Court Reporter has to take down
3 everything that you say and these ladies and
4 gentlemen need to hear you so pull up and make sure
5 you speak in there please so that everybody can hear
6 you.

7 A: Yes...

8 Q: Thank you. Ms. Copeland, like I do with all
9 witnesses, will you tell this ladies and gentlemen
10 of the jury about Ms. Lyvonnia Copeland. Where are
11 you front?

12 A: Baltimore, Maryland. I was born there.

13 Q: Where were you raised?

14 A: In New York City.

15 Q: Where did you go to high school?

16 A: Park East High School in New York.

17 Q: Do you mind me asking you when you graduated there?

18 A: 1990.

19 Q: After that what did you do Ms. Copeland?

20 A: I was thinking about being a correctional officer
21 but that didn't happen. So, I fount me another job
22 and was working for, a home health aid for a while.

23 Q: CNA?

24 A: No, it was just for peoples homes and helping them.

25 I wasn't a CNA.

1 Q: Did you do that for a while?

2 A: Yes, sir.

3 Q: Was that up north?

4 A: Yes, sir.

5 Q: Do you have family here in Sumter, the Sumter area?

6 A: Yes, sir.

7 Q: We've heard some of it. Where do your folks live?

8 A: In Lynchburg, South Carolina.

9 Q: When did you come back to Sumter, the Sumter area to
10 live?

11 A: It was my first time, that was 2011.

12 Q: First time back? Okay. Where did you reside when
13 you came?

14 A: Lynchburg, South Carolina.

15 Q: With whom?

16 A: Me and my daughter.

17 Q: How old is your daughter?

18 A: Seventeen now.

19 Q: Mr. Cooley, Lawrence Cooley who just testified, what
20 relation are you to him?

21 A: His cousin. First cousin.

22 Q: First cousin?

23 A: Yes, sir.

24 Q: Tell us specifically the relationship. Your mother
25 is his ...

1 A: My mother is his aunt. He's her nephew.

2 Q: Do you know Mr. Jermaine Hodge?

3 A: Yes, sir.

4 Q: How long have you known him?

5 A: A couple of years.

6 Q: Were y'all in a - were y'all talking? Were you in a
7 romantic relationship for a while?

8 A: Yes, sir.

9 Q: When did that start?

10 A: Around 2000; almost the end of 2013.

11 Q: Are you ... I don't mean to pry but are y'all still
12 engaged in a ...

13 A: No, sir.

14 Q: ... relationship? When did that end?

15 A: It was January.

16 Q: Of this year?

17 A: Yes, sir.

18 Q: So, is it fair to say that back in July 15,
19 specifically July 20th and 21st y'all were dating?

20 A: Yes.

21 Q: Was there a funeral scheduled for the 21st of April
22 2015?

23 A: Yes, sir. April, yes. I'm sorry; yes, there was.

24 Q: April was there a funeral that day?

25 A: Yes, sir.

1 Q: Okay. Whose funeral was that?

2 A: My aunt.

3 Q: I guess I want to start the day before the funeral,
4 if we could, like the 20th, the Monday.

5 A: Okay.

6 Q: If you'll agree with me that's a Monday and I don't
7 think that is in dispute, April 20th, 2015.

8 A: Right.

9 Q: Leading up to this morning, do you remember what you
10 were doing that day?

11 A: I think I went to visit him where he work at; yeah.

12 Q: Visit who?

13 A: Jermaine Hodge.

14 Q: Did you give him a ride there?

15 A: Yes, sir.

16 Q: Did you pick him up from there?

17 A: Yes, I did.

18 Q: Where was that?

19 A: Where he words at on Brandt Street, a auto mechanic
20 shop.

21 Q: Okay. Now, how did you plan to get to the funeral
22 on that Tuesday. You may have gone anyway but what
23 was your plan on the Monday, how were you going to
24 get to the funeral?

25 A: Catch a ride with one of my family members.

1 Q: Now, leading up to that evening, specifically that
2 morning, leading up to when Mr. Hodge got off work,
3 did you say you got him from work?

4 A: Yes, sir.

5 Q: Did you go back to your residence at 38 Oak View?

6 A: Shortly after that, Mr. Lewis, his boss live on
7 Brandt Street, we stopped by his house for a little
8 while.

9 Q: Okay. Where did you go after that?

10 A: To my house.

11 Q: And this is State's Number 2, is this your house, [REDACTED]

12 [REDACTED]

13 A: How long had you been staying there? November 2011
14 to currently.

15 Q: I'm sorry.

16 A: November 2011.

17 Q: And you stayed there with your daughter?

18 A: Yes, sir.

19 Q: And Mr. Hodge, was he there on a regular basis or
20 was he a visitor, describe ...

21 A: Well, he was there back and forth because he would
22 go to his baby mother's house and then he'd come
23 back a couple of days with me and then he'd go back
24 a while to his baby's mother.

25 Q: Did he have a key?

1 A: No, sir.

2 Q: So he wouldn't stay there permanently?

3 A: No.

4 Q: Now, Ms. Copeland, the afternoon because evening. I
5 think you said you went to your bosses house. You
6 eventually get back to [REDACTED]

7 A: Yes.

8 Q: Is Mr. Hodge with you then?

9 A: Yes, sir.

10 Q: What happened that evening, before the phone call. I
11 mean, that's not in dispute, I don't believe, but
12 what were you and Mr. Hodge doing that evening?

13 A: Well, we was drinking.

14 Q: What were you drinking?

15 A: Gin. We was hanging out for a while, listening to
16 music outside and after a while of that, I went in
17 the bedroom to get prepared, you know, for my aunt's
18 funeral. Get my clothes and things of that nature.
19 It was really petty because he was playing music in
20 the bedroom because I told him to turn it off
21 because after a while it's bed time. I found my
22 clothes for my aunt's funeral and that was about,
23 almost close to about 1:30 almost. He wouldn't do
24 it. He can get a little wow and disrespectful when
25 he's drinking. So, I was like really, okay, he

1 ain't want to listen. So, I called my cousin,
2 Lawrence Cooley for him to come over because it was
3 a trying day for all of us with our family member
4 passing away. So, there was a lot going on. My mind
5 was just, you know, I was really pissed off with
6 him, Jermaine Hodge. So, I called my cousin over,
7 could you come over, you know, talk to him. So, he
8 was like okay. So, he came. And Jermaine was still
9 in the house and I believe he went in the kitchen if
10 I'm not mistaken. Actually, when my cousin came I
11 went outside I see the car, the lights on the car
12 and I went outside to talk with him and I was like,
13 what's up cuz, he came out the truck already. Like I
14 said it happened so quick and there was nobody else
15 in the house except but my daughter and Jermaine
16 because my daughter was asleep so she had no idea
17 what happened until I woke her up and told her. So,
18 my cousin said, hey cuz, excuse my language, this
19 nigger just stabbed me. I'm like what. There
20 couldn't be no one else because Jermaine was there,
21 that was who did it anyway because my cousin didn't
22 come stabbed, didn't come with a weapon to do
23 anything to harm anyone.

24 Mr. McFadden: Objection to speculating. As to Mr.
25 Cooley's mindset.

1 The Court: I'll sustain that.

2 Q: Why had Mr. Cooley come over, did you request it?

3 A: Yes, I want him to come over. Like I said we had so
4 much going on and I didn't want to argue and fuss
5 that morning because it was early and I wasn't in
6 the mood to that, the family just loss, we just loss
7 a love one in our family. And, he really was
8 working my nerves and when you have a loss in your
9 family, you know, you try to get it together in your
10 mind and come with family. So, that's what
11 happened. And then I called my cousin and he came
12 over and when I did call him, actually, I called my
13 cousin back and told him never mind and he was
14 probably about a couple of minutes away from the
15 house anyway. So, he came ... like I said I came
16 out the front door of my house and he was already
17 outside of his vehicle and it just happened so fast.

18

19 Q: Did you see ...

20 A: Actually, it happened so quick. It was dark, it was
21 night. It was like 2:00 in the morning. There was
22 no one else, he didn't stab himself.

23 Q: What time was the funeral?

24 A: About ... what was it. Nine O'clock, Ten O'CLOCK.

25 Q: But it was a few hours away at this point?

1 A: Right.

2 Q: You are preparing for the funeral?

3 A: Yes.'

4 Q: I mean, getting your clothes ...

5 A: Right.

6 Q: Did you see Mr. Cooley strike the defendant at all,
7 Mr. Hodge?

8 A: No, he didn't.

9 Q: Did you see any altercation whatsoever physically
10 between Lawrence Cooley and Jermaine Hodge?

11 A: No, sir.

12 Q: You said it happened so quickly?

13 A: Yes. When my cousin told me he stabbed him, he
14 stabbed you, he was like his guts were actually
15 hanging out some. I was like, oh, my God. So, we
16 rushed to Tuomey.

17 Q: Had your cousin Mr. Cooley and Mr. Hodge ever had
18 any bad blood any kind of disagreement in the past?

19 A: No, sir because he don't know him. They don't know
20 each other. Jermaine Hodge may hear me speak about
21 my family, my cousin but they never met.

22 Q: Had he ever seen him at any ...

23 A: I don't think so.

24 Q: ... social gatherings that you know?

25 A: Excuse me.

1 Q: Had they ever seen each other at any family
2 gatherings that you know of?

3 A: No.

4 Q: After he was stabbed, your cousin ...

5 A: Yes.

6 Q: ... what did he do? Mr. Hodge, after he stabbed
7 your cousin?

8 A: I guess he ran because he wasn't around when we
9 jumped in the truck to take my cousin to Tuomey
10 Hospital.

11 Q: So, he wasn't there?

12 A: No.

13 Q: He didn't go to the hospital with you?

14 A: No.

15 Q: Did you see him again that night?

16 A: No.

17 Q: Where was he ... when you were talking. How did he
18 get out of the house, do you know?

19 A: He must ... I have a front door, back door. So, it
20 had to been the back door.

21 Q: Okay. Now, when you're at the hospital, you may have
22 said this, I'm sorry, it's late and I'm tired. Did
23 you drive or did Mr. Cooley drive to the hospital?

24 A: No, I think it was my cousin Meme or myself.

25 Because like I said there was a lot going on. I

1 believe I drove, if I'm not mistaken.

2 Q: You're not sure about every incident or every event,
3 are you?

4 A: It depends.

5 Q: Let me ask you this much. When you realized he was
6 stabbed, how did you react?

7 A: I was nervous and I was like, Oh, my God, I got to
8 get him to the hospital. I got to go to the
9 hospital. I said, Oh, my God. So, he jumped in the
10 truck, I jumped in the truck and Ms. Johnson jumped
11 in the truck and we all went to the hospital.

12 Q: Did you see Mr. Cooley with any type of weapon or
13 anything?

14 A: None.

15 Q: Did you make it to the funeral?

16 A: Yes, sir.

17 Mr. Meadors: Beg the Court's indulgence.

18 Q: Ms. Copeland, is this your cousin Lawrence Cooley?

19 A: Yes, sir.

20 Q: Is this Jermaine Hodge?

21 A: Yes, sir.

22 Mr. Meadors: Thank you. That's all.

23 The Court: Okay.

24 **Ms. Copeland - Cross Examination by Mr. McFadden:**

25 Q: Good afternoon, Ms. Copeland. Ms. Copeland, I want

1 to get one thing absolutely clear. You did not see
2 your boyfriend, Jermaine Hodge, stab your cousin?'

3 A: No, I didn't.

4 Q: You did not witness that occur?

5 A: No.

6 Q: You did not see any physical altercation between the
7 two?'

8 A: No, sir.

9 Q: But you weren't there for the whole thing, were you?

10 A: I was just coming outside when my cousin pulled up,
11 when I saw the lights and I came outside at the
12 time.

13 Q: So, you didn't see a physical altercation?

14 A: No.

15 Q: You didn't hear any angry words?

16 A: No.

17 Q: That doesn't mean they didn't happen, would you
18 agree with me?

19 A: Yes, that's true, but I was right there. When he
20 got out the truck, I'm coming outside. He didn't
21 get enough around from the truck yet and stood right
22 there and he said cuz and before you know it, like I
23 said, it happened so fast. No, I didn't visibly
24 physically see him stab my cousin but there was
25 nobody else there.

1 Q: So, you were standing right next to your cousin?

2 A: Not right next to him.

3 Q: You were standing ...

4 A: I was a little facing, you know, couple of ... not
5 feet. I was close, not face to face but like that.

6 Q: Feet

7 A: Feet.

8 Q: ... away.

9 A: Yes.

10 Q: Right when he pulled up?

11 A: When he came out the car. The vehicle, yes, when I
12 came out my house.

13 Q: And you were with him all the way until you drove
14 him to the hospital?

15 A: Yes.

16 Q: You never saw the actual stabbing occur?

17 A: No.

18 Q: You mentioned that it was a trying day for you, is
19 that correct?

20 A: Yes, it was for all of us. Yes, it was.

21 Q: And that ultimately what you and your boyfriend had
22 been arguing about earlier was petty?

23 A: Yes, it was petty and it led to this, which it
24 shouldn't have.

25 Q: But you did call your cousin?

1 A: Yes, I did.

2 Q: And asked him to come over there?

3 A: Yes.

4 Q: And confront Mr. Hodge?

5 A: Not confront him, talk to him.

6 Q: Calm him down?

7 A: Yes.

8 Q: Did you ask him to do it in a certain way or you
9 just wanted him to come over there and settle the
10 situation?

11 A: Yes, pretty much not put his hand on him because he
12 doesn't do that. He was not there for that.

13 Q: Now, we're talking about April 2015, you and Mr.
14 Hodge had been together for a while at that time, is
15 that right?

16 A: Yes.

17 Q: By April 15th, about how long had it been since y'all
18 had been together as boyfriend and girlfriend?

19 A: A couple of years.

20 Q: A couple of years. You cared about Mr. Hodge,
21 clearly?

22 A: Yes. I did at the time.

23 Q: You mentioned he stayed with you on and off?

24 A: Right.

25 Q: He was welcome in your home?

- 1 A: Right. Yes, between me and his baby's momma.
- 2 Q: And he was welcome in your home on the night of
- 3 April 21st?
- 4 A: Yes, because he was going to the funeral with me.
- 5 Q: That next morning?
- 6 A: That same morning.
- 7 Q: And you mentioned this was a trying day, it was also
- 8 a trying night, correct?
- 9 A: Yes, it was.
- 10 Q: This happened late at night?
- 11 A: Around two in the morning.
- 12 Q: Around two in the morning?
- 13 A: Around two in the morning; yes, sir.
- 14 Mr. McFadden: Beg the Court's indulgence, please
- 15 Judge.
- 16 The Court: Yes, sir.
- 17 Q: Ms. Copeland, would you agree that your cousin is a
- 18 bigger guy than Jermaine?
- 19 A: In height and weight, yes.
- 20 Q: You think he's probably stronger?
- 21 A: Definitely.
- 22 Q: Definitely. Back in April 2015, definitely strong?
- 23 A: I don't understand what you're saying definitely
- 24 strong?
- 25 Q: Definitely stronger than Mr. Hodge was back then,

1 your boyfriend?

2 A: Yes.

3 Q: Strong enough to settle the situation between y'all
4 when you called him?

5 A: Not physical. You can speak verbally to, to settle
6 an argument. There was no - my cousin wasn't, like I
7 say he didn't come to the house to fight him.

8 Because our family we may talk, but our family is
9 not like that. We good peoples and we don't settle
10 disagreement with fighting.

11 Q: You mentioned that you had something to drink that
12 evening. How much would you say you had had to
13 drink once he got there?

14 A: Enough to get intoxicated, probably about two pints.

15 Q: Of Gin, you said?

16 A: Gin, yeah.

17 Q: Again, it was late at night?

18 A: Yes, sir.

19 Q: You were upset?

20 A: Yes, sir.

21 Q: It happened real quick, the whole thing?

22 A: Yes, it did. I didn't understood it. It just
23 happened so fast. I know my cousin was stabbed so
24 that was my main concern.

25 Q: But you didn't see your boyfriend stab him?

1 A: No.

2 Q: And you didn't see a physical altercation?

3 A: No.

4 Q: You didn't hear any verbal ...

5 A: No, he didn't get a chance. My cousin just came out
6 the truck, so.

7 Mr. McFadden: Thank you, Ms. Copeland. Your Honor,
8 I have nothing further.

9 The Court: Okay. Anything further from the State.

10 **Ms. Copeland - Re-direct Examination by Mr. Meadors:**

11 Q: And I want to be absolutely clear. When you were
12 outside you testified that there was no physical
13 altercation?

14 A: Right.

15 Q: Did you see Mr. Cooley push Mr. Hodge at all?

16 A: No, he didn't.

17 Q: Did you see him push him twice?

18 A: No.

19 Q: And it all happened so quick?

20 A: It all happened so quick. My cousin did not put his
21 hand on him.

22 Mr. Meadors: Thank you. That's all.

23 The Court: You can step down.

24 (Witnesses steps down from witness chair)

25 The Court: Ladies and Gentlemen, we are going to

1 testimony to The Court to be the truth, the whole truth,
2 and nothing but the truth so help you God?

3 Ms. Johnson: Yes sir.

4 Bailiff: Please state your full name and spell your
5 last name for the record.

6 Ms. Johnson: Lois ... Smith.

7 Bailiff: Spell your last name.

8 Ms. Johnson: My last name? S-M-I-T-H.

9 **MS. JOHNSON EXAM BY MR. MEADORS:**

10 Q Is that why you're called Meme?

11 A That's my nickname.

12 Q Okay. And how did you get the nickname Meme?

13 A My mother.

14 Q I've called you today to testify under Meme Johnson.

15 A Okay, that's fine.

16 Q Okay. And how is that name? How are you Meme
17 Johnson?

18 A By my, my daddy's last name is Johnson. My momma
19 gave me the nickname Meme.

20 Q Okay. And that's what they hear in this community,
21 you're known as Meme Johnson?

22 A Yes.

23 Q Okay. But the other name is Ms. Smith, what is your
24 formal or official name?

25 A Yes sir.

- 1 Q Tell these folks where you were raised or born?
- 2 A Hackensack, New Jersey.
- 3 Q Raised there?
- 4 A Yes sir.
- 5 Q And when did you finish high school or stop ...
- 6 A 2005.
- 7 Q And are you going to adult ed Ms. Meme?
- 8 A Yes, sir.
- 9 Q Okay, and how long have you been doing that?
- 10 A Almost a year now.
- 11 Q You're in Sumter now obviously. How long have you
- 12 been in Sumter?
- 13 A Thirteen years.
- 14 Q And where do you reside?
- 15 A [REDACTED] of the Boulevard.
- 16 Q Now you know the defendant, Jermaine Hodge?
- 17 A Yes sir.
- 18 Q Okay, how long have you known him?
- 19 A I say about a year.
- 20 Q How?
- 21 A Through my cousin.
- 22 Q And would that be Ms. Copeland?
- 23 A Yes sir.
- 24 Q Lyvonnia Copeland?
- 25 A Yes sir.

1 Q And how did you know him through her?

2 A They was talking for a while.

3 Q They were dating or had a relationship?

4 A (Affirmative response).

5 Q And Mr. Lawrence Cooley back here. How do you know
6 him?

7 A That's her family member.

8 Q Now I want to take you back please ma'am to April
9 20th of last year, 2015. The day before there was
10 going to be a funeral, or there was a funeral.
11 Who's funeral was on the 21st?

12 A My auntie Novia.

13 Q Auntie who?

14 A My auntie Novia.

15 Q Okay. And is that short for Genovia or ...

16 A Yes sir.

17 Q Okay. So Auntie Novia.

18 A Yes sir.

19 Q The day before the funeral Ms. Meme, the evening
20 before the funeral, y'all going to be going to the
21 funeral the next morning. That evening, do you
22 remember what you were doing?

23 A Yes, with my daddy.

24 Q Okay.

25 A At his job.

- 1 Q And where was that?
- 2 A On South Harvin Street. My daddy's a mechanic.
- 3 Q Did you have an occasion after that to see any of
- 4 your family members?
- 5 A To ...
- 6 Q Did you see Lawrence later on that evening?
- 7 A Later on that night, yes sir.
- 8 Q Alright and, I guess, where did you see him?
- 9 A We all met back at my cousin's house in Lynchburg.
- 10 Q Okay. And y'all just gathering and being together?
- 11 A Yes, sir.
- 12 Q At some point that evening, did Lawrence or you, or
- 13 you and Lawrence leave Lynchburg?
- 14 A No.
- 15 Q Did you ever leave Lynchburg? That next morning?
- 16 A Yes. It was 2 or 3:00 that morning.
- 17 Q So it wasn't that day, it was the next morning?
- 18 A Yeah.
- 19 Q Okay. And you're going to have to say yes or no for
- 20 the court reporter if you don't mind.
- 21 A Oh, yes sir.
- 22 Q Okay, just so she can take it down, please ma'am.
- 23 And why did you go to from Lynchburg to - where did
- 24 you say you went, Sumter?
- 25 A Yes, sir.

1 Q Okay. Can you tell them why you did that?

2 A Because his cousin, Lyvonnia called him 2 or 3:00
3 that morning saying her and her boyfriend was
4 arguing ...

5 The Court: Hold on just a minute.

6 Mr. McFadden: Objection. Hearsay.

7 Mr. Meadors: Your Honor, we're not offering for the
8 truth of the matter asserted. And plus, she's already
9 testified. I mean subject to cross, Ms. Copeland.

10 Mr. McFadden: Your Honor, there could be multiple
11 declarants.

12 The Court: Okay. I'll allow it if it's not being
13 offered for the truth of the matter asserted why they did
14 whatever they did.

15 Q Why did you go from Lynchburg to [REDACTED]?

16 A Because Lyvonnia called him.

17 Q Alright.

18 A About a dispute that man and her had.

19 Q And you say that man, you're talking about who? The
20 defendant? Jermaine Hodge?

21 A Yes sir.

22 Q Okay. And as a result of that, what did you do?

23 A We got in the car and came up here.

24 Q Okay and who is we?

25 A Me and the fellow over here.

- 1 Q Okay. And again, you say, the record's got to show
2 ...
- 3 A Junior.
- 4 Q Okay. You're talking about which man? You know him
5 as Junior?
- 6 A Yes, sir.
- 7 Q Mr. Lawrence Cooley.
- 8 A Yes, sir.
- 9 Q This sounds like a dumb question but did you know
10 where [REDACTED] was better than he did?
- 11 A Yes, sir.
- 12 Q Okay. And did you help him get there?
- 13 A Yes, sir.
- 14 Q Alright. Do you remember about what time y'all got
15 there?
- 16 A I say a little bit after 3:00.
- 17 Q Can you tell the ladies and gentlemen of this jury
18 Ms. Meme what happened when you got to [REDACTED]?
- 19 A Okay, as we pulled up in the driveway, he parked, he
20 got out. All he wanted to do was talk to the guy.
21 So at about a few minutes later, he got out his car
22 and they dab up and by the time they depart, he
23 stabbed him and left.
- 24 Q How long did that take?
- 25 A Nothing more than a second. It was just a hi, a dap

1 up, he got stabbed, and other guy ran.

2 Q Okay and the other guy ran is Jermaine Hodge?

3 A Yes, sir.

4 Q And the guy that got stabbed is who?

5 A Junior.

6 Q Did you see any hitting or ...

7 A No.

8 Q ... altercation between the two of them?

9 A They didn't have no conversation.

10 Q I know what dap means but when you say dap, what do
11 you mean?

12 A A high-five.

13 Q And shortly after that, there was a stabbing?

14 A Yes, sir.

15 Q What did you do after that?

16 A I was shocked.. I was stunned. I don't know why he
17 done it. It was wrong.

18 Q Okay. I understand that but what did you do?

19 A I just stand there.

20 Q Okay.

21 A I couldn't even move. I was like is this real?

22 Q And after that kind of sunk in, what did you
23 physically do with your body or what did Junior do?

24 A Jumped in the car.

25 Q And who got in the car?

- 1 A Me, Lyvonnia, and Junior.
- 2 Q Where did y'all go?
- 3 A Went straight to the hospital.
- 4 Q And were you at the hospital when Junior got
- 5 treated?
- 6 A Yes, sir, I was.
- 7 Q And did you talk to any law enforcement that night?
- 8 A No, sir.
- 9 Q Ms. Meme, you came into my world just about fifteen
- 10 minutes ago, when I first met you, correct?
- 11 A Yes, sir.
- 12 Q And I talked to you briefly yesterday and asked you
- 13 if you'd come up here, correct?
- 14 A Yes, sir.
- 15 Q Ms. Meme, I mean this with the most respect, you're
- 16 pregnant?
- 17 A Yes sir.
- 18 Q And first child?
- 19 A Yes sir.
- 20 Q When are you do?
- 21 A Monday.
- 22 Q This past Monday or this Monday?
- 23 A This one.
- 24 Q Okay. Thank you for being with us today. Thank
- 25 you, Judge. That's all.

1 The Court: Okay. Mr. McFadden?

2 Mr. McFadden: Thank you Your Honor. Ms. Johnson?

3 The Court: Ms. Johnson, you need to hang on just a
4 minute. He needs to ask you some questions.

5 Ms. Johnson: Oh, alright.

6 The Court: Thank you.

7 **MS. JOHNSON CROSS BY MR. MCFADDEN:**

8 Q Good morning Ms. Johnson.

9 A Good morning.

10 Q I'm going to ask you a few questions about the
11 testimony you just gave.

12 A Okay, yes sir.

13 Q You said you're from New Jersey, right?

14 A Yes.

15 Q Same as your cousin; or he's from New York?

16 A Yes, sir.

17 Q Okay but Mr. Cooley is your cousin?

18 A Yes, sir.

19 Q Y'all are family?

20 A Yes sir.

21 Q And you were down in Sumter visiting for a family
22 gathering, right?

23 A No, I stay in Sumter sir.

24 Q Okay, you stay in Sumter.

25 A Yes.

1 Q So he was visiting you?

2 A Yes.

3 Q And you mentioned you were down, he was down here
4 for a funeral for your and Mr. Cooley's aunt?
5 Right?

6 A Yes, sir.

7 Q And let's just zoom right to April 20th, 2015. You
8 definitely remember that date right?

9 A Yes, sir.

10 Q Okay. And on that date, you testified that you were
11 actually in Lynchburg with Mr. Cooley and others
12 that evening. Is that right?

13 A Yes sir, that night.

14 Q Okay, that night. And you mentioned at some point
15 during that evening, late that evening, Mr. Cooley
16 got a call from his cousin, Ms. Copeland? Didn't
17 you mention that?

18 A He got caught?

19 Q He got called.

20 A He got called that morning.

21 Q That morning, you mentioned it was about 2 or 3 am,
22 right?

23 A Yes, sir.

24 Q Okay. And as a result of that call, you and him got
25 in the car and drove back here to Sumter?

- 1 A Yes, sir.
- 2 Q To Ms. Copeland's house?
- 3 A Yes, sir.
- 4 Q Who is also a family member to you.
- 5 A Yes, sir.
- 6 Q Okay. Would you say it took you about twenty or
- 7 twenty-five minutes to get here from Lynchburg?
- 8 A I can say that.
- 9 Q About that?
- 10 A Yes sir.
- 11 Q Okay. And you made that drive specifically based on
- 12 that call that he got?
- 13 A Yes, sir.
- 14 Q To come to your cousin's house?
- 15 A Yes sir.
- 16 Q Now, you said you left Lynchburg approximately 2 or
- 17 3 am, what time would you estimate that you got to
- 18 [REDACTED], Ms. Copeland's?
- 19 A It takes about what? Between twenty, thirty minutes
- 20 to get back to Sumter.
- 21 Q Okay. So just, I guess you should've done the math
- 22 there. So it was in the early morning hours ...
- 23 A Yes.
- 24 Q ... of April 21st. Okay. Now, Ms. Johnson I want to
- 25 talk to you about what you saw that evening. It was

1 very late at night, we can agree to that, correct?

2 A Yes. sir.

3 Q And when you got there, you were seated in which
4 seat of the car?

5 A I was in the passenger seat.

6 Q In the passenger seat and you had told you cousin
7 how to get there right?

8 A Yes, sir.

9 Q Your other cousin's house?

10 A Yes, sir.

11 Q Okay. Did you ever get out of the car?

12 A No, sir.

13 Q Everything you saw was from within the car?

14 A Yes, sir.

15 Q Okay and you stayed in the car all the way through
16 the event until you took that same car to the
17 hospital.

18 A Yes, sir.

19 Q Okay. And you mentioned you saw Mr. Cooley and Mr.
20 Hodge interact, briefly?

21 A Interact like conversate or ...

22 Q Yeah, I think you used the word dap?

23 A Yes, sir.

24 Q Okay. So where were they in relation to you in the
25 car?

Lois "Meme" Johnson Smith - Cross by Mr. McFadden

175

- 1 A I was sitting in the passenger seat and they was
2 standing outside the car, a few feet from the car ..
3 Q Were you looking out of the driver's window?
4 A Yes, sir.
5 Q Okay so through the windshield?
6 A Yes, sir.
7 Q They were standing in front of the car?
8 A No, they was standing beside the car.
9 Q Beside the car.
10 A Yes.
11 Q Okay so to your right hand side?
12 A They was standing on the driver's side.
13 Q On the driver's side.
14 A Yeah, in the front yard.
15 Q So you were looking left across the dash through the
16 windshield and they were standing there?
17 A I'm looking out the driver's window, the door
18 window.
19 Q Oh, the driver's door window.
20 A Yes, sir.
21 Q Okay. You said what happened happened very quick,
22 you said it was a second right?
23 A Yes sir.
24 Q It was just a dap ...
25 A I said ...

1 Q ... and then stabbed.

2 A He stepped back and stabbed him, he ran, yes sir.

3 Q And you said you were shocked.

4 A I was.

5 Q It was terrible what you saw.

6 A Yes it was.

7 Q And you got back, everybody got back in the car and
8 drove off right after that?

9 A Yes, sir.

10 Q At this point, Ms. Johnson, this took place, excuse
11 me, this took place over a year ago. Do you agree
12 with me? What you saw that night, that was over a
13 year ago now?

14 A Yes, sir.

15 Q And Mr. Cooley is obviously a member of your family,
16 correct?

17 A Yes, sir.

18 Q And you care about him, clearly.

19 A Yes, sir.

20 Q And you care about Ms. Copeland.

21 A Yes, sir.

22 Q And what you saw shocked you that evening.

23 A Yes, sir.

24 Q Ms. Johnson, you'd agree that the first time that
25 you've made any kind of statement about this event

1 to anyone was today.

2 A Yes, sir.

3 Q Not fifteen minutes ago, before we got into this
4 courtroom. That correct? And then what you said on
5 the stand just now.

6 A Can you restate that?

7 Q Sure.

8 A Fifteen minutes ago.

9 Q Sure. You would agree with me that the first time
10 you've made any statement about these events is
11 today, here in this courtroom. You never went to
12 law enforcement before.

13 A No.

14 Q Never talked to the solicitor's office before?

15 A No, sir.

16 Q You talked to your family though in the meantime,
17 correct? About this?

18 A When the incident happened?

19 Q Since? Have you talked to Mr. Cooley about this?

20 A No, sir.

21 Q After that night at [REDACTED], you never
22 talked to your cousin again until today?

23 A Yes, sir.

24 Q You haven't seen him or talked to him since?

25 A No, sir.

- 1 Q You haven't seen or talked to your cousin, Ms.
2 Copeland, since?
- 3 A Yes, I've talked to her but not about this.
- 4 Q This was a shocking, a shocking event that occurred
5 to your family members?
- 6 A Yes sir.
- 7 Q But you didn't discuss it with anyone at all?
- 8 A No, sir.
- 9 Q For over a year?
- 10 A No, sir.
- 11 Q Until today, in this courtroom.
- 12 A Yes, sir.
- 13 Mr. McFadden: Beg the court's indulgence.
- 14 The Court: Okay.
- 15 Q You didn't see any kind of altercation that night
16 between Mr. Cooley and Mr. Hodge?
- 17 A None whatsoever, no, sir.
- 18 Q You didn't see Mr. Cooley shove him?
- 19 A No sir.
- 20 Q Didn't hear him yell at him?
- 21 A They didn't do that, no sir.
- 22 Q Say "Back off from my cousin"?
- 23 A No sir.
- 24 Q Nothing like that?
- 25 A Nothing.

Lois "Meme" Johnson Smith - Cross by Mr. McFadden

179

1 Q Okay, he was just going over there just to ...

2 A To tell him man to man that they don't need to do
3 that.

4 Q To confront him man to man?

5 A Yes.

6 Q Okay. And he confronted him?

7 A No he did not. He didn't get a chance to.

8 Q Thank you Ms. Johnson.

9 Mr. McFadden: I have nothing further, Your Honor.

10 **MS. JOHNSON REDIRECT BY MR. MEADORS:**

11 Q Did you go to the hospital?

12 A Yes, sir.

13 Q Who was driving the vehicle?

14 A Junior was.

15 Q Where were you?

16 A In the back seat.

17 Q Who was in the front seat?

18 A Junior and Lyvonnia.

19 Q And you, under cross examination to Mr. McFadden,
20 you said you when you got there, you were looking
21 out the car and you were in the passenger seat?

22 A Yes, sir.

23 Q Okay. How did you get from the passenger seat to
24 the back?

25 A Because I moved to sit in the back seat so Lyvonnia

1 could sit in the passenger seat.

2 Q And who's idea was that?

3 A Well she told me to get out the front seat so she
4 could sit in it so that's what I did.

5 Q And who drove to the hospital?

6 A Junior did, in his condition.

7 Q Can I approach the side?

8 The Court: Yeah.

9 Q Do you mind if I come towards you?

10 A Yes sir.

11 Q Can you dap me?

12 A They daped just like this.

13 Q So that

14 A As soon as they depart, that's when he got stabbed.

15 Q And then how long did it take during the dap and the
16 stab?

17 A Just a second.

18 Q And you didn't see any pushing or shoving?

19 A No, sir.

20 Q I think Mr. McFadden --- that was to the left of
21 you. You were the passenger in that car at the
22 time. This happened to the left of you on the
23 driver's side?

24 A Yes, sir.

25 Q Is this the fellow that was out there?

Lois "Meme" Johnson Smith - Cross by Mr. McFadden

181

1 A Yes sir.

2 Q Mr. Hodge?

3 A Yes sir.

4 Q That stabbed Junior?

5 A Yes sir.

6 Mr. Meadors: Thank you.

7 The Court: You can come back.

8 Mr. Meadors: Your Honor, can I ask that she be
9 released?

10 The Court: Any objections, Mr. McFadden?

11 Mr. McFadden: No objection, Your Honor.

12 The Court: Alright. Yes, sir.

13 Mr. Meadors: Wesley Gardner.

14 Bailiff: Place your left hand on the Bible, raise
15 your right hand, and state your name, please.

16 Mr. Gardner: Wesley Gardner.

17 Bailiff: Do you solemnly swear or affirm the
18 testimony to the Court to be the truth, the whole truth,
19 and nothing but the truth so help you God?

20 Mr. Gardner: I do.

21 Bailiff: Thank you. Have a seat right here please.
22 State your full name and spell your last name for the
23 record.

24 Mr. Gardner: Wesley Gardner, G-A-R-D-N-E-R.

25 MR. GARDNER EXAM BY MR. MEADORS:

1 Q Good morning Investigator.

2 A Morning.

3 Q Would you tell these folks about Wesley Gardner;
4 where you're from, where you were born and raised,
5 and just a little bit about your background and
6 training in law enforcement?

7 A I was born and raised in South Carolina. I've been
8 in law enforcement with the sheriff's department for
9 thirty-four years. Prior to that, I was a
10 lieutenant of investigations prior to retiring. And
11 now I'm still an investigator with the Sumter County
12 Sheriff's Office.

13 Q Investigator, you got involved in this, is it fair
14 to say that, a lot of times, if you have got a crime
15 scene, everything you go and you respond and the
16 body's there, right, if there's been an attempted
17 murder or murder. Correct? This all happens at one
18 place.

19 A Yes, that's correct.

20 Q In this instance, did the victim in this case, did
21 he leave from where he got stabbed?

22 A Yes.

23 Q So was the first contact law enforcement had with
24 him at the hospital?

25 A Yes.

1 Q Now, did you have an occasion to go back to where
2 the allegations are that Mr. Cooley got stabbed, did
3 you have an occasion to go to [REDACTED] after he
4 was stabbed, obviously, once you learned of the case
5 and what was going on?

6 A Yes, I did.

7 Q And why did you do that?

8 A I was informed by the shift lieutenant that night,
9 Lieutenant Lee, that there had been an assault that
10 occurred at the location and there was a knife on
11 the ground there.

12 Q So as a result of the investigation, there was
13 learned that there was a knife still at what we call
14 the crime scene? Correct?

15 A That's correct.

16 Q And Investigator, what time did you go to [REDACTED]

17 [REDACTED]

18 A I arrived there probably around 3:15.

19 Q Okay and is that on April 21st of 2015?

20 A That's correct.

21 Q And in case I forget, is that in Sumter County?

22 A Yes, it is.

23 Q Okay. I'm going to show you what's been entered as
24 State's 6 and ask you if you recognize State's 6
25 Investigator Gardner.

1 A Yes, that's the knife that I collected that night at
2 the scene.

3 Q Can you tell the ladies and gentlemen of the jury as
4 best you can where you found that?

5 A This knife was on the left side of the, there's a
6 concrete driveway to the house and this knife was on
7 the left side, on the driver's side of the concrete
8 about ten feet from the front steps.

9 Q And at this point, I mean, you're in a bind really.
10 You don't know anything about the case or anything
11 correct?

12 A No.

13 Q So you go and take a picture of the knife before you
14 picked it up?

15 A Yes.

16 Q And would this be the driveway here?

17 A That's the concrete driveway.

18 Q Okay, again referring to State's 6. So when you got
19 out of your car, would the knife be to your left or
20 your right?

21 A To my left.

22 Q Okay. And it's already entered as #1, but is this
23 the same knife that's depicted in #6?

24 A Yes it is.

25 Q Okay and you actually picked this up?

1 A Yes.

2 Q Put it into evidence?

3 Mr. Meadors: Beg the Court's indulgence.

4 Q Did you go to the hospital?

5 A Yes, I went to the hospital to try to talk to Mr.
6 Cooley but he was heavily sedated and I couldn't
7 talk to him.

8 Q And I don't mean this in any bad way Investigator,
9 that was your involvement in this case, correct?

10 A Yes, that's correct.

11 Q Thank you very much.

12 Mr. Meadors: That's all I've got.

13 **MR. GARDNER CROSS BY MR. MCFADDEN:**

14 Q Good Morning.

15 A Good morning.

16 Q Just a couple - you testified you responded to ■

17 ■ Drive?

18 A That's correct.

19 Q And took a picture of a knife that was found there?

20 A Yes.

21 Q And you collected the knife?

22 A Yes.

23 Q Did you interview any witnesses at the scene?

24 A No, there were no witnesses when I got there.

25 Q Did you interview any neighbors?

1 A No.

2 Q When you went to the hospital, you mentioned you
3 tried to interview Mr. Cooley, correct, but you
4 couldn't?

5 A Yes, he was sedated.

6 Q Did you interview anybody at the hospital?

7 A No.

8 Q Did you search the car that Mr. Cooley came to the
9 hospital in?

10 A No.

11 Q Thank you Investigator.

12 Mr. McFadden: I have nothing further, Your Honor.

13 The Court: You can step down.

14 Mr. Meadors: May we approach?

15 (Counsel approaches without court reporter)

16 Mr. Meadors: I know investigator you have a busy
17 schedule. We ask if he could be allowed to leave?

18 The Court: Any objections?

19 Mr. McFadden: None Your Honor.

20 (Counsel approaches without court reporter)

21 The Court: Okay. Ladies and gentlemen, we're going
22 to take about a ten minute break. I remind you: don't
23 discuss this case yet. I'll get you back out here in a
24 minute.

25 (Jury exits courtroom 10:05)

1 The Court: Alright, we'll be in recess ten minutes.

2 Mr. Meadors: Your Honor, we'll get the audio set up
3 too.

4 The Court: Okay.

5 (Court Break was taken)

6 The Court: Thank you. You can be seated. Okay, you
7 ready for the jury?

8 Mr. Meadors: Yes, sir. Judge, thinking over the
9 knife, when I had Mr. Cooley on the stand yesterday, I
10 almost got him to lift his shirt up and I didn't. He
11 described his forty-three staples. I'd ask you before I
12 got him to do that. That's why I hesitated, I hadn't
13 asked you in advance. I don't know if there are any
14 lesser included or if they are going to be asked or not.
15 I just started thinking over night. Would, Your Honor,
16 consider letting me recall him just to show his after the
17 operation?

18 The Court: You got any issue with that?

19 Mr. McFadden: I would object to it being cumulative.
20 He described his injuries in detail. Now, after the
21 fact, them seeing it. What he's charged with doesn't
22 include a specific degree of injury ...

23 Mr. Meadors: I guess the question is would there be
24 lesser, he's not requested the lesser-included.

25 Mr. McFadden: Your Honor, I will be, however, having

1 him just called to raise his shirt. He described his
2 injury in detail. I would also object under 403 just to
3 see scars.

4 The Court: Well, I hadn't seen it. What kind of
5 surgery he's had on top of it.

6 Mr. McFadden: Your Honor..

7 The Court: ...he explained that. Let me see.

8 Mr. Meadors: Do you mind showing them to the judge?

9 Mr. Cooley: No, no.

10 The Court: Okay.

11 Mr. Meadors: Your Honor, I would just make the final
12 point that that's the evidence of his surgery, not the
13 actual injury that occurred that evening, which State's
14 already offered a graphic photo.

15 The Court: When the officer testified, he had to
16 have surgery as a result of it. It goes to the severity
17 of the injury. If the injury was relatively minor, he
18 wouldn't have had to have surgery, but for the surgery,
19 he would've probably died. Because it ... If your
20 objection is because it's cumulative, I don't necessarily
21 think it is. I'll allow you to recall him just for that
22 to show the jury his injuries.

23 Mr. Meadors: Thank you.

24 Mr. McFadden: Your Honor, I would move to limit his
25 testimony just to that and not another full ...

1 The Court: Okay.

2 Mr. Meadors: All I'm going to ask him is to raise
3 his shirt.

4 The Court: I will limit him to that, assuming that
5 you don't cross him on some whole other bunch of issues
6 and open a door. If you do, we'll ...

7 Mr. McFadden: Okay.

8 The Court: Alright. Anything else before we bring
9 the jury in?

10 Mr. Meadors: No sir, thank you.

11 The Court: Okay.

12 (Jury enters courtroom 10:25)

13 **MR. COOLEY EXAM BY MR. MEADORS:**

14 Q Good morning.

15 A Morning.

16 Q You will remember yesterday, I asked you about your
17 injuries.

18 A Yes, sir.

19 Q And specifically I asked you about State's 5.

20 A Yes, sir.

21 Q Okay, that is you after the stabbing?

22 A Yes, sir.

23 Q And you talked about your injuries and the extent of
24 your injuries and operation, correct?

25 A Yes sir.

1 Q At this time, would you please, if you would, stand
2 up and show the ladies and gentlemen of the jury
3 your result of your operation.

4 A Would you like me to come over there?

5 Q Please, that's fine.

6 A (Mr. Cooley shows his injury/scar).

7 Mr. Meadors: Thank you. That's all we had.

8 The Court: Okay. Anything Mr. McFadden?

9 Mr. McFadden: I have one question limited only to
10 the question.

11 The Court: Okay.

12 **MR. COOLEY CROSS BY MR. MCFADDEN:**

13 Q Mr. Cooley, I just wanted to, that scar that you
14 just showed the jury, that's a scar from the surgery
15 that you had?

16 A Yes sir.

17 Q Okay.

18 Mr. McFadden: Thank you, Mr. Cooley.

19 The Court: Okay. You can step down. Thank you,
20 sir.

21 Mr. Cooley: Thank you.

22 The Court: Okay.

23 Mr. Meadors: May it please The Court?

24 The Court: Okay.

25 Mr. Meadors: Investigator Wayne Dubose The State

1 will now call.

2 Bailiff: Place your left hand on the Bible, raise
3 your right hand, state your name please.

4 Mr. DuBose: Wayne DuBose.

5 Bailiff: Do you solemnly swear or affirm the
6 testimony to The Court shall be the truth, the whole
7 truth, and nothing but the truth so help you God?

8 Mr. DuBose: Yes sir.

9 Bailiff: Thank you... Please state your full name
10 and spell your last name for the record.

11 Mr. DuBose: Wayne DuBose D-U-B-O-S-E.

12 **MR. DUBOSE EXAM BY MR. MEADORS:**

13 Q Good morning Investigator DuBose.

14 A Morning.

15 Q Please tell the ladies and gentlemen of this jury
16 about Wayne DuBose, when you were born, where you
17 were raised, your background and education and
18 training in law enforcement, please.

19 A My name's Wayne DuBose. I was born in and raised
20 here in Sumter. Went to school at Furman.
21 Graduated from Furman and went into fire service and
22 worked at the fire department for a number of years.
23 And I came to sheriff's office. Been in law
24 enforcement now for nineteen years. Graduated from
25 the Academy and was certified back in 1996. And I'm

1 currently assigned to the investigation division as
2 a sergeant now.

3 Q And what are the different positions you've held in
4 the sheriff's department?

5 A I've been on patrol, been in narcotics, I've been in
6 family court, I've been in investigations, just
7 about every division.

8 Q And under Sheriff Dennis's tenure, when did you
9 become an investigator?

10 A 2011.

11 Q Now Investigator DuBose, when did you get involved
12 in this case?

13 A I was assigned this case the morning of April 21st.
14 After the incident occurred, the cases go out to
15 investigators and it was assigned to me that
16 morning.

17 Q And that's the morning of April 21st of 2015?

18 A That's correct.

19 Q So this is your case, the lead investigator?

20 A Yes sir.

21 Q And once you got the case, what did you do?

22 A Once I got the case, early that morning, I went to
23 the hospital. Mr. Cooley had been admitted to the
24 hospital. Thought I'd make contact with him. I got
25 the report and all the paperwork taken that night

1 from the officers that responded. And I went to the
2 hospital later that afternoon and made contact with
3 Mr. Cooley.

4 Q At some point in this initial state in the
5 investigation, was a suspect developed?

6 A There was. That night when the other officers
7 responded to the scene, Mr. Hodge was identified as
8 a suspect. And officers were looking for him at
9 that time. And then when I got the case, I already
10 had a suspect so I went and made contact with the
11 victim. I wanted to talk to him to see if he could
12 identify him.

13 Q And did Ms. Copeland identify him?

14 A She did to the other officers and then she did to me
15 later.

16 Q So at this point on April 21st, did you know who you
17 were looking for as a suspect that had stabbed Mr.
18 Cooley?

19 A I did. Jermaine Hodge.

20 Q And what did you do in that regard to locate the -
21 Jermaine A. Hodge?

22 A After speaking to the --- after speaking to Mr.
23 Cooley, I obtained an arrest warrant on him for
24 attempted murder, possession of a weapon during a
25 violent crime, and we actually BOLOED it out to all

1 the local agencies, we had a flier sent out to the
2 media that we were looking for him and what his
3 charges were.

4 Q And when you say a BOLO, what is a BOLO mean?

5 A Be on the lookout. It's just we send out the fliers
6 it's a wanted person and it says what they're wanted
7 for, lists the charges that are on there.

8 Q And you said it was also sent to the media?

9 A It was.

10 Q What's the purpose of that?

11 Mr. McFadden: Your Honor, at this point, I'm going
12 to renew my objection on the pretrial.

13 The Court: Okay. And your objection is noted. You
14 may proceed, sir.

15 Q What was the purpose of the BOLO and the sending it
16 out to the news media, the release?

17 A For citizens so if they see this individual, notify
18 law enforcement so they can arrest him.

19 Q And is that standard practice?

20 A It is.

21 Q What additional efforts did you take to locate Mr.
22 Hodge?

23 A We went to the addresses he had listed which is in
24 Mayesville, we went to the address at [REDACTED]
25 where this incident occurred where he was with Ms.

1 Copeland. Went there to locate him on a couple of
2 different occasions. We actually started getting
3 crime stoppers tips that people had seen him at the
4 residence.

5 Q Seen who?

6 A Mr. Hodge.

7 Q Seen him at what residence?

8 Mr. McFadden: Your Honor, I'm objecting to hearsay.

9 Mr. Meadors: Your Honor, we are clearly not offering
10 this for the truth of the matter asserted. It's an
11 attempt to locate Mr. Hodge.

12 Mr. McFadden: You had anonymous tips.

13 The Court: Alright, I'll sustain the objection.

14 Q What residence?

15 A [REDACTED], the incident location.

16 Q So were you actively looking for him?

17 A We were.

18 Q Okay, what other steps did you take?

19 A We were just going around, following tips we
20 received where he may be located. And then finally
21 one of the crime stoppers tips we received, we
22 located him and then he was arrested.

23 Q Okay. Had you gone back to [REDACTED] to look for
24 him prior to his initial arrest? Or his arrest,
25 excuse me.

1 A Yes, sir.

2 Q Okay. When was that?

3 A I don't recall the exact date but it was just a few
4 days before May 7th so I would probably say around
5 the first week in May sometime. We went maybe two
6 or three days. We went to the locations after
7 receiving that tip.

8 Q At [REDACTED]?

9 A That's correct. Tried to make contact with Mr.
10 Hodge, or try to make contact with anybody at the
11 residence. Nobody answered the door. We left. We
12 were in the area, we received another tip back from
13 someone in the neighborhood that said that as soon
14 as officers left the residence that Mr. Hodge fled
15 out the back door into a wooded area. We went back,
16 immediately started looking, started searching
17 houses in the area. We never did locate him.

18 Q And then when did you finally apprehend him or place
19 him under arrest?

20 A On May 7th. We arrested him at 521 or Manning Road.

21 Q And how did that come about?

22 A A crime stoppers tip. Someone called and said he
23 was at that location. A couple of our patrol
24 officers responded there before I could get there
25 and they did locate him behind the residence. And

1 he was taken into custody at that time.

2 Q Okay. And again, this is when? May what?

3 A May 7th.

4 Q Okay, this incident happened when?

5 A April 21st.

6 Q Okay so from April 21st to May 7th, had you been
7 actively looking for the defendant?

8 A Yes, sir.

9 Q Put him in NCIC?

10 A Yes, sir.

11 Q BOLOs?

12 A Yes, sir.

13 Q News releases?

14 A Yes, sir.

15 Q And following up on crime stopper tips?

16 A Yes, sir.

17 Q Tell the ladies and gentlemen of the jury when you
18 do find Mr. Hodge on May 7th, 2015, specifically
19 where were you and what did you do?

20 A I was at the office when we got the tip that he was
21 at this location. I notified officers on the radio
22 to that we had him, he was at this residence. Sent
23 the patrol officers over there. Went ahead and
24 started heading in that direction also and locate
25 him. Since he had ran one time before, I figured he

1 was probably going to run again. We arrived there,
2 just shortly before I arrived, officers called and
3 told me they had him detained, he was in custody. I
4 arrived, verified who he was and at that time I put
5 him in my vehicle, mirandized him and asked him to
6 give me a statement, which he did.

7 Q And you said ran. Had you gathered any information
8 through the investigation about where Mr. Hodge went
9 after the incident?

10 A The person told us that he ran out the back door
11 into a wooded area.

12 Mr. McFadden: Objection. Hearsay again.

13 Mr. Meadors: We're not offering for the truth of the
14 matter. Could I ask this?

15 Q Did you get information that he ran?

16 A We did.

17 Q After the incident?

18 A We did.

19 Q So we're now in your truck, correct?

20 A Yes sir.

21 Q It's May 7th, 2015?

22 A Yes sir.

23 Q And describe your truck.

24 A It was a --- I've had two SUV. I believe it was an
25 SUV Ford Explorer.

1 Q Okay. And when you first came in contact with
2 Jermaine A. Hodge, what did you say to him?

3 A I introduced him and told him who I was, told him I
4 had warrants on him, and I put him in my vehicle and
5 started transporting him back to the office where I
6 was going to pick up the warrants.

7 Q Now, had the sheriff equipped you, or do you have a
8 some time of recording device to record any
9 conversation that you might have with a suspect, and
10 in this case Jermaine Hodge?

11 A Yes, sir, I have a digital recorder.

12 Q And did you use it?

13 A I did.

14 Q And what is the first thing you did after Mr. Hodge
15 was in your vehicle?

16 A We got in the vehicle, I kept the recorder on him
17 and went ahead and mirandized him. He had been
18 mirandized by another officer that was not recorded
19 so I mirandized him again, or read him his rights
20 and recorded his statement, or his version of what
21 he wanted to give me about what happened.

22 Q Investigator DuBose, do you have a practice that you
23 use when you're reading an individual their rights?

24 A Yes, sir.

25 Q Can you demonstrate that right now?

1 A We have a card. We also have forms that we use but
2 I usually keep this one on me. This is just a
3 Miranda warning and this is what I advised Mr. Hodge
4 of that day. You have the right to remain silent.
5 Anything you say can and will be used against you in
6 a court of law. You have the right to talk to an
7 attorney and have him or her present with you while
8 you're being questioned. If you cannot afford to
9 hire a lawyer, one will be appointed to represent
10 you before any questioning if you wish. If you
11 decide at any time to exercise these rights and not
12 answer any questions or make any statements. And
13 then I ask you if you understand your rights. If
14 you do, do you mind talking to me. If you wish to
15 talk to me and your response will be yes or no. On
16 this day I mirandized him and he advised he did want
17 to talk to me.

18 Q He did?

19 A He did.

20 Q And did you --- let me ask you a couple questions
21 about the defendant on that day.

22 A I asked him ...

23 Q I'm going to ask you a couple questions about him
24 that day.

25 A Okay.

1 Q Did he appear to be under the influence of alcohol
2 or drugs?

3 A No, sir.

4 Q Was he handcuffed?

5 A He was.

6 Q And is that procedure when you're placing somebody
7 under arrest?

8 A Yes, sir.

9 Q In this case, attempted murder?

10 A Yes.

11 Q And possession of a weapon. When you were reading
12 him his rights, Investigator DuBose, when he was
13 responding to you, did he appear to you to
14 understand what you were saying?

15 A He did. As I was reading them to him, he was yes
16 sir, yes sir, yes sir, yes sir. He understood. And
17 then after I finished reading them, he said he
18 understood them.

19 Q Okay. Could you understand him when he was
20 answering your questions?

21 A Yes, sir.

22 Q You didn't have any trouble understanding his voice
23 or hearing him or anything?

24 A No, sir.

25 Q And were the answers content or subject matter

1 appropriate? If you asked him one thing and it was
2 appropriate answer?

3 A They were.

4 Q And was it timely? I mean, did he, was it just kind
5 of a back and easy fluid conversation?

6 A He got in the vehicle and I just told him tell me
7 what happened and he started telling me what
8 happened and I would interject sometime and ask him
9 some questions and that was our --- from our ride
10 from 521 to the sheriff's office.

11 Q And a few other questions before we get to that,
12 please. At any point during the process, either ...
13 and then after you read him his rights, you said he
14 said I understand them?

15 A He did.

16 Q And did you ask him knowing those rights, do you
17 want to talk to me?

18 A Right.

19 Q And did he say I do?

20 A He did.

21 Q At any time during the reading of the rights or
22 statement or the taking of the statement did he ever
23 say to you, I don't want to talk to you.

24 A No, he didn't.

25 Q Did he ever say I want a lawyer?

1 A No, sir.

2 Q If he had, would you have kept going?

3 A No.

4 Q If he needed to use the bathroom or get something to
5 eat, would you have let him do that?

6 A When we got to the office, yes.

7 Q Okay. And I didn't mean --- but when you got back,
8 you would've done that, if he requested it.

9 A Yes.

10 Q Okay. Have you listened to what's marked as State's
11 4, in preparation for your testimony today?

12 A Yes, sir.

13 Q And does that accurately reflect your conversation
14 with the defendant?

15 A Yes sir.

16 Q Your Honor, at this time, we'd offer State's 4.

17 The Court: Okay.

18 Mr. McFadden: Your Honor, I would ask that they make
19 an offer of proof on that. I would have a potential
20 motion to redact portions of it. If they're offering the
21 whole thing.

22 Mr. Meadors: We're not. I think I can resolve this
23 fairly quickly.

24 The Court: Okay.

25 Mr. McFadden: Your Honor, a matter of law.

1 The Court: I'm sorry, what?

2 Mr. McFadden: I have a matter of law regarding this
3 exhibit.

4 The Court: Okay, ladies and gentlemen, I need to
5 send you to the jury room for a minute. I'll get you
6 back out just as soon as I can. Please don't discuss
7 this case.

8 (Jury exits courtroom 10:44)

9 The Court: Okay.

10 Mr. McFadden: Your Honor, I have had opportunity to
11 review this tape. I believe that the State wants to
12 offer the tape in it's entirety.

13 Mr. Meadors: No, that's not true. I didn't tell you
14 that. I believe I told you we were going to stop at 11
15 and you wanted to know the exact second and whether or
16 not Lyvonnia Copeland was on there and I think it's after
17 the 11 mark. So we're not offering it entirely.

18 Mr. McFadden: Excuse me. Your Honor, we did speak
19 about that. I don't want to mis-characterize that.

20 The Court: Okay.

21 Mr McFadden: My motion is specifically to stop it
22 or to redact the parts where, it is towards the end of
23 it, where it just becomes a discussion between Mr. DuBose
24 and Mr. Hodge, specifically regarding Lyvonnia Copeland.
25 What she knew about where he was, what role, if any she

1 played.

2 The Court: Okay. And it's my understanding your
3 intentions are to stop it there before it gets there or
4 you want to play part of that?

5 Mr. Meadors: I thought I was clear but now if we go
6 back to --- Investigator ... Can I ask him on the record
7 or off the record? Where is that in the conversation?

8 Mr. DuBose: I think that's just before the eleven
9 minute mark. It may be around nine or ten maybe.

10 Mr. Meadors: Can we play a minute or two of it just
11 so we can decide?

12 The Court: So that's the objection. Once that's
13 resolved other than ...

14 Mr. Meadors: We were planning on stopping it at the
15 11 minute mark. Because after that, he reads him his
16 warrants, talks about the sentences and I didn't think
17 any of that was appropriate.

18 The Court: Okay.

19 Mr. Meadors: We thought 11 was appropriate but it
20 may ...

21 Mr. McFadden: I want to exclude any kind of talk
22 about the sentences. I would object to that as well.

23 The Court: Okay.

24 (DVD Recording is Played)

25 Mr. Meadors: Is there anything after this?

1 Mr. DuBose: I don't think we talked any more about
2 Ms. Copeland other than the sentencing after that as
3 well.

4 Mr. Meadors: I don't know if we need to go back
5 before that. Obviously, they talk about the grandmomma
6 knowing he was wanted and all. We think goes to flight.
7 I don't know specifically what he's objecting to.

8 Mr. McFadden: I would object to the hearsay
9 statements I incorporated into that portion of it and
10 this whole discourse between Investigator DuBose and Mr.
11 Hodge specifically regarding Ms. Copeland, what law
12 enforcement said to Ms. Copeland. We think that anything
13 beyond his statements, Mr. Hodge's statement evidencing
14 conscientious of guilt of the crime charged or his
15 account of the events would not be relevant, would
16 incorporate hearsay as that portion did and would be
17 cumulative to the evidence of flight already offered
18 through the State by Investigator DuBose. We would ask
19 to limit it to when that portion started.

20 Mr. Meadors: Judge, can we just so back. I don't
21 think it's going to take long. Can I ask Mr. Miller to
22 go back to maybe 6 and a half?

23 The Court: Yeah.

24 (DVD Recording Played)

25 Mr. McFadden: Your Honor, we ask that it stops when

1 he says ...

2 The Court: What's the State's position on that?

3 Mr. Meadors: If he wants to stop it there. I want
4 to stop it before they get to, after he says I went to my
5 aunt's house. I don't know, just stop it there, don't go
6 into you should have hung around and told us your side of
7 the story. You know, I don't think that should come in
8 if he doesn't want the other to come in.

9 Mr. McFadden: I would agree to that.

10 The Court: Okay.

11 Mr. Meadors: I guess my only thing his conversation
12 about where he admits to running and seeing was after
13 that.

14 Mr. DuBose: It was just after that.

15 Mr. Meadors: Could you just play it, Judge, I'm
16 sorry.

17 (DVD Recording Played)

18 Mr. Meadors: Judge, I guess that's the only point.
19 I wanted he admitted. I know ... I was scared, that's
20 why I didn't. So I don't know how you ...

21 The Court: I don't know how you'll clean that up.
22 You have to stop it and then start it back but I don't --
23 - I don't know. I don't know how that's an issue that's
24 necessarily important to the jury anyway.

25 (DVD Recording Played)

1 Mr. Meadors: Alright so 4:49, 4:50 will be after he
2 talks to just went over here. Keep going.

3 (DVD Recording Played)

4 Mr. Meadors: Alright Your Honor, is it --- whatever
5 you say seriously. Does it compromise when he says where
6 did you go after that. I went to my aunt's basically.
7 That would be a stopping --- which wouldn't go into any
8 of the -

9 The Court: What's your position on that Mr.
10 McFadden?

11 Mr. McFadden: Your Honor, I believe at the very
12 beginning what we talked about here, Investigator DuBose
13 asked him why he didn't stay around. And then it gets
14 into this where did you go from there, where did you go,
15 to turn myself in. They're trying to establish him
16 leaving the scene. I think it could be satisfied if we
17 could stop right there.

18 Mr. Meadors: Your Honor, can we.

19 (DVD Recording Played)

20 Mr. Meadors: Yes, I don't think that to full
21 context, he later goes on after, Your Honor, that and
22 evades them. I'm sorry just hit play, please.

23 (DVD Recording Played)

24 The Court: End of panic, then you get into hearsay
25 about Ms. Copeland.

1 Mr. Meadors: I agree. He's talking about it. I
2 would move to stop it. My position, for whatever it's
3 worth, is, what I thought you agreed to earlier, was I
4 went to my aunt's and then stop it with before you even
5 say why didn't you hang around.

6 The Court: Okay. What about that? That's even
7 before you panicked.

8 Mr. McFadden: Yes, Your Honor.

9 The Court: That suits.

10 Mr. McFadden: That suits.

11 Mr. Meadors: Can we redo it just to make sure we've
12 got the exact time for the record?

13 (DVD Recording Played)

14 Mr. Meadors: For the record, it's 4:47.

15 Mr. McFadden: Now, to be clear, we're playing from
16 the start until then?

17 Mr. Meadors: What do you think? I'm sorry. Yes.

18 Mr. McFadden: Okay. I just wanted to ...

19 Mr. Meadors: I'm sorry.

20 Mr. McFadden: We were listening to excerpts. I just
21 wanted to be absolutely certain.

22 The Court: Alright. So, now, we are ready for the
23 jury?

24 Mr. McFadden: The defense is ready.

25 The Court: Okay. Bring me the jury.

1 (Jury enters courtroom 11:00)

2 Bailiff: All the jurors are back in the courtroom.

3 The Court: Thank you sir.

4 Investigator DuBose - Continued Examination by Mr.

5 Meadors

6 Q I asked you if you'd listened to this didn't I?

7 A Yes sir.

8 Q Your Honor, State's 4.

9 The Court: Okay.

10 Mr. Meadors: We'd ask permission to publish.

11 The Court: Alright. Subject to the prior issues we
12 went into, you can publish that.

13 Mr. Meadors: Yes sir.

14 (DVD Recording Played)

15 Q He said misunderstood these right and I want to talk
16 to you.

17 A He did.

18 Q Investigator, at no time during the taking of that
19 statement did he ask for a lawyer?

20 A No, sir.

21 Q And this was on May 7th?

22 A Yes, sir.

23 Q And that was after you had put him in NCIC?

24 A Yes, sir.

25 Q Done a BOLO?

1 A Yes.

2 Q News release?

3 A Yes, sir.

4 Q And I think you testified earlier that you or
5 somebody had seen him fleeing from [REDACTED] when
6 you were over there?

7 A Yes, sir. We got a tip from someone.

8 Q And after you had a statement from him, did you
9 place him under arrest for attempted murder and
10 possession of a weapon during the commission of a
11 violent crime?

12 A Yes sir.

13 Mr. Meadors: Beg the Court's indulgence.

14 Q When you saw the defendant, I know a little while
15 later, did you see any injuries or anything on him?

16 A No, sir.

17 Q Now, in addition to your conversation with the
18 defendant, did you also talk with anybody else?

19 A I spoke to Mr. Cooley, the victim, and also Ms.
20 Copeland.

21 Q Where was Mr. Cooley when you spoke to him?

22 A I spoke, the day of the incident, April 21st, I spoke
23 to Mr. Cooley at the hospital. He'd already been
24 admitted into a room. And then I got a statement
25 from him that day.

1 Q And did you get a statement from Ms. Copeland too?

2 A I did. I actually went to get a photo lineup of Mr.
3 Hodge and came back, I got a photo lineup from SLED.
4 I came back on the 23rd, a couple days later when I
5 got the lineup, to see if Mr. Cooley could identify
6 him from the lineup. While I was at the hospital, I
7 learned that Ms. Copeland was there. And then I
8 went out and caught her in the hallway and we talked
9 outside and she give me her version of what
10 happened. She also picked him out of the lineup.

11 Q ID is not an issue in this case, was it?

12 A No sir. They knew him.

13 Q And she told you right off the bat that it was
14 Jermaine Hodge, correct?

15 A That's correct. She told the officer that night it
16 was her boyfriend, Jermaine Hodge.

17 Mr. Meadors: I beg Your Honor for one second,
18 please.

19 The Court: Okay.

20 Q Do you have that photo lineup with you? I'm showing
21 you what's marked State's 7, is that lineup you
22 referred to?

23 A It is the lineup I showed to Ms. Copeland on the
24 23rd. I have Mr. Hodge as number 5 in that picture.

25 Q And she identified Mr. Hodge?

1 A Correct.

2 Q As the individual who stabbed Mr. Cooley?

3 A Correct.

4 Q And is that the way he appeared on May 7th, 2015?

5 A Very similar to that.

6 Mr. Meadors: State's 7 Your Honor.

7 Mr. McFadden: No objection.

8 The Court: Okay. It's in without objections.

9 **(State's Exhibit Number 7 was marked)**

10 Q Is this the same Jermaine A. Hodge who gave you a
11 statement on that recording sitting next to Mr.
12 McFadden?

13 A Yes, sir.

14 Q We would like the record to reflect that. That's
15 all we have. Thank you.

16 The Court: Okay.

17 **MR. DUBOSE CROSS BY MR. MCFADDEN:**

18 Q Good-Morning Investigator DuBose.

19 A Morning.

20 Q I'd like to talk to you first about, or ask you a
21 couple questions about the investigation in general.
22 You said you were the lead investigator right, in
23 this case?

24 A Yes sir, I got assigned that case that morning.

25 Q Okay. Did you respond to the scene that evening?

- 1 A That night, no, sir.
- 2 Q Well, others did, other officers did respond to the
3 scene, yes?
- 4 A They did. Patrol officers responded and then
5 Investigator Gardner was on call so he responded as
6 the on-call investigator.
- 7 Q To your knowledge, were any neighbors interviewed?
- 8 A No, sir.
- 9 Q And you mentioned you went to the hospital and spoke
10 with Mr. Cooley, right? And Ms. Copeland?
- 11 A Yes sir, later that morning. I got the report 9:00
12 that morning and then I went to the hospital shortly
13 after that and spoke with Mr. Cooley.
- 14 Q Were Mr. Cooley's clothes collected?
- 15 A No, sir. I don't ...
- 16 Q His possessions collected at all?
- 17 A I do not believe they were.
- 18 Q There were no weapons or anything found on Mr.
19 Cooley to your knowledge?
- 20 A Mister --- No sir, none of Mr. Cooley's belongings
21 were collected. The only evidence that was
22 collected was the knife that was at the scene.
- 23 Q Well, the car that Mr. Cooley arrived at the
24 hospital, was it searched do you know?
- 25 A No sir, I don't believe so.

1 Q I want to talk to you briefly about your discussion
2 with Mr. Cooley. That took place at the hospital
3 correct?

4 A That's correct, on the 21st.

5 Q On the 21st, you say about 1:15PM?

6 A That sounds about right.

7 Q He told you, you talked to him about clearly what he
8 alleged happened that evening right?

9 A That's right. I told him to give me his version,
10 his statement of what occurred.

11 Q Okay. Do you remember him telling you that when he
12 got there that Mr. Hodge ...

13 Mr. Meadors: Your Honor, if he wants to offer his
14 statement, we have no objection. Otherwise, I don't
15 think this is appropriate. We have no objections if he
16 wants to offer it.

17 The Court: Okay.

18 Mr. McFadden: I would seek to offer specific
19 statements through testimony by Investigator DuBose,
20 specifically what we would allege were prior inconsistent
21 statements from what Mr. Cooley's testimony was
22 yesterday.

23 The Court: Approach for a minute.

24 (Counsels approach bench without court reporter)

25 Q Investigator Dubose, let's move on. You interviewed

1 two people at the hospital, correct?

2 A I did.

3 Q That was Ms. Copeland and Mr. Cooley?

4 A That's correct.

5 Q Did you interview Meme Johnson?

6 A No sir, I did not know about Meme Johnson until
7 yesterday, actually.

8 Q Okay. Now, I'd like to talk to you, just briefly,
9 about the statement that we just heard by Mr. Hodge
10 and the circumstances of that. That statement was
11 given where at the beginning?

12 A It was in my vehicle.

13 Q Where was the vehicle, I guess?

14 A We were --- it originated on Highway 521, just off
15 of 15 or Lafayette going toward Manning. That's
16 where it originated at. And then continued until we
17 was going to the sheriff's office.

18 Q Okay. And Investigator DuBose, you weren't the
19 first officer there right?

20 A No, sir.

21 Q Alright and Mr. Hodge was already under arrest when
22 you got there.

23 A He was. There was another officer there that
24 located him. When I got there, they identified who
25 he was, confirmed it was him, and we had active

1 warrants. They went ahead and took him into custody
2 at that time and then I arrived maybe five minutes
3 later.

4 Q So there were two units that had him in custody
5 there already?

6 A That's correct.

7 Q Okay and one of them was a K9? Is that right?

8 A It was. We brought it out because he had fled from
9 us one time before.

10 Q Okay so he wasn't going anywhere when you got there?

11 A I was hoping not.

12 Q Okay. And then once you got there, then you took
13 him into your car and talked with him?

14 A That's right because I wanted to get a statement
15 from him.

16 Q And at that time, he was in restraints, he was in
17 handcuffs?

18 A He was.

19 Q Okay. And to your knowledge, had he been questioned
20 at all before you got there?

21 A Not that I'm aware of. The officers that were on
22 the scene took him into custody, they didn't have
23 the details about the incident that occurred. All
24 they knew is that I had warrants on him. So there
25 really wouldn't have been anything for them to

1 question him about.

2 Q And did you question him at all before administering
3 those rights that we just heard on the recording?

4 A No sir. I told him that I had warrants for him and
5 told him what the warrants were for and that I
6 wanted to talk to him more. I went and put him in
7 the vehicle. That's when I mirandized him and got
8 him to give me his version of what happened.

9 Q Mr. Hodge told you that he panicked right?

10 A He did.

11 Q Okay. And that's why he left that night.

12 A That's correct.

13 Q And he gave you his account of events just as we
14 heard just now?

15 A Yes sir, he did.

16 Mr. McFadden: Thank you Investigator DuBose.

17 **MR. DUBOSE REDIRECT BY MR. MEADORS:**

18 Q Did he say on there it was either an accident or
19 self-defense?

20 A He did.

21 Mr. Meadors: Can we approach?

22 (Counsel approaches without court reporter)

23 Mr. Meadors: Thank you, that's all.

24 The Court: Okay. You can step down.

25 Mr. Meadors: The State of South Carolina rests, Your

1 that?

2 Mr. Hodge: Yes sir.

3 The Court: You got any questions you want to ask me
4 concerning your right?

5 Mr. Hodge: No sir.

6 The Court: Okay. Now --- yes sir?

7 Mr. Meadors: Could I add one more thing in the mix,
8 respectfully? I'm not sure if it's prevalent or not, but
9 potentially it might be the fact that he's got a weapon,
10 with his prior convictions, I don't think he's entitled
11 to have a weapon. I know it's not a gun but that would
12 be probative, perhaps. If he arms himself with a
13 kitchen knife, knowing that the defendant's coming.
14 That's all.

15 The Court: I understand. You know, I guess you can
16 argue it. I'm not sure that unlike a gun, he can't have
17 a gun period. But he can have a kitchen knife until he
18 arms himself with it to commit a crime. I means it's a
19 situation if he's in the kitchen cutting up a ham, it's
20 not illegal. He takes that same knife out in some public
21 venue with the intent to use it as a weapon, then it
22 changes. As far as the charge is concerned, you have
23 requested potential lesser included charges, which one?

24 Mr. McFadden: Your Honor, at least assault and
25 battery high and aggravated nature. We would be asking

1 for the remainder of the assault and battery as well.

2 Third degree.

3 The Court: You ain't going to get a third degree. I
4 mean, there is no way this is a third degree. What about
5 ABHAN and assault and battery first? Do you want assault
6 and battery first and ABHAN?

7 Mr. McFadden: Yes, Your Honor, we would be
8 requesting that.

9 The Court: Then tell me the difference. Between
10 ABHAN and assault and battery first.

11 Mr. McFadden: Well ABHAN, I believe, actually injury
12 has to occur, great bodily injury is shown. Means like
13 when whereas A&B first is an attempt to cause that ...
14 ...

15 The Court: But, under first if the injury occurred.
16 At least it's in my charge book clearly offering to get
17 you into first. But when you actually commit an offense,
18 it's the exact same language as it is assault and battery
19 high and aggravated nature. And so, and we've been
20 having that same dilemma, I've been discussing that with
21 my law clerk. When I take out those two charges the
22 facts fit this case, it is the exact same charge. How is
23 the jury going to differentiate between the two? Because
24 there's no law --- you know, It's one thing to wave the
25 knife around and not cut anybody. But in this situation,

1 it's an actual injury. And, so, when you look at, at
2 least in our charge book, and the definition, it is --- I
3 don't know how the jury's going to be able to tell the
4 difference because it is the exact same charge. At least
5 the way they've given it to us. I've been complaining
6 about this since that law came out. And I've had a
7 number of situations where A&B second would cause a huge
8 problem. This is the first time that I've been, a
9 factual situation that both of these fit. And I'd love,
10 at least y'all tell me how you think I'm going to
11 differentiate between the two.

12 Mr. Meadors: Assault and battery in the first
13 degree, the person unlawfully injures another, and the
14 act, and of course we're not talking about touching. And
15 then occurred during the commission of a robbery,
16 burglary, kidnaping, or theft, which doesn't apply.

17 The Court: Nope.

18 Mr. Meadors: Or attempts to injure another person
19 with the present ability to do so. Which he didn't offer
20 or attempt, he actually did it.

21 The Court: Right, so that doesn't apply.

22 Mr. Meadors: So ...

23 The Court: And so go down. Is accomplished by great
24 bodily injury. And then you read the definition of great
25 bodily injury and the charge on assault and battery high

1 and aggravated. A person who commits the offense of
2 assault and battery of a high and aggravated nature if
3 the person unlawfully injures another person and great
4 bodily injury to another person results, or the act is
5 accomplished by means that produce great bodily injury.
6 It is the exact same definition of great bodily injury.

7 Mr. Meadors: Judge, do we get to one, respectfully,
8 the person commits the offense first degree if he injures
9 and the act, (a) doesn't apply, we go to (b). (B)
10 offers or attempts to injury with the present ability and
11 do we get past that since he did do it? Where we could
12 argue it wouldn't be a lesser-included because offers or
13 attempts to injure another person with the present
14 ability. It says present ability. He actually did that.

15 The Court: Oh I know.

16 Mr. Meadors: So we don't get pass that comma so
17 since he actually did do it and the act is accomplished
18 by means likely to produce death or great bodily injury.
19 So we would argue it would just be attempted murder and
20 ABHAN.

21 The Court: I understand. So my question is on
22 assault and battery first that means you can't ever
23 injure anybody? You're just threatening them? I mean,
24 that's not what it says. When you take out --- clearly
25 assault and battery first dealing with sexual issues of

1 others is different than high and aggravated. But in
2 these facts, where you actually stab somebody, how do you
3 differentiate between the two charges?

4 Mr. Meadors: I'm not sure you can. That's why I'm
5 not sure ...

6 The Court: I understand ...

7 Mr. Meadors: We'll you differentiate because there
8 is an actual injury. The way it's written, ABHAN would
9 apply and arguably, A&B first would not.

10 Mr. McFadden: Then, Your Honor, in the alternative
11 we would ask assault and battery high and aggravated
12 nature and assault and battery second degree if the
13 issues agreed upon are great bodily injury to the degree
14 if one is great bodily injury and one is moderate.

15 The Court: Okay. I'll have to think about that.

16 Mr. Meadors: Obviously, if you're going to do that,
17 do it all, except assault and battery third.

18 The Court: My problem is if I do aggravated and
19 first and the jury comes back with a question of what's
20 the difference, I can't answer that question. I don't
21 know what to tell them.

22 Mr. Meadors: I guess that's why I don't think it
23 should apply since this case, unique case, there is an
24 injury and that's what separates ABHAN.

25 The Court: I know. And it appears to be that way to

1 me as well. You know. When we take out that approach
2 that means you can't ever be injured under first.
3 Because if you are injured under first, it's the exact
4 same scenario as high and aggravated. (A) great bodily
5 injury to another results. The first says --- person
6 commits the offense of assault and battery in the first
7 degree if a person unlawfully injures another person.
8 And they act either --- one doesn't apply, two doesn't
9 apply, three --- accomplished by means likely to produce
10 death.

11 Mr. McFadden: Your Honor, we would also suggest that
12 the attempted murder statute specific language, whoever
13 with intent to kill, attempts to kill. If the jury
14 didn't believe the attempt to kill that he only attempted
15 to injure another person, that could potentially fall ...

16 The Court: Where do you see that?

17 Mr. McFadden: ... under that ...

18 The Court: Where did you see that?

19 Mr. McFadden: ©) (1) The person that commits the
20 offense of assault and battery first degree?

21 The Court: Yeah.

22 Mr. McFadden: ...the person that commits the offense
23 of assault and battery first degree, the person
24 unlawfully, going straight to (b), offers or attempts to
25 injure another person with the present ability to do so.

1 The act either is accomplished by means likely to produce
2 great bodily injury or occur during commission ...

3 The Court: That's the exact language of high and
4 aggravated. The difference between that and attempted
5 murder is attempted murder states it's got malice and
6 forethought. So I mean that's --- I can't tell the
7 difference between, in these facts, between assault and
8 battery high and aggravated and first.

9 Mr. McFadden: We would submit that the difference is
10 that ABHAN requires the completed injury and it's great
11 bodily injury or is likely Whereas A&B first, it's we're
12 dealing with the non-sexual provision, deals with offers
13 or attempts to create that kind of injury that would fall
14 under high and ...

15 The Court: I understand that but it also says
16 assault and battery under (b) the act is accomplished ---
17 you hurt somebody. I understand if you don't hurt
18 anybody, then ABHAN is out. If you don't stab anybody,
19 that's out. That's off the board. My problem is when
20 you do hurt somebody and clearly if he's just waving the
21 knife at him and hadn't stabbed him, we would potentially
22 look into A&B first. But the fact that he stabbed him
23 and you take that offer out --- Okay. My law clerk has
24 found some law. This case, what's the name of it? State
25 vs. Middleton, 2014 case. Says I've got to charge a

1 lesser-included offense if there's any evidence. My
2 problem is, and they're trying to --- and in that case,
3 they said that the trial judge was misconstrued the
4 statutory definition of assault in the first degree that
5 it requiring injury to the victim. In that situation,
6 the judge said that he wasn't going to charge it because
7 it wasn't an injury. And they said (a) requires injuries
8 but (b) does not. And I understand that. My problem is
9 I don't think A&B requires an injury, it just requires an
10 offer to get it there. But in our situation, when you
11 have an injury, how is the jury going to differentiate
12 between the two because when I read the charges given to
13 me by the Supreme Court in my book and you eliminate the
14 offer and the threat ...

15 Mr. McFadden: Your Honor, we would absolutely agree
16 that the charge should be, based on, should be supported
17 by the evidence. And if Your Honor decides that it is
18 just degree of injury, not whether there was an offer
19 attempt or completed act then we would ask for ABHAN and
20 A&B second.

21 The Court: Okay.

22 Mr. McFadden: If we're dealing just with completed
23 act.

24 Mr. Meadors: Your Honor, we don't think A&B second
25 would apply because it's not moderate. If you look in

1 (2) describing moderate bodily injury, third to the last
2 sentence, except where there's muscles and connective
3 tissue that require surgical repair or where treatment of
4 injuries ... require the use of regional or general
5 anesthesia.

6 The Court: So isn't that the definition of moderate
7 bodily injury?

8 Mr. Meadors: Physical injury requiring treatment
9 except when there's been penetration. So I think that
10 would rule out assault and battery second. In this case,
11 we have, I mean, surgery.

12 The Court: The new definition they modified?

13 Mr. McFadden: No, Your Honor. I believe this is the
14 old one.

15 Mr. Meadors: Tyler just point it out to me.

16 The Court: They've modified it this year though,
17 right?

18 Mr. McFadden: With the new domestic violence act.

19 The Court: Yeah.

20 Mr. McFadden: And I believe ... we could potentially
21 be using the old definition.

22 The Court: Well the old definition is moderate
23 bodily injury meaning physical injury requiring treatment
24 to an organ system of the body other than skin muscle and
25 connective tissue of the body, except when there's

1 penetration of the skin, muscle, or connective tissue
2 requiring surgery to repair a complex when treatment of
3 injury requires use of a general anesthesia.

4 Mr. Meadors: That's what I was just reading Judge.

5 The Court: Alright. Moderate --- the new one says
6 moderate bodily injury means physical injury that
7 involves, loss of consciousness, or that causes temporary
8 or moderate disfigurement or temporary loss of the
9 functions of a body member or organ or injury that
10 requires medical treatment, when the treatment requires
11 the use of regional or general anesthesia or injury that
12 results in fracture or dislocation. Moderate bodily
13 injury does not include one time treatment, such as
14 observation, scratches, cuts, abrasions, bruises,
15 splinters, or other minor injury. Great bodily injury
16 means bodily injury which causes substantial risk of
17 death or which causes serious permanent disfigurement or
18 protractive loss of bodily member or organ.

19 Mr. Meadors: We'd submit that's what we have got.

20 Mr. McFadden: I'd submit that's a jury issue. The
21 charge should be given if it's supported by the facts.
22 We haven't had any medical testimony. He testified to
23 his scars.

24 The Court: Okay. Alright, anything else? I'm going
25 to take a break and go think about this for a second,

1 unless you've got something else you want me to think
2 about.

3 Mr. McFadden: We would request a couple of other
4 jury instructions.

5 The Court: Like what?

6 Mr. McFadden: Well the only departure from some
7 standard ones that we would just add for the record. We
8 would ask the Court to charge the new attempted murder
9 statute as it stands right now and incorporate the
10 holding from State versus King. Which I have an
11 appellant case number there. Opinion number 5313. That a
12 specific intent to kill is a required element of
13 attempted murder.

14 The Court: Okay. What's the State's position?

15 Mr. Meadors: I'll review it. I may not have a
16 problem with that.

17 The Court: Okay.

18 Mr. Meadors: Judge, if you're inclined to A&B
19 second, we'd like to do them all, just for the record.
20 Except A&B third.

21 Mr. McFadden: No objection to that.

22 Mr. Meadors: Not saying I want you to do that but if
23 you're inclined to do second, we'd ask for first too, A&B
24 first. And Judge I don't know, and there's some talk, I
25 don't know whether he's going to request self-defense.

1 We certainly don't think there's anything in record to
2 justify that at this point. The only testimony is that
3 he is thought it was either an accident or self-defense
4 and he was somewhat --- anyway, we would oppose it. I
5 don't know if he is, he hasn't done it on record yet but
6 if he's requested self-defense.

7 Mr. McFadden: We absolutely would be, Your Honor.
8 We would suggest that at this point, there's evidence in
9 the record, by virtue of his recorded statement to Mr.
10 DuBose that absolutely puts enough evidence in the record
11 to support the charge of self-defense. Mentioning
12 disparity in size, pushed twice, felt threatened. I
13 can't say that he specifically said felt threatened but
14 his whole account of the events has been published to the
15 jury through Investigator DuBose.

16 The Court: Okay.

17 Mr. McFadden: And we feel that just that alone sets
18 out the required showing to warrant the charges on it.

19 The Court: Okay.

20 Mr. McFadden: Your Honor, I have my request to jury
21 instructions if you would like to hear them.

22 The Court: Alright. That would be great.

23 Mr. Meadors: I don't know of any evidence that he's
24 in danger, suffering death or great bodily injury at all.
25 I just don't think there is anything in there.

1 Mr. McFadden: May I approach Your Honor?

2 The Court: Yeah. Okay.

3 Mr. McFadden: The only other thing I would add to
4 that, Your Honor, is just regard to self-defense
5 specific, I guess I'm going to call them sub-
6 instructions, just coming from the model instructions.
7 That being, we would be requesting an instruction right
8 to act on appearances, words accompanied by hostile acts,
9 size and age .

10 The Court: Act on appearances is one thing but how
11 were there any evidence of words of hostile?

12 Mr. McFadden: Your Honor, through his recorded
13 statement, I believe he mentions that Mr. Cooley gets out
14 of the car and there's a heated exchange there between
15 them like what's going, maybe some profanity involved
16 all.

17 The Court: He said that on the tape. I remember him
18 saying that in the Duncan hearing, but did he say that on
19 the tape?

20 Mr. McFadden: No sir.

21 The Court: I don't remember on the tape he said
22 anyone.

23 Mr. Meadors: Judge I don't --- when we made the
24 decision back and forth to put it in, not for this
25 matter, one of my considerations was I don't think he can

1 evidence in there for a self-defense, the way I read
2 Beecher. I can still argue it, it's just not a charge.
3 If the facts support that. We submit there's not enough
4 self-defense but I've always believed I can argue it,
5 even if it's not a charge. Sort of like flight.

6 The Court: Okay. Yeah it says in here. A specific
7 intent to kill is not an element of attempted murder but
8 that there must be a general intent ... that's what
9 you're saying ...

10 Mr. McFadden: Your Honor, we would submit that's ...

11 The Court: That's the Court of Appeals case. The
12 one you just told me about?

13 Mr. McFadden: State versus King.

14 The Court: Supreme Court or Court of Appeals?

15 Mr. McFadden: It is Your Honor, correct, because
16 it's on a petition, so yes. I have the cite.

17 The Court: Alright, let me go read that. What else
18 have you got?

19 Mr. McFadden: Your Honor, for the record, Rule 19.
20 I move for a directed verdict.

21 The Court: Okay. And I'll respectfully deny/. I
22 think there is sufficient evidence in this record to go
23 to the jury.

24 Mr. McFadden: Your Honor, we would just request
25 guidance on the 608 issue and I believe that's all the

1 The Court: Okay, so we ought to be able to get this
2 case to the jury this afternoon.

3 Mr. Meadors: Yes sir. I believe.

4 The Court: I'll see you at 2..

5 Mr. Meadors: Thank you.

6 (Court lunch break)

7 (5-26-16 p.m. starts)

8 Bailiff: All rise.

9 The Court: The State ready?

10 Mr. Meadors: Yes sir.

11 The Court: Defense ready?

12 Mr. McFadden: Yes Your Honor.

13 The Court: Alright, bring the jury in please.

14 (Jury enters courtroom 2:08 p.m.)

15 Bailiff: I have all the jurors present.

16 The Court: Thank you sir. Mr. McFadden?

17 Mr. McFadden: Thank you Your Honor. At this time,
18 the defense calls Mr. Jermaine Hodge.

19 The Court: Okay. If you'll come around please sir
20 and place your left hand on the Bible and raise your
21 right hand.

22 Bailiff: Place your left hand on the Bible, raise
23 your right hand, state your name please.

24 Mr. Hodge: Jermaine Hodge.

25 Bailiff: Do you solemnly swear or affirm the

1 testimony to the Court shall be the truth, the whole
2 truth, and nothing but the truth so help you God?

3 Mr. Hodge: Yes I do.

4 Bailiff: Thank you.

5 Bailiff: State your full name and spell your last
6 name for the record.

7 Mr. Hodge: Jermaine Hodge H-O-D-G-E.

8 **MR. HODGE EXAM BY MR. MCFADDEN:**

9 Q Good afternoon, Mr. Hodge, Jermaine.

10 A Yeah.

11 Q Jermaine, introduce yourself to the jury. How old
12 you are, where you're from.

13 A From South Carolina. Mayesville , South Carolina.

14 I'm thirty-three years old.

15 Q You live in Mayesville now?

16 A Yeah.

17 Q Okay, what do you do for work?

18 A I'm a body person. I do body work, mechanic, you
19 know, stuff like that.

20 Q How long have you done that?

21 A About five years, about four years, four and a half
22 years.

23 Q Where do you do that?

24 A Mr. Lewis auto body shop.

25 Q Is that here in Sumter?

1 A Yeah.

2 Q Jermaine, clearly I want to talk to you about why
3 we're here today. I want to talk to you about April
4 of 2015. Tell me, where were you living in April of
5 2015?

6 A I was living with Ms. Lyvonnia Copeland.

7 Q Describe for the jury please your relationship with
8 Ms. Copeland.

9 A We have, we have a relationship.

10 Q Were you boyfriend and girlfriend?

11 A Yeah, boyfriend and girlfriend.

12 Q How long did y'all date? Give us kind of the time
13 frame of y'all's relationship.

14 A We dated for about two and a half years before this
15 stuff right here happened.

16 Q And April of 2015 was within those two and a half
17 years?

18 A Yeah.

19 Q About how long had y'all been dating by April of
20 2015 would you say, just guessing?

21 A You mean after that or ...

22 Q April 2015, how long had y'all been dating?

23 A Prior to that?

24 Q Yes.

25 A About two and a half years.

1 Q Oh okay, so that was before 2015?

2 A Yeah.

3 Q Before April.

4 A Yeah.

5 Q Now, I asked you where you were staying. You said
6 you were living with your girlfriend, Ms. Copeland,
7 at the time?

8 A Yeah.

9 Q Where does she stay?

10 A [REDACTED]

11 Q Okay. How many nights a week would you stay there?

12 A Every night. Every single night from Monday to
13 Sunday.

14 Q Okay. Now, where were you living on the date of
15 April 20th?

16 A The date of April the 20th?

17 Q April 20th. The date we've been talking about.

18 A With her.

19 Q You were living at [REDACTED]?

20 A (Nods head affirmatively).

21 Q Okay. Now, I want you to describe for the jury what
22 April 20th looked like. What day that was for you.
23 What you did. How did it start?

24 A Well, I got up that morning, went to work. She took
25 me to work.

- 1 Q Ms. Copeland?
- 2 A Yeah. She took me to work that morning.
- 3 Q Drove you to your auto job?
- 4 A Yeah.
- 5 Q Okay.
- 6 A And after that, I worked all day. She came up there
- 7 later that afternoon and picked me up.
- 8 Q About what time would you say that was?
- 9 A Probably about around five, five-thirty.
- 10 Q Okay. After she picked you up from work, where did
- 11 y'all go?
- 12 A Well we went to, we had went to my boss man's house
- 13 because his house is right in front of the job. So
- 14 we went over there because he had like a little fish
- 15 fry. So we stayed over there for a little minute.
- 16 We stayed over there for a few hours. And then
- 17 after that, we went to the house, we went home.
- 18 Q You went home and home was [REDACTED]?
- 19 A Yeah, [REDACTED].
- 20 Q Now, after you got home that evening Jermaine, did
- 21 an argument occur between you and ...
- 22 A Yeah, we got in an argument.
- 23 Q Tell the jury what was it about? Do you remember?
- 24 A Well, it was about --- well, she, Ms. Lyvonnia's a
- 25 real jealous person. She's very jealous you know,

1 and then like certain things, like you know, she
2 don't even like me being around my kids or nothing.
3 She don't like none of that. Anything that got to
4 do with me or anybody, any other female she be
5 jealous. So we got in an argument over something
6 sort of like that. I was playing my music and then
7 she got mad at that. First, she got mad before that
8 over this girl that used to be at the shop and stuff
9 like that. She think I was messing with her, which
10 I wasn't. Then we got to the house, she started
11 arguing with me over the music I was playing, you
12 know. So we started, she started arguing, arguing.
13 And then she just say, she said ...

14 Q Hold on a minute. Suffice it to say there was a
15 verbal argument between you and her that night?

16 A Yeah.

17 Q Was it inside? Was it outside? Where was it?

18 A It was inside the house.

19 Q It was inside. What room in the house?

20 A In her room, in our room in the bedroom.

21 Q Bedroom?

22 A Yeah.

23 Q Okay. Now, did at anytime that become physical?

24 A No, never got physical.

25 Q Now, I think you might've been headed this way. At

1 some point did she make a phone call that evening?

2 A Yeah, she did.

3 Q I want you to describe you and her's interactions
4 right then at that moment and what, if anything, she
5 told you about that phone call, making it.

6 A Well, she made the phone call, she told me --- well,
7 before she made the phone call, she was like I'm
8 going to call my cousin over here and he's going to
9 come over here, he's going to whip your ass and
10 going to beat your ass and shit like that. So I was
11 like, you know ...

12 Q I need you to speak up as well, please.

13 A Yeah, she said that, you know. And I was like,
14 okay, whatever. Like, you know, I don't feel like I
15 should leave the house because, you know, I was
16 paying bills there too. I was living there, you
17 know what I'm saying. I don't think feel like I
18 should leave, you know?

19 Q Let me ask you. Did you actually hear the substance
20 of the call between her and her cousin though, or at
21 least her end?

22 A No, I didn't hear nothing after that. You know, I
23 just know that she was calling her cousin over
24 there.

25 Q She told you who she was calling and why?

- 1 A Yeah, she told me yeah.
- 2 Q Okay. Now, she said she was calling her cousin.
- 3 Did you know who that was.
- 4 A Yeah.
- 5 Q Who she was referring to?
- 6 A Yeah.
- 7 Q Who was she referring to?
- 8 A She was referring to Mr. Cooley.
- 9 Q And describe your relationship up til that, at that
- 10 point with Mr. Cooley, if any.
- 11 A Well we don't have no relationship, you know, I
- 12 barely see him. I only seen him like twice before
- 13 then.
- 14 Q Okay. So you know who he was but you didn't really
- 15 know him?
- 16 A Yeah.
- 17 Q But you knew he was coming over?
- 18 A Yeah, yeah, yeah.
- 19 Q Now, about what time did this phone call occur?
- 20 Estimate. Was it at night?
- 21 A Yeah, it was, it was morning time. Probably around
- 22 one that morning.
- 23 Q So past midnight.
- 24 A Yeah, past midnight.
- 25 Q So we are into April 21st?

1 A 21st, yeah.

2 Q Okay. Now, after she ended her call --- let me ask
3 you this. Did Mr. Cooley ultimately arrive at the
4 home?

5 A Yes, he did.

6 Q About how long in between her call to him arriving?
7 About how long was that? If you can estimate.

8 A Say about ten minutes.

9 Q Okay.

10 A About ten minutes.

11 Q Now, I want to talk to you about once he got there.

12 Now you mentioned you knew who he was but didn't
13 really know him. Where were you when he arrived?

14 Or when did you know - notice that he was there?

15 A Well, when he --- I was leaving out the backyard and
16 about the time I got to the front of the house, like
17 to the side of the front, he was pulling up. He was
18 pulling up in a truck, a SUV.

19 Q So you walked around the house and that's when you
20 saw him pulling up in his SUV?

21 A Yeah.

22 Q Okay. And you saw him get out of the vehicle?

23 A Yeah.

24 Q Now I want you to describe for the jury what was he
25 wearing that night? Do you remember?

1 A He had on a t-shirt - I didn't - I couldn't really,
2 I ain't really, it was so dark, I couldn't really
3 see exactly what he had on. You know, I couldn't
4 really see exactly what he had on.

5 Q Okay and you'd seen him before. I want to ask you,
6 like the easiest way to do this might be, how does
7 his size physically compare to you? Or at the time
8 back then in April 2015?

9 A He was a lot bigger than me.

10 Q Bigger than you? Bigger in what way?

11 A He was a lot bigger back then.

12 Q Okay. And when you say bigger -

13 A Oh I was a lot smaller.

14 Q Describe in terms of height and weight.

15 A He probably about 6, I'd say about 6'2", 6'1", 6'2".

16 Q Okay. And his weight? You think he weighed more or
17 less than you back then?

18 A He was probably about, I'd say about 280. 280, 300.
19 Something like that.

20 Q Okay. What I'm asking you is that he's a bigger
21 guy?

22 A Yeah.

23 Q At least was back then.

24 A Yeah.

25 Q Okay. Now, you said you were coming around the back

1 and you saw when he pulled up. He gets out of the
2 car. When he's getting out, where are you?

3 A When he got out the car, I was walking up.

4 Q Walking up to the car?

5 A I was walking right to the front of the house. Well
6 it was towards the car. It was towards the car and
7 he got out the car and then he put his hands on me.
8 He held me like this right here, right
9 (demonstrating).

10 Q Okay, I want to take this apart step by step.

11 A Okay.

12 Q Did he approach you or did you approach him? Or did
13 you meet?

14 A Well, we like meet.

15 Q Okay because you were leaving and he was coming?

16 A Yeah.

17 Q Okay. Who spoke first or were there any words?

18 A Well, I think he said something first. Yeah, he
19 said like what the hell's going on, you know.

20 Q I want you to speak up.

21 A Yeah, he was like what the hell is going on with you
22 and my cousin. Just like that. So I was like you
23 need to check your cousin she the one with the
24 problem like that, you know.

25 Q What do you mean by you need to check your cousin,

1 she's the one with the problem?

2 A Like, you know, talk to her. You know what I'm
3 saying? It ain't me, I'm not the one that started
4 this. You know?

5 Q I want you to describe for the jury at that initial
6 interaction that you had with Mr. Cooley in front of
7 his vehicle, what he looked like. I want you to
8 describe, what was his demeanor?

9 A Well to me, he looked like he wanted to do, he
10 wanted to ...

11 Q Let me ask you this:

12 Mr. Meadors: Your Honor, if you let him - can I
13 object on not letting him let his own witness finish?

14 Mr. McFadden: I was just trying to provide more
15 clear question is what I wanted.

16 Mr. Meadors: He was answering.

17 The Court: Okay.

18 Mr. McFadden: So that he wouldn't be speculation.

19 The Court: If you ask the question, let him answer
20 it.

21 Mr. McFadden: Absolutely.

22 Q Go ahead, please.

23 A Yeah well his demeanor was like, you know, like what
24 is the problem, you know. He was like, you know, he
25 was going to do something to me or something. So I

1 don't know.

2 Q Okay and this was going to be my next question.

3 What expression was he wearing? Was he happy, did
4 he look sad, was he angry, was he ...

5 A He looked kind of angry to me.

6 Q Okay. Okay. So after he says what the hell's going
7 on or whatever you just mentioned, how close are you
8 to him at this point?

9 A Maybe about a foot apart, two feet.

10 Q Two feet apart so ...

11 A Yeah, about like right there.

12 Q So you're very close to him?

13 A Yeah.

14 Q Tell the jury what happens next.

15 A He pushed me second time. He was already pushed me
16 when I first came up to him. That's what he said
17 what the fuck is going on, you know what I'm saying.

18 Q So he spoke to you but also ...

19 A Yeah. Yeah.

20 Q Okay. You say he pushed you while he said these
21 words. Describe how he pushed you.

22 A Like with his forearm. Like you know with his
23 forearm. And I was like man you know ...

24 Q And how did you respond to that?

25 A I was like man you need to chill out you know, don't

1 do that no more. So he did it again, hard. You
2 know and then that's when I react.

3 Q He pushed you the second time after you said don't
4 do that again.

5 A Yeah.

6 Q How did he push you that time again?

7 A He pushed me a lot harder than that.

8 Q Okay.

9 Mr. Meadors: Your Honor, did he says that's when I
10 reacted after that?

11 The Court: That's my recollection of what he said.

12 Q Jermaine after he pushed you the second time,
13 describe for the jury what thoughts were going
14 through your mind. What did you think was about to
15 happen next?

16 A I was thinking that he was going to like hurt me or
17 something you know. I was like intimidated, really.
18 You know.

19 Q Based on what you had seen that evening, the events
20 leading up to this, what did you think his intent
21 was? What was your impression of the reason why he
22 was over there night?

23 Mr. Meadors: Objection to that.

24 A His intent was ...

25 The Court: Hold on a minute.

1 Mr. Meadors: Speculation to what his intent was?

2 The Court: I mean ...

3 Mr. McFadden: Your Honor, I'd say this goes to
4 reasonable apprehension or actual apprehension. (Just how
5 he was perceiving the situation.

6 Mr. Meadors: I withdraw, Judge.

7 The Court: Okay.

8 A Well I know what his intent was, you know, because I
9 know there family.

10 Mr. Meadors: Objection to that part.

11 A The intent was ...

12 Q Let me be a little bit more clear.

13 The Court: Alright, I'll sustain that objection.

14 Q May I ask it again differently?

15 The Court: Yes.

16 Q Okay. Based on what you heard from Ms. Copeland
17 earlier, her making the call.

18 A Yeah.

19 Q And then based on his words and actions when he
20 arrived, based on everything that you perceived
21 during the moments leading up to that, what did you
22 think was about to happen next after that second
23 time he pushed you?

24 A He was about to probably jump on me.

25 Q What do you mean by jump on you?

1 A I mean try to harm me.

2 Q And tell the jury what you did to prevent that.

3 A Well, then, you know, I tried to protect myself.

4 You know, I done what I had to do. It was not me
5 intentionally me doing it. I did not intend to do

6 it. But, you know, I didn't want to be hurt you

7 know. Because I know how he is. I know how there

8 family is, you know, what I'm saying, so I just -

9 Q Jermaine how quick did it happen? Between him
10 getting out of the car to the physical struggle
11 between you?

12 A Well it happened about, it wasn't a couple minutes.

13 Like a few minuets. Something like that.

14 Q Okay. Jermaine, what did you use to fend him off
15 with?

16 A A knife.

17 Q How did you use it?

18 A I just like, you know, I stabbed him with it.

19 Q Did you want to kill him?

20 A No, no.

21 Q Did you want to harm him?

22 A No, I didn't intend to do none of that. I was just
23 trying to protect myself. I just, got, you know,
24 got intimidated. I thought he was going to try to
25 hurt me so.

1 Q How many times did it happen?

2 A Just one time.

3 Q Just one time? You know where you stabbed him? At
4 the time, did you?

5 A At the time?

6 Q Yes.

7 A No, I didn't know at the time. I didn't actually
8 know where I stabbed him at the time. You know -

9 Q But you knew it happened?

10 A Yeah, I knew it had happened.

11 Mr. McFadden: Beg the court's indulgence for a
12 moment.

13 Q Jermaine, why did you leave that night?

14 A Well I got --- I was in a state of shock. I
15 panicked, you know. I just left. I just panicked.
16 I didn't know what was going to happen after that.
17 I didn't know if he was like take the pain and go. I
18 just left.

19 Mr. McFadden: Thank you Jermaine. I have nothing
20 further. Please answer any questions that the solicitor
21 has for you.

22 **MR. HODGE CROSS BY MR. MEADORS:**

23 Q Good afternoon, Mr. Hodge.

24 A How you doing?

25 Q Meme Johnson was there, wasn't she?

1 A Yeah.

2 Q And she was right there in the car or right near the
3 car?

4 A Yeah. That's what I heard from like later on. I
5 didn't know that then.

6 Q But when I asked you yesterday, I think in the
7 pretrial hearing, you acknowledged she was there.

8 A Yeah.

9 Q So no dispute Meme Johnson was there?

10 A Yeah.

11 Q And you know Meme Johnson?

12 A Yeah I know her. Sort of like, yeah.

13 Q Y'all have got no bad blood against each other?

14 A No.

15 Q Did you know that the funeral was that morning?

16 A Uh-huh.

17 Q You have to say yes or no for her, not for me. Just
18 for the record so she can take it down.

19 A Yes sir. Yes.

20 Q You don't have to say sir but just yes or no. Did
21 you know the aunt that had died?

22 A Yes, sir.

23 Q Were you planning on going?

24 A Yeah.

25 Q Okay and somebody in the family was going to give

1 you a ride right? You and Lyvonnia?

2 A Well I thought so.

3 Q I mean, Lawrence was going to give y'all a ride
4 wasn't he?

5 A She never told me that. I thought I was going to
6 ride with her. She never told me that.

7 Q But you know now that he was actually going to come
8 pick y'all up and take you to the funeral, is that
9 right?

10 A Yeah.

11 Q Just a few hours after this.

12 A Yeah.

13 Q Now in the hearing yesterday, you said it was about
14 ten minutes, excuse me, around twenty minutes it
15 took him, Mr. Cooley to get there from the phone
16 call and today you said ten minutes. Were you just
17 confused?

18 A I said twenty minutes?

19 Q I think you did. Did you know where they were?

20 A No, I didn't know where they was. I didn't know
21 where they was.

22 Mr. McFadden: I object to the use of any of the
23 defendant's testimony from the pretrial hearing that we
24 had.

25 The Court: He just testified when you asked him he

1 said ten minutes.

2 Mr. McFadden: Excuse me, I thought I heard -

3 Mr. Meadors: I did ask him if he testified
4 differently yesterday in the hearing under oath.

5 The Court: Okay.

6 Mr. McFadden: I have a specific objection to that.
7 It's limited to what he just testified to, I object to
8 that as well.

9 Mr. Meadors: Your Honor, I think I was entitled to
10 ask him if he's testified previously in a hearing.

11 The Court: I'll overrule the objection.

12 Q You didn't know where he was?

13 A No, not at the time, I didn't know.

14 Q And when you say at the time, you mean that night?

15 Or that morning, you didn't know where he was?

16 A Yeah. I didn't know where he was coming from.

17 Q Okay and after you knew that Ms. Copeland had
18 called, you went and got a knife right? I mean, did
19 you go get a knife?

20 A Yeah.

21 Q Okay and where did you get the knife from?

22 A It was in the kitchen.

23 Q And where was it in the kitchen?

24 A On the table.

25 Q I'm sorry?

1 A On the table.

2 Q And this was right after she made the phone call,
3 you went and got a knife, correct? And that's this
4 knife?

5 A Yes that is.

6 Q No question about this is the knife. State's 1.
7 And you put that in your pocket right?

8 A Yes sir.

9 Q Why did you put it in your pocket?

10 A I don't know because I just felt like, you know, he
11 come over there and harm me so. And I didn't feel
12 that leaving my own house, you know where I pay the
13 bills and stuff like that, you know so. I mean I
14 just put it in my pocket.

15 Q You never had any bad blood with him?

16 A No.

17 Q Never had any words with him?

18 A No.

19 Q It's like you said, you and --- I mean, y'all argue
20 a lot, you and Ms. Copeland or did you?

21 A Yeah.

22 Q And this was over music and just ...

23 A Yeah.

24 Q I can't remember what else you said. But it wasn't
25 over much right?

1 A No.

2 Q And she told him it ain't over much but it's just we
3 need to go to bed and get ready for the funeral
4 right?

5 A That what she told who?

6 Q That's what she told him.

7 A I ain't heard that.

8 Q But that's what the fight was, wasn't it? This
9 isn't funny is it?

10 A No, I'm saying I ain't never heard her say that.

11 Q But y'all weren't fighting about just the loud
12 music. Was she ready to go to bed?

13 A I don't know.

14 Q Was everybody drinking?

15 A Yeah, she was. She was drinking more than what I
16 was drinking.

17 Q Okay and what were you drinking?

18 A I had some, yeah.

19 Q How much did you have, if you don't mind me asking?

20 I ain't got anything against drinking. I'm just
21 asking.

22 A I had about a half, a half a pint.

23 Q But the fight wasn't that big of a deal?

24 A No.

25 Q And was Ms. Copeland trying to get ready for the

1 funeral?

2 A I didn't see her trying to get ready for no funeral.
3 Because I thought she, I think she had already got
4 ready earlier that day.

5 Q So you get the knife, you put it in your pocket, and
6 your intent when you had that knife in your pocket
7 was to what?

8 A It was to protect myself. My intent was not to hurt
9 nobody, kill nobody.

10 Q But you armed yourself before he was even at the
11 residence correct? Anticipating a fight?

12 A Yeah.

13 Q Is that fair to say?

14 A Yeah.

15 Q You were anticipating ...

16 A I know how he is. I know how they are.

17 Q You don't even know him. You met him twice at maybe
18 a function.

19 A I'm saying I know how her family are.

20 Q So you armed yourself for an altercation before he
21 got there? So you were anticipating, weren't you?

22 A I wouldn't say that. I wasn't, no.

23 Q Now, when Mr. Cooley pulled up, you said Ms. Mimi
24 was with him and Ms. Copeland's outside, correct?

25 A Yeah.

1 Q And you're coming around --- I wasn't sure when you
2 asked, Mr. McFadden, I'm really not clear. Clear me
3 up on this when he said you were leaving?

4 A Yeah, I was about to leave.

5 Q I'm sorry?

6 A Yeah. I was about to leave. Yeah, I was about to
7 leave the house.

8 Q So you were going to leave the house?

9 A Yeah and that's when he pulled up.

10 Q So why did you have the knife when you were leaving
11 the house?

12 A I was going to put the knife away.

13 Q But you were leaving the house and you had the knife
14 in your pocket.

15 A Yeah I was going - I was going back in the house to
16 put the knife up and then that's when he pulled up.

17 Q So you weren't leaving when he pulled up?

18 A Yeah, I was - no, I wasn't going to leave right then
19 and there, I was going back in the house to put the
20 knife up. Then I was going to leave.

21 Q And why were you going to put the knife back up?

22 A Because I thought, you know, I feel like I didn't
23 need it.

24 Q Why did you end up keeping the knife in your pocket?

25 A I don't know. I already had it when he pulled up

1 and it was still in my pocket before I got rid of
2 it. Why I couldn't put it up.

3 Q You said he looked kind of angry? Is that what you
4 told Mr. McFadden?

5 A Yeah.

6 Q And you told these ladies and gentlemen just a
7 minute ago the first push was like this? He pushed
8 you?

9 A Yeah.

10 Q Okay. You don't mind if I come close to you do you?

11 A No.

12 Q And when he pushed you like that what did you do?

13 A Nothing, I just backed up a little bit like kind of
14 pushed me back a little bit.

15 Q Did you say anything to him?

16 A Yeah, I tell him don't do that no more. Well, when
17 he did it, I tell him he need to check his cousin,
18 you know what I'm saying, don't push me no more man,
19 like that, you know, then he did it again.

20 Q How did he push you the second time?

21 A Pushed me hard the second time.

22 Q How?

23 A Like, I mean, you want me to demonstrate it on you?

24 Q Show me. Just put your hands out to show me.

25 A Yeah, like, like that right there (demonstrating).

- 1 Q Okay. And that was the second time?
- 2 A Yeah.
- 3 Q And you just backed up a little bit?
- 4 A No, I almost fall to the ground.
- 5 Q Almost fall to the ground?
- 6 A Yeah.
- 7 Q The first time you didn't fall to the ground?
- 8 A No.
- 9 Q And it's at that point where you stabbed him?
- 10 A Yeah.
- 11 Q Pushed like that, pushed like that. Show me how you
- 12 pulled the knife out.
- 13 A Just pulled it out my pocket and stabbed him
- 14 Q Show it to me.
- 15 A Like this.
- 16 Q Okay, well you knew --- that's your right hand you
- 17 used?
- 18 A Yeah.
- 19 Q You knew, that was your hand. I know that sounds
- 20 crazy but that was your hand right?
- 21 A Uh-huh (affirmative response).
- 22 Q And you knew when you were going in your pocket and
- 23 pulling that knife out right? I mean, you knew
- 24 that.
- 25 A I believe I did.

1 Q And then show me how you thrust it in him.

2 A I just, I didn't even did it hard. You know, it
3 wasn't even hard.

4 Q It went in him didn't it?

5 A Yeah. At the time, I didn't know where it went in
6 at, but yeah.

7 Q And you went and pushed it in his stomach, right?

8 A Yeah.

9 Q I mean, you knew you were doing that.

10 A I mean, not really. I didn't intend to do it, you
11 know what I'm saying. I didn't intend to do it
12 intentionally.

13 Q How did you intend to do it?

14 A I was intending to get him, you know, I didn't know
15 what he was going to do next, so.

16 Q Why didn't you say back off?

17 A I said that one time before already. I already told
18 him that one time before.

19 Q On your version, he just pushed you right? Pushed
20 you like that and you didn't fall back and the
21 second time you said you almost fell back but you
22 didn't fall down right?

23 A Yeah.

24 Q You weren't in danger of dying.

25 A I don't know what he was going to do after that. I

- 1 don't know.
- 2 Q Well, he didn't have a weapon on him.
- 3 A I didn't know that either.
- 4 Q Well you didn't see one.
- 5 A I didn't see one but I didn't know that.
- 6 Q So the first time, he pushed you back like that.
- 7 Second time he pushed you back a little harder. Do
- 8 you remember, and you said you don't know where you
- 9 stuck him?
- 10 A No, not at the time.
- 11 Q Did you remember testifying yesterday you knew you
- 12 stuck him in the stomach?
- 13 A Yeah because that's where he's wounded at right now.
- 14 But at the time, I didn't know where I stuck him at.
- 15 Q And do you remember telling --- well, on your
- 16 statement to Mr. DuBose, you said he pushed you, in
- 17 your words on May 7th, that he pushed you and he
- 18 knocked me down?
- 19 A Yeah.
- 20 Q The first time and you had to get up. You remember
- 21 that?
- 22 A Yeah.
- 23 Q Well that's not the same as you just told them
- 24 that's just doing that is it?
- 25 A Yeah.

1 Q It's not.

2 A I was kind of nervous then.

3 Q So then when you talked to him on May 7th, you said
4 he pushed you and you fell down. First you say
5 almost then you say I fell down and I had to get
6 back up and you said man, stop that. You remember?
7 And then you said he pushed me again real hard. You
8 remember that?

9 A Yeah.

10 Q When you told Mr. DuBose he pushed me real hard and
11 almost knocked the breath out of me I hit the ground
12 so hard.

13 A Yeah.

14 Q That's not what you just told them.

15 A Yeah, he did push me hard.

16 Q He didn't push you at all.

17 A Yeah, he did.

18 Mr. McFadden: Your Honor, I'm going to object.

19 The Court: I'll overrule.

20 Q So did he push you on the ground or did he not?

21 A I say he pushed me and the second time he push me
22 hard til I about hit the ground.

23 Q But you didn't hit the ground?

24 A No, I almost hit the ground.

25 Q And you still had the knife in your pocket?

- 1 A Yeah.
- 2 Q I mean, that's a pretty big knife. Sticking it out
3 of your pocket like - You got it in your pocket
4 like this?
- 5 A Yeah.
- 6 Q What kind of pants were you wearing?
- 7 A Jeans.
- 8 Q Alright, so is it sticking out a little bit?
- 9 A No, it was kind of, not like that. Not sticking out
10 like that..
- 11 Q So somebody could see it, right?
- 12 A Yeah he could see it ...
- 13 Q And he pushed you back the first time? Did you
14 reach for the knife then?
- 15 A No.
- 16 Q Pushed you back the second time?
- 17 A Yeah.
- 18 Q Today you're saying you didn't hit the ground
19 correct?
- 20 A Yeah, almost hit the ground.
- 21 Q And then when do you grab the knife after that?
- 22 A Soon as - when I was fixing to fall on the ground, I
23 got up a little bit then I hit him.
- 24 Q Just went straight at him? Well, on Mr. DuBose's
25 statement that's in evidence, I think it's State's

1 #4, I'm not sure, do you remember he asked you the
2 first time you fell, you said yeah. Second time you
3 said you fell, yeah, that's when you said you just
4 did what you had to do. But then he asked you again
5 well did y'all fight after that, after the second
6 time he pushed you down?

7 A No, we didn't fight.

8 Q You didn't?

9 A No.

10 Q But on the tape, on State's #4, you said well yeah
11 we did tussle a little bit after that.

12 A Yeah.

13 Q And then I stabbed him.

14 A That was when I was talking about when he pushed me.

15 Q Because that's not what you're saying on the tape.

16 A Yeah.

17 Q So did you come up right after the second time and
18 stab him or did you come up the second time and
19 tussle a little bit and then stabbed him?

20 A No, I just stabbed him.

21 Q So it wasn't a tussle the second time?

22 A No, it was like he pushed me and that's when I was
23 talking about the tussle.

24 Q Which push?

25 A The second.

- 1 Q There was a tussle after that?
- 2 A No, we didn't tussle.
- 3 Q Why did you leave?
- 4 A I panicked.
- 5 Q Mr. DuBose asked you that on your statement
- 6 initially said where'd you go, you had trouble
- 7 answering where you went to start with didn't you?
- 8 You couldn't remember where you went right after you
- 9 stabbed the man?
- 10 A No. I couldn't remember really nothing really that
- 11 night. It was dark and you know.
- 12 Q And where did you go?
- 13 A I went to my aunt house that night.
- 14 Q Did you call the police there?
- 15 A No.
- 16 Q Did you call them the next day?
- 17 A No.
- 18 Q And a matter of fact, DuBose and those came looking
- 19 for you at [REDACTED] shortly after that and you
- 20 fled out of the back of the house right?
- 21 A Yeah.
- 22 Q You knew they were there for you and you left?
- 23 A Yeah.
- 24 Q And there was a BOLO out for you and been on the
- 25 news that folks were looking for you for this

1 incident. You knew you were wanted.

2 A Yeah.

3 Q And you didn't turn yourself in.

4 A No.

5 Q You didn't call the police and said look I was in a
6 fight, I had to do it.

7 A No sir.

8 Q Matter of fact, when you talked to DuBose when they
9 had gotten you, arrested you, you said well I was
10 fixing to turn myself in today right?

11 A Yeah.

12 Q Right. And then Investigator DuBose treated you
13 fairly didn't he? I mean he was a - y'all - he was
14 a gentleman. I mean, y'all were nice to each other
15 right?

16 A Yeah.

17 Q He didn't threaten you or coerce you?

18 A No.

19 Q And that's him back there in the middle right?

20 A Yeah.

21 Q Did you feel disrespected when Ms. Copeland had
22 called Lawrence to come over? Did that make you
23 mad?

24 A No, that didn't make me mad. Because like I said, I
25 was going to leave, you know, and that's when he

1 came, you know, came over.

2 Q And let me ask you this. You could've left, couldn't
3 you?

4 A Yeah, yeah.

5 Q You could've left at any time.

6 A Yeah.

7 Q You could've left when you saw Mr. Cooley come up
8 right?

9 A Yeah.

10 Q You were outside and you could've left.

11 A Yeah.

12 Q Because you were actually the one that approached
13 him weren't you?

14 A Yes, we met each other.

15 Q But you could've gone the other way, you came toward
16 him.

17 A Yeah.

18 Q And you were armed with this knife.

19 A Yeah.

20 Q You knew you were armed with the knife.

21 A Yeah.

22 Q No way in heck Mr. Cooley knew you were armed with a
23 knife. Right?

24 A Yeah.

25 Q So that helped you approach him didn't it? Made you

1 more comfortable approaching him knowing that you
2 were armed?

3 A No. Because like I said, I didn't intended to do -
4 I didn't intended to kill nobody because I'm not a
5 violent person. You know what I'm saying, I didn't
6 intend to do none of that.

7 Q Well you know sticking a knife in somebody's gut can
8 kill them. I mean, you know he's lucky to be alive?
9 I mean, do you know that? Do you know if you stick
10 a knife in somebody's gut, they could die? Don't
11 you know that?

12 A Yes sir.

13 Q I mean, that's common sense, isn't it?

14 A Yes sir.

15 Q You were mad and you were going to show him that he
16 wasn't going to come there and tell you how to act
17 in your house right? Wasn't it that simple?

18 A Not like that. You know, I wasn't thinking like
19 that. I just didn't want him to hurt me, that's
20 all.

21 Q And is this Mr. Cooley back here, just for the
22 record, the person you stabbed?

23 A Yeah, that's him.

24 Mr. Meadors: Beg the court's indulgence.
25

1 Q You don't have the key to the house. I think you
2 told us yesterday, right?

3 A No.

4 Q Mr. Hodge, under the rules when folks take to the
5 stand, there's certain things that anybody's allowed
6 to ask if they're appropriate. You understand that?

7 A Uh-huh (affirmative response).

8 Q Do you have April 9th, 2000 conviction of possession
9 of a stolen vehicle?

10 A Yeah.

11 Mr. McFadden: Objection Your Honor.

12 Q In April ...

13 Mr. McFadden: Based on the previous ruling on your
14 motion. May we approach?

15 The Court: Yes sir.

16 (Counsel approaches without court reporter)

17 Mr. McFadden: Your Honor, I withdraw that objection.

18 The Court: Okay.

19 Q On April 9th, 2007 conviction for possession of a
20 stolen vehicle?

21 A Yes sir.

22 Q On April 9th, 2007 conviction for breaking into an
23 automobile?

24 A Yeah.

25 Q April 9th, 2007 conviction for strong-arm robbery?

1 Q And April 9th, 2007 conviction for attempted robbery?

2 A Yeah. April, you said April what?

3 Q Attempted robbery.

4 A April of when?

5 Q April 9th.

6 A 2007?

7 Q Yes sir.

8 A Yeah.

9 Q And do you have a February 12th, 2013 conviction for
10 giving false information to police officers?

11 A Yeah.

12 Mr. Meadors: Beg the Court indulgence. Thank you
13 Mr. Hodge. That's all.

14 The Court: You can come down. Do you have any
15 questions for the witness?

16 Mr. McFadden: Your Honor, just a brief redirect.

17 The Court: Okay. Oh, come back up, I'm sorry. Your
18 lawyer wants to ask you a few more questions.

19 **MR. HODGE REDIRECT BY MR. MCFADDEN:**

20 Q Jermaine, the solicitor asked you about a couple of
21 convictions that you had.

22 A Yeah.

23 Q These took place back in 2007. Is that right?

24 A Yeah.

25 Q Okay and then one in 2013?

1 A Yeah.

2 Q I just want to ask you do those have any --- regards
3 to that false information, could you explain, just
4 give us a little context?

5 Mr. Meadors: Your Honor, I don't think he can go
6 into detail no more than I can explaining the --- I don't
7 think I'm allowed to.

8 Q Let me just ask you a couple of bottom line things
9 about what was mentioned to you about April 21st
10 here. Just to what was addressed on cross
11 examination. You were asked if you knew you could
12 have left that night.

13 A Yeah.

14 Q Where were you living on April 20th and 21st?

15 A I was living there with Ms. Lyvonnia.

16 Q Okay. And Mr. Cooley, did you call him over there
17 that night?

18 A No.

19 Q Did you drive over to see him?

20 A No.

21 Q Okay. He came there to where you live?

22 A Yeah.

23 Q Did you want to fight him?

24 A No.

25 Mr. McFadden: Thank you Jermaine. Your Honor, I

1 have nothing further.

2 The Court: Okay. You can step down.

3 Mr. McFadden: Your Honor at this time, the defense
4 rests.

5 The Court: Okay. The State have any reply?

6 Mr. Meadors: No sir.

7 The Court: Alright ladies and gentlemen, I need to
8 send you to the jury room for just a few minutes. I need
9 you, while you're there, to select a foreperson. The
10 foreman - foreperson has no greater vote than anyone else
11 they simply reside over the deliberations in this case.
12 They sign the verdict form and it needs to be one of the
13 original twelve of you. So if you'd do that and when you
14 select one, if you'd knock on the door and tell the
15 bailiff. I'll get you back out in a few minutes and
16 we'll conclude this case. Okay?

17 (Jury exits courtroom)

18 The Court: Okay. What about the charge issue?

19 Mr. McFadden: Your Honor, I'd ask in light of
20 Jermaine's testimony the same exact charge I requested.

21 The Court: What's the State position

22 Mr. Meadors: I still don't think anything came out
23 about him being in fear of his life or that he felt his
24 life was threatened at all.

25 Mr. McFadden: Your Honor, he doesn't have to use the

1 Mr. McFadden: True, Your Honor, but we would submit
2 there was initial force used and then another advance by
3 the alleged victim. The jury could potentially find that
4 he acted the way de did because that threat could have
5 escalated.

6 The Court: I don't know. I'll think about that.
7 Everybody said it happened so fast. All right. Anything
8 else?

9 Mr. Meadors: Your Honor, I would love to waive
10 opening on the law to save time.

11 The Court: All right.

12 Mr. McFadden: Your Honor, for the record, I don't
13 know if I've reviewed my directed verdict motion, if I
14 haven't ...

15 The Court: I don't think you have but I respectfully
16 deny your motion. I think there's sufficient evidence in
17 this record to go to the jury.

18 Mr. McFadden: Yes, sir.

19 The Court: All right. Are we ready for the jury?
20 Do you all want to look at the verdict form?

21 Mr. McFadden: Yes, sir.

22 The Court: You can each have a copy.

23 Mr. McFadden: We can have these, Your Honor?

24 The Court: Huh?

25 Mr. McFadden: You said these are for us?

1 The Court: Yes, you can have them. Okay. Are we
2 ready for the jury?

3 Mr. Meadors: Yes, sir.

4 (Jury enters courtroom)

5 The Court: Okay, Ladies and Gentlemen. You have
6 heard all the evidence you are going to hear in this
7 case. Now, if you'll pay attention to the attorneys they
8 will present you their closing argument. I will charge
9 you on the law and give you this case to decide. Mr.
10 McFadden.

11 Mr. McFadden: Thank you, Your Honor, may it please
12 the court. Good afternoon Ladies and Gentlemen. We've
13 reached the end of this case and I would like to begin
14 closing by mentioning some of what I said at the very
15 beginning. Mentioning y'all's role today. Highlighting
16 where we are. You've heard all the evidence in this
17 case. There's the defendant, there's the State
18 prosecutor, there's the alleged victim. It's important
19 to note that we're in criminal court. We are in general
20 sessions court obviously but my point is that there's a
21 whole other type of court, civil common pleas. The
22 alleged victim in this case, Mr. Cooley clearly it is
23 alleged that he received injury at the hands of my client
24 Mr. Hodge. There could potentially be a day in the
25 future where Mr. Cooley seeks to have Mr. Hodge repay him

1 for any kind of injuries, any kind of damages. He mention
2 surgeries, medical bills associated with that. My point
3 is that there is a forum for disputes between two people,
4 civil court. The plaintiff sues the defendant.
5 Defendant you are responsible for causing me, the
6 Plaintiff harm. There's a venue for disputes between two
7 people. It's the court of common pleas. Same court room
8 just different kinds of court. Folks, there are
9 different issues in those type cases, different forms of
10 proof. Different forms of remedies that are available.
11 My point in that that could occur, could have already
12 occurred, it is totally unrelated. Mr. Cooley could seek
13 redress for his alleged injuries against Mr. Hodge,
14 personally, personally, personally. Folks, today is not
15 that day. Today in this court what your tasked with
16 deciding is whether or not the defendant Mr. Jermaine
17 Hodge committed an offense against the State of South
18 Carolina. Specifically, whether or not he admitted the
19 offense of Attempted Murder and possession of a weapon.

20 I mentioned the burden of proof being different. I
21 think it's helpful to just touch on both to see how much
22 different these two types of --- in civil court the
23 plaintiff is required to prove their case by the
24 preponderance of the evidence. The greater weight of the
25 evidence that supports their side so the jury and the

1 judge ---. But in here, today in general session,
2 because what's at state a criminal conviction being
3 sought, because the state is directing their power
4 against one individual to be guilty of committing a
5 criminal offense, the burden is a lot higher. Something
6 we've already touched on, you're going to hear it several
7 more times. That's proof beyond a reasonable doubt. Upon
8 hearing the law in this case, the judge will decide
9 whether or not the evidence that you've heard over the
10 past day and a half satisfies that standard.

11 The judge is going to instruct you about beyond
12 reasonable doubt and again as I mentioned presumption of
13 innocence. That is not just a phrase, it's not just a
14 legal theory it's a substantial right to anyone who is
15 charged with a crime is entitled to and that absolutely,
16 Mr. Hodge is entitled to it. He is innocent until proven
17 guilty of evidence beyond a reasonable doubt. So, what's
18 a reasonable doubt? That is a great question that you
19 will decide right now. You will be instructed on and
20 determine whether or not it exist in this case. Now, I
21 can't tell you exactly what the law defines it as, I will
22 leave that to the judge. I will suggest to you what the
23 defense thinks reasonable doubt consist of. I submit to
24 you ladies and gentlemen that reasonable doubt is having
25 three stories, three witnesses. You heard three of the

1 state's witnesses and to considerate the amount of
2 uncertainty it brings in this court.

3 We heard from Mr. Cooley, the alleged victim in this
4 case. In the opening, in the State's opening, it was
5 mention that Ms. Copeland, one of the witnesses that we
6 heard, called Mr. Cooley and asked him to please come
7 over to her home at [REDACTED] on the night of April 20.
8 Mr. Cooley took the stand and said something similar that
9 he received a very pleasant, not strongly worded request
10 to come on over there that night. There was some kind of
11 verbal dispute going on and his presence was requested.
12 He mentioned to you that he got a call when he was in
13 Lynchburg with his family and as a result of that call he
14 drove twenty, twenty-five minutes, estimate, back here to
15 Sumter to [REDACTED]. In spite of what Ms. Copeland said
16 that she had called him later and said never mind. The
17 call was made and he decided to go over there. Your duty
18 today, part of it, will be to determine what was his
19 intent then? That's a question of fact for you to
20 decide. We would submit that his intent in receiving
21 that call was to go over there and confront Mr. Hodge.
22 Now, he explained to you on the stand that his intent was
23 to tell them to calm down and get some rest. I submit to
24 you that that doesn't really make sense that you drive
25 twenty-five minutes, over twenty-five minutes away over to

1 your cousins house to pick up the phone after an argument
2 requesting you to come over after midnight to tell them
3 to get some rest and get a goodnight sleep. I submit to
4 you that that does not make sense and that was not his
5 intent going over there.

6 He told you when he got to the house there was no
7 fighting or yelling. He gets out and talks to his cousin
8 who is out there. The defendant walks up from around the
9 house. He mentions he encounters the defendant, in his
10 words, between contact and the alleged ultimate stabbing.
11 He told you all he said was what's up. What's up. Then
12 he was stabbed. No harsh words, no bad blood, no pushing
13 and shoving. He didn't confront him. He had driven all
14 the way over there just to tell him to calm down and get
15 some rest for an early morning. What's up. That was it.
16 Then out of the blue he struck him. That doesn't make
17 common sense, folks. I submit to you what actually
18 happened is that big cousin came over to settle the
19 dispute. To intervene and stick up for little cousin who
20 was having problems with her boyfriend. When I say big
21 cousin, you heard some testimony here today from multiple
22 witnesses, he's a bigger guy and specifically how big was
23 he at the date and time of this incident? Approximately,
24 I think, the testimony will be over 6 feet, over two
25 hundred pounds. He's six, one of two, he's about 240

1 pounds, that was his estimate. That's a big guy. What's
2 up. Then out of the blue. Folks, it doesn't make sense.
3 In order to, I guess, and some clarity or corroboration
4 the next witness you heard from was Ms. Lyvonnia Copeland
5 and I would submit that if Mr. Cooley's testimony was
6 maybe a bit of strain on common sense then Ms. Copeland's
7 totally was beyond weak. Just from what she told you.
8 She, on cross examination, told you from the witness
9 stand that she was outside with her cousin mere feet away
10 from him from the whole time he got there until she rode
11 with him in the car to the hospital but that she did not
12 see the stabbing. Was it a throwing knife. It
13 certainly, the one we've presented doesn't look like
14 that. That's clearly not what other witnesses have
15 mentioned. How did she not see it. I would submit to you
16 that Ms. Copeland, for the purposes of this trial today,
17 is kind of between a rock and a hard place. She called
18 her cousin to come over there to lay down the law, to
19 settle the dispute that was going on and he gets there
20 and something happens between her boyfriend and him.
21 She's kind of stuck in the middle between a family member
22 and a loved one. So, now, whose side here is she going
23 to take. How that was resolved and what was actually
24 produced on the witness stand I will submit was
25 internally inconsistent. It just didn't make sense. It

1 wasn't helpful.

2 Finally, folks, you heard from Ms. Meme Johnson.
3 Another Copeland, Cooley family member. All three of
4 those witnesses are the Cooley/Copeland clan. Ms.
5 Johnson in large part confirmed some of the earlier
6 testimony you heard from Mr. Cooley, specifically. Ms.
7 Copeland, I submit there was some things uncertainty
8 about what she perceived or what she perceived. She
9 largely confirmed his testimony though. She arrived with
10 him. Just out of the blue comes up Mr. Hodge, she said
11 there wasn't just what's up, that they dabbed and then
12 right off the bat here comes the knife. What I would
13 submit to you folks that what is significant about her
14 testimony is not the similarity between her and Mr.
15 Cooley's but what she said on cross examination that
16 today is the first time, since this event occurred over a
17 year ago, that she shared with law enforcement, I believe
18 a law enforcement witness mentioned that, they never even
19 seen her before today, but she strolls in ready to
20 confirm some testimony. She told you that she hadn't
21 talked with her family about this. Ms. Copeland, Mr.
22 Cooley, since this happened. An event that, in her
23 words, was shocking. She hadn't talked about that with
24 her family over a year between then and now. Never
25 talked to law enforcement about it until today in the

1 court room. Folks, I submit, that the Cooley/Copeland
2 family clan has gathered together and they have had ample
3 time to talk about what happened that night. To talk
4 about what kind of presentation to give. They are
5 family.

6 Folks, we heard from some law enforcement witnesses
7 just explaining how the investigation went and how Mr.
8 Hodge was eventually located. Yes, he was not, he did
9 not stay at the scene. He told you he panicked. He did
10 not stick around like he should have but he did chose to
11 take the stand today and tell you what happened. Folks,
12 I would submit in large part it matched up with exactly
13 what he told Investigator DuBose sitting in his truck on
14 May 7th. And I would submit that it is the more plausible
15 story, more plausible theory of events. It just makes
16 more sense as to what happened. He is arguing with his
17 girlfriend. It's about something insignificant. Music
18 playing in the bedroom. It's late at night, he mentioned
19 there was some alcohol being drink, the emotions were
20 high mixed with this tension of this death in the family.
21 So, it reaches a point where Ms. Copeland decides to put
22 her foot down, I'm calling big cousin. And he told you
23 what he heard her say. He's coming over here to beat
24 your ass. He doesn't hear the remainder of the
25 conversation then about twenty-five minutes later Mr.

1 Cooley shows up and the rest unfolded as Mr. Hodge
2 explained it. He got out of the car, was confronted, was
3 pushed. He said don't do that, again he was pushed
4 harder and he responded.

5 Folks, he told you he didn't want to hurt, he had no
6 bad blood. He had seen him probably a time before, he
7 didn't know.. He didn't call him. He didn't drive over
8 to Mr. Cooley's house. This guy showed up over there and
9 confronted him and he was forced to respond. No, he
10 didn't want to do it. Yes, he was panicked afterwards,
11 realizing what happened. Folks, I submit that nothing
12 that was has been presented today supports what's
13 required underneath this charge that Mr. Hodge had a
14 specific intent to kill. Now, folks, I'm going to leave
15 the knife in the box. I suspect y'all are going to see it
16 here very shortly when you go back to reach your verdict.
17 I will submit to each and every one of you that if you
18 wanted to kill someone with that knife, you could kill
19 them. It's by no means a pocket knife and that how the
20 injury actually occurred or how it was alleged to have
21 occurred, just doesn't support a factual theory
22 suggesting that there was a motive intent to kill and him
23 getting the knife and putting it in his pocket suggest
24 lying in wait, premeditated. I would submit that Mr.
25 Hodge was acting based on what he heard. What he

1 perceived that evening.

2 Now, folks the judge is going to charge the law on
3 self defense. Mr. Hodge on one his statements mentioned
4 those words self defense. Everybody has heard that
5 phrase. But like the remainder of those reasons we've
6 talked about, there is a lot more to it then just those
7 two words. The judge will charge you on the law. But,
8 to preview it. The State will be charged in this case
9 with disproving self defense beyond a reasonable doubt.
10 They have to prove today that he wasn't acting in self
11 defense beyond a reasonable doubt. There are factors to
12 apply elements all of which the judge will instruct you
13 on and it will be your duty to make that determination.
14 Folks, I submit they haven't shown you today, they
15 haven't demonstrated beyond a reasonable doubt that he
16 wasn't acting in self defense much less that he had an
17 intent to kill. A specific intent to kill which is
18 required by the law he's charged under. It's just not
19 there.

20 Now, just to briefly address the second charge.
21 Possession of a weapon during a violent crime. You will
22 be charged on the law with that as well. You'll here that
23 it follows murder. That's where the emphasis really is we
24 would suggest in this case. Now, once you've heard from
25 the State, heard from the judge, you'll be released to

1 deliberate the case. Deliberation is the critical step
2 in this process. And, the only thing I would suggest
3 folks is that you are required to return an unanimous
4 verdict but I submit no one is going to tell you that
5 each and every one of you doesn't have the right to your
6 own opinion. Each and every one of you must individually
7 be convinced of the Defendant's guilt beyond a reasonable
8 doubt. No one is going to tell you that you have to
9 abandon your firmly held beliefs just to be in agreement.

10
11 Folks, I submit ultimately after reviewing all the
12 testimony and deliberating, after applying the law as the
13 judge instructs, the facts as we've heard that you will
14 return a verdict of not guilty on the charge of attempted
15 murder and possession of a weapon during a violent crime.
16 Thank you.

17 **Closing by Mr. Meadors:**

18 Mr. Meadors: May it please the Court?

19 The Court: Yes, sir.

20 Mr. Meadors: Mr. McFadden. Mr. Foreman, Ladies and
21 Gentlemen of the jury, good afternoon.

22 Jurors: Good afternoon.

23 Mr. Meadors: I first and foremost want to thank you
24 all for being here. Being a juror is not a easy job but
25 without you the whole system will collapse and I mean

1 that. Thank you. I'm not a jury watcher. I don't sit
2 over here and stare at you but the times I've looked over
3 I have seen you paying attention and listening and that's
4 all we can ask. I ask you to continue listening to me,
5 listen to His Honor as he gives the charge on the law and
6 make notice of each other when you go in the jury room
7 because that is when you will be able to talk about the
8 facts of what you each believe them to be.

9 I've got to go over the law first. Again, His Honor
10 is the law. The Defendant is charged with attempted
11 murder. An attempt is an intent to commit a crime and
12 taken a step in that direction of attempted murder.
13 We've got to show that a murder, that there was an
14 attempt to kill. We've got to show for an attempted
15 murder that there was a malicious killing. Like, His
16 Honor, will tell you, maliciousness is a meanness, a
17 weakness, an evilness, a spitefulness one person shows
18 another. It can be expressed or it can be inferred. Now,
19 this is important. Expressed malice can be I'm going to
20 kill you. We don't have premeditation. You don't have
21 to plan something in advance. You don't have to. But
22 one way of showing expressed malice is not only someone
23 saying I'm going to kill him. He even mentioned in his
24 closing a little, he's laying in wait. That is one way
25 to show expressed malice. You don't have to have it.

1 You can show it in several different ways. I submit
2 that's here. Y'all will decide. The Defendant knew he
3 was coming. He said ten minutes one time, twenty minutes
4 the next. And, as soon as he heard Ms. Copeland get off
5 the phone, he went physically into the kitchen, got a
6 knife and put it in his pocket. He was preparing for a
7 battle right then. Before Mr. Cooley was anywhere near
8 [REDACTED], he made up his mind right then there is going
9 to be trouble. He did. Then he put it in his pocket.
10 That is an example of expressed malice if y'all want it
11 to be. We submit that's in the evidence. There are other
12 ways for malice, not just expressed, inferred. You can
13 infer from a malignant heart, total disregard for the
14 life of another. He says, oh, I didn't mean to do it.
15 That doesn't mean there wasn't any intent just because he
16 says he didn't mean to do it. Remember when I asked him,
17 you remember pulling your hand out, you remember pulling
18 the knife out, you remember thrusting it in there. A
19 malignant heart, total disregard for whether he kills him
20 or not. That's an example of malice. It doesn't care if
21 he dies or not. I'm going to stick this knife in you.
22 That's an example of inferred malice. I could care if he
23 lives or dies. I asked him you know that could kill
24 somebody. I know. That's common sense isn't it? That's
25 common sense. He doesn't care whether he killed him or

1 not. That's a malignant heart is an example of malice if
2 y'all want it to be. Another way to insure malice is the
3 use of a deadly weapon. I can argue that in this case.
4 That is a deadly weapon, that knife which I will bring
5 out. They keep saying alleged victim. Is there any
6 alleged victim about his injury. There's no alleged
7 victim, he's the victim. And I don't understand the
8 civil court. I've never heard it before in my life.
9 That's a smoke screen. He hasn't sued anybody, he's not
10 going to sue anybody, this is his day in court. That's a
11 smoke screen, I don't know why he brought that up. This
12 is criminal court. When you stab somebody in the gut,
13 and you try to kill him you come in general court,
14 general sessions, you come in front of a jury and the
15 State representing the people of Sumter and the State of
16 South Carolina and the victim, present evidence to you
17 and y'all decide is this a criminal act or not. Civil has
18 nothing to do with --- I don't know why he's trying to
19 get y'all's attention to that it's absurd.

20 Mr. McFadden: Your Honor, I hate to object.
21 Offering his personal opinion as to the validity of my
22 argument.

23 Mr. Meadors: I couldn't help myself.

24 The Court: I'll overruled your objection. You go
25 ahead Mr. Meadors.

1 Mr. Meadors: That has nothing to do this case and
2 there is not civil case and he was trying to imply there
3 might be or there would be. There isn't. So, that's what
4 he's been indicted for, attempted murder. You've heard
5 defense counsel say you're not going to convict him of
6 attempted murder. I submit you are based on the
7 evidence, but that's your decision. You're going to have
8 the opportunity to consider what are called lesser
9 included offenses under the law. The State believes that
10 the evidence does not show any of these as attempted
11 murder. Let me be clear. But for me to show y'all and
12 tell you everything, the judge is going to charge you on
13 what's called assault and battery of a high and
14 aggravated nature. Unlawfully injuring another person
15 and great bodily injury results. No question that
16 happened. Oh, there's no question that happened. We
17 submit that's what they want you to come back with the
18 lesser included. That's a conviction without malice.
19 That's really the difference. Is this malicious, is this
20 wicked, don't care if he lives or dies, the State will
21 submit it is. But you'll have the right to also consider
22 a lesser included offense of assault and battery of a
23 high and aggravated nature. Was there an injury, was
24 there great bodily injury. That's up to y'all. And,
25 then, finally, I believe the judge will charge, the

1 greatly bodily injury result, is what you'll have to find
2 for that. Unlawfully injuring another person and great
3 bodily injury resulted. You'll also be able to consider
4 assault and battery in the first degree is a lesser
5 included offense. I'm asking you not to do it. I almost
6 want to tell you find him not guilty if you're going to
7 do that. But you'll have a right to consider it. His
8 Judge will tell you unlawfully injuring of another person
9 in the act, offering or attempting to injure another
10 person with the present ability to do so and the act is
11 accomplished by means likely to do produce death or
12 bodily injury. It doesn't even make sense to me. I know
13 he's got to charge it, it's the law. It is the law. It
14 has to be charged. I think it needs to be rewritten.
15 Injury did occur. That's why we submit A&B first doesn't
16 apply. A&B, assault and battery of a high and aggravated
17 nature doesn't apply because there is malice here, but
18 that's you all's decision. That's y'all's decision.
19 That's y'all's decision. We'll submit there's only one,
20 but there's nothing we submit that is reasonable under
21 the circumstances and the facts except assault and
22 battery of a high and aggravated nature. Attempted
23 murder, assault and batter of a high and aggravated
24 nature. It's up to y'all.

25 Now, you'll also be charged on self defense. You

1 can't find any four legged chairs anymore --- you'll also
2 be charged on the defense of self defense. And we have
3 to disprove self defense beyond a reasonable doubt. The
4 state has to prove him guilty beyond a reasonable doubt.
5 Part of that means we have disprove self defense beyond a
6 reasonable doubt. There are four prongs and if any one of
7 them doesn't exist in the evidence, it's gone. We've
8 disproved it beyond a reasonable doubt. All four
9 elements have to be present for self defense to apply.

10 The first is the Defendant must be without fault for
11 bringing on the difficulty. Kind of common sense. The
12 defendant must be without fault in bringing on the ---
13 You've got two invited guest folks. We've got two invited
14 guest at this house. He stays here some. He doesn't
15 have a key. He's over there sometimes, but he's invited.
16 Mr. Cooley is invited. Kind of common sense. The
17 Defendant must be without fault in bringing on the ABWIK
18 You've got two invited guest to come on over. Mr. Cooley
19 is coming over and we'll talk about him in a minute. But
20 it comes down to credibility and believability in this
21 case more than any case that I have tried. But, Mr.
22 Cooley has as much right to be there as the defendant
23 was. He's coming over there, and yes he's come down from
24 New Jersey with his cousin and rented a car. Gets a call
25 and the funeral is just six hours away and he says I'm

1 coming over and says y'all it ain't the time to be
2 thinking about yourselves. It's the time to be thinking
3 about your aunt, our aunt. To love each other as family
4 should be doing. That's why I went over there when she
5 called. That was his purpose. And you watched his
6 demeanor and his expressions, the way his face moved, his
7 body language, you tell me you can't tell who was
8 credible and believable in this trial? So, I say all
9 that, a little long windy perhaps, I'm sorry, to say I
10 don't even think the first prone is there. Without fault
11 in brining on the difficulty. He's just coming over there
12 to see what's going on. At that point, he arms himself.
13 He arms himself with his knife. He's decided, I
14 guarantee you there's going to be difficulty. I don't
15 know why he's coming over here. He doesn't want his
16 girlfriend calling her cousin over to come and tend in
17 their business. I understand that, but you don't take
18 that just shoving a knife in somebody's gut without
19 fault. I submit that's not even there, but let's move
20 on. The defendant must believe that he's in danger of
21 losing his life or suffering serious bodily injury.
22 That's the second one. Well, folks, in acts of the law,
23 says he must actually believe he was in imminent danger,
24 like right then of losing his life or sustaining serious
25 bodily injury. That's the second prone. That's not

1 there. It is not there. You've heard me ask him on the
2 stand earlier, you weren't afraid of dying or being
3 killed? No. On the tape and I'm going to play that in a
4 little bit, he says well, I was kind of intimidated.
5 Then one other time he said he might have had an angry
6 look. There's no evidence in this record that he was in
7 imminent danger of losing his life or suffering serious
8 bodily injury where it would allow him to case the fatal
9 blow. It's not there. His own words tell you, what are
10 you doing, he pushed me, he pushed me. He couldn't get
11 that story straight. There was no evidence he was in fear of
12 suffering seriously bodily injury of death. That chairs
13 on the ground. If either one of there is not there, the
14 chair falls, self defense falls. I submit to you it's
15 already gone but let's go on. The third is if he wasn't
16 in actual danger of suffering seriously bodily injury or
17 death, then the third says a reasonable person in this
18 same position would believe that they were in danger of
19 suffering serious bodily injury or death where they would
20 feel it was appropriate to cast the fatal blow.
21 Reasonable person wouldn't have got a knife. A
22 reasonable person wouldn't have gone out there and
23 comforted him because he wasn't comforting him. A
24 reasonable person would have gone away, wouldn't have
25 even had a confrontation. But, a reasonable person

1 surely wouldn't have felt, based on these facts, that
2 they were in danger of suffering serious bodily injury or
3 death. A reasonable person might have called the police,
4 this guy is coming over her. Look get out of here, we've
5 got it worked out. He would not have got a knife in hide
6 waiting for him to get him. And, finally, he's got a
7 duty to retreat. If he wouldn't increase any harm to
8 him, he's got a duty to retreat. We shouldn't get to
9 four. I don't think you get past one. You clearly don't
10 get past two. I think we've proven beyond a reasonable
11 doubt, this is not a self defense case. He's the one
12 entitled to self defense, that man right there. Duty to
13 retreat. And he even said and I asked him, Mr. Hodge
14 couldn't you have just walked way. Couldn't you have
15 just left, yeah. He said I actually was leaving. I
16 actually was leaving. I was leaving. Well, why didn't
17 you leave. Well, I saw him come up. I saw him come up
18 so I decided not to leave. He became the aggressor and
19 he started approaching him, why because he had a knife on
20 him. He could have retreated if he thought there was a
21 danger. There wasn't any imminent threat of serious
22 bodily injury or death. So, we submit to you there is no
23 self defense. If y'all find that, y'all have a right to
24 do it. We submit it is not in the record. Respectfully
25 we submit it.

1 Beyond a reasonable doubt. Beyond a doubt that
2 makes reasonable folks hesitate to act. Y'all understand
3 it as much as I do. We submit there is no reasonable
4 doubt in this case as to attempted murder, but that's up
5 to you. Folks, it's a funereal. Lawrence Cooley is
6 coming down to Sumter on April 20th to get ready for his
7 aunt's funeral. He's come down here to mourn, he's come
8 to mourn with his loved ones that have died, you know how
9 that is. He's come down to love, to be with his family,
10 hug each other, love each other. He comes down with four
11 cousins from New Jersey, rents a car, comes to Sumter,
12 they decide we want to get out of the house. They go to
13 Lynchburg, cooking, fellow shipping, being together,
14 loving each other. Afternoon becomes evening and evening
15 becomes early morning. He gets a call from Ms. Copeland.
16 There's arguing. Music. She asked him to come over. She
17 asked him come on over, will you help me. Now, what does
18 he say. I've got four other cousins. If I wanted to
19 bring them and come over and look for trouble, I promise
20 you, I would have done that. That's what I would have
21 done if I had wanted trouble. I didn't, I come over in
22 flip flops and shorts or whatever he was wearing. And he
23 gets Meme because he doesn't know how to get there. Meme
24 goes with him and they start coming to Sumter while he's
25 already got the knife before they get in the car, I

1 submit to you. He's coming, what we going to do. I was
2 coming. You know what, he's not on trial, Ms. Copeland
3 is not on trial, Ms. Johnson is not on trial, that's what
4 the defense attorney is trying to do, try to put them on
5 trial. They are not on trial. They came to tell you
6 what they observed and saw. So, he's in his car with Ms.
7 Johnson and he's coming over. I ask you, what were you
8 going to do. I was coming to tell them this is the
9 funeral, there ain't no time to fuss and fight. This is
10 what I was coming over here to tell them. I think it was
11 on cross and I'll slow down talking, I'm sorry. Mr.
12 McFadden was saying, well, what was your intention.
13 What were you going to do? Where you coming over
14 looking? You remember when Lawrence was saying no, it
15 wasn't like that. It wasn't like that. You were coming
16 over to hurt him? No, it wasn't like that. That's when
17 he said if I wanted trouble I would have brought my
18 cousins with me. He wasn't like that. Then he said,
19 remember if he had done something like that yeah, maybe
20 but that's not why I came over here. That's not why I
21 came over here. And you're judging his credibility and
22 the credibility of other witnesses against the
23 defendant's credibility, which I will get to in a many
24 and I can argue that.

25 So, they get to the house, they pull up at the

1 driveway and what does Mr. Cooley tell you. They have
2 some sort of greeting. Now, there's a little
3 inconsistent about Mr. Cooley, Mr. Copeland, Ms. Johnson,
4 but I submit to you that's real. If it came in here and
5 it was all exactly the same I'd submit to you that's when
6 you should worry. Little consistent. You know what if
7 everything is too tight, together, that's when you should
8 worry. Well, it's not. A little inconsistent here and
9 there, yeah. It's over a year ago. Ms. Copeland, I
10 think she said she had two pints of gin I think. They
11 have been drinking over there. He said he was drinking.
12 He said he didn't have that much, but they had all been
13 drinking. Lawrence comes over with Ms. Johnson. He says
14 he gets out of his car. He says what's up, whatever
15 greeting they had. He said he comes over to him, he kind
16 of steps back and then he stabs him. You almost don't
17 want to believe it was that way but it was. He just
18 stabbed you? Yeah, did you tell him that night in the
19 hospital, yeah, I got there, what's up. I don't know the
20 exact words, what all was said but there weren't any
21 physical confrontation, there wasn't any argument, what's
22 up. He's had his knife for at least ten to twenty
23 minutes. He's ready to roll. He meets him. He comes
24 toward him. He comes toward Lawrence, think about that.
25 He's walking towards Lawrence. What you doing over here.

1 And Lawrence says they have a greeting and then he stabs
2 me. He takes a step back and then he says he stabbed me
3 cuz. Somebody else said he stabbed me and used another
4 word. But he stabbed him. What did Ms. Copeland say. He
5 got there. It wasn't long, what happened. I couldn't see
6 exactly but he was stabbed and he was right there. The
7 main stories never changes. And what did Ms. Johnson
8 say, he admitted Ms. Johnson was there. He knows Ms.
9 Johnson. Not my fault or the State's fault nobody knew
10 about her before, but he knew he was there. What does
11 Ms. Johnson say, she's in the car looking right aside the
12 driver's window, what happens, well she says they gave
13 each other a dap. I know what dap is, but I've got to
14 show you. Showing you how they did that. They have a
15 greeting maybe a little bit different then what is
16 before. That's not important. What's important is what
17 happened after he stabbed me. He stabbed me. Everybody
18 says when he got there it wasn't long and he stabbed me.
19 Was there any pushing, any altercation, no, no, no, no.
20 That's credible. From three different witnesses. They
21 don't have the exact same story but the same stories
22 about he was there and it happened like that and there
23 wasn't any pushing. He certainly wasn't in any danger of
24 suffering seriously bodily injury or death.

25 Credibility, believability. You know, I was

1 thinking about this a little while ago. If he wanted to
2 avoid it when he came over there, hey I have a knife back
3 up why are you over here. You don't sneak up. Who knew
4 he had a knife. I wish y'all could answer me in closing
5 arguments, but you can't. Who knew he had a knife. He
6 knew he had a knife. He was the only one that knew he
7 had a knife. That's what gave him the courage and the
8 strength to go over there to comfort him. You're not
9 coming to this house. I know she's your cousin, I'm
10 going to handle this situation. I'm going to show you
11 who's in control. That's why happened. Did he intend to
12 kill him. Did he intend to kill him when he puts this
13 knife in his pocket and he comes over there and there's
14 no altercation and I tell you who corroborates all these
15 witnesses, he does by his incredible inconsistencies
16 which I going to hit with. He is the one who
17 corroborates it. You think he didn't intend to kill him
18 when he shoved this into his belly. You see the pictures
19 of his injuries. Mr. Cooley showed you what happened
20 afterwards. You think that's not serious. You don't
21 think he could have died when he was in the operation.
22 This ain't a pocket knife. He went and got a butcher, a
23 big knife and that's what he planned on meeting and did
24 meet. It's still got Lawrence on their. You see that.
25 Go back there, you may want gloves, I don't care, you got

1 back there you've still got Lawrence on that knife where
2 it was shoved into him and he didn't care whether he
3 lived or died. That's what this case is about and that's
4 why it is attempted murder and why it's malice and why
5 it's not ABHAN and that other think A&B 1st, respectfully.

6 And, finally, almost finally. What does the
7 defendant do after he stabs him? He leaves. No, no, he
8 flees, he runs. And that's what folks that are guilty do
9 and you can't argue that. Did he call later on that day
10 and say look I felt like I had to defend himself. I felt
11 like my life was in danger. Does he call the next day?
12 No. Does he call law enforcement, no. Are they looking
13 for him, there's a BOLO out. Put it in NCIC, it's on the
14 news release, they get information he's over at [REDACTED]
15 [REDACTED]. He's over at [REDACTED]. He even talks about
16 staying with Ms. Copeland who was sleeping with him at
17 that time and she gives a statement initially back and
18 forth. You think if he was pushing back and forth, she
19 wouldn't have told him that then. There wasn't any
20 pushing, there wasn't any shoving. They go to [REDACTED]
21 between April 1st and May 7th, they look for him. They
22 can't find him. He ran out the back of the house. He
23 told you that. He ran out the back of the house. You
24 knew they were there? Yeah. You knew they were there
25 looking for you? Yeah. He didn't turn himself in.

1 That's evidence of guilt. Finally, they get information
2 on 521, I think it was that he as present on May 7th, they
3 go and arrest him. He says I was going to turn myself in
4 today, after he was caught. Folks, every case comes down
5 to credibility and believability. This man right here,
6 Investigator DuBose did an excellent job. He gets him in
7 his truck, reads him his rights, y'all heard that. The
8 Defendant said he understood his rights. When I asked
9 him ...

10 Mr. McFadden: I'm going to object that he's vouching
11 for the credibility of law enforcement.

12 The Court: I overrule your objection.

13 Mr. Meadors: You heard him. What did he say. He
14 admitted, talking about vouching for him, he vouched that
15 he was nice to him, he did. He was nice to him. He read
16 him his rights, did he understand them; yes. He treat
17 you like a gentlemen? He sure did. What did he tell
18 you. Well, when he came over there, he pushed him. This
19 is the whole case. Not the whole case. This is why we
20 can't believe what the defendant said. It's incredible.
21 And it's what every case boils down to, credibility and
22 believability. And you've actually got --- back when he
23 gave the statement on May 7 of 2015, with what he did in
24 front of y'all today. Credibility, you heard one, you
25 saw one and heard one. You watch his bodily language.

1 His demeanor. He told Mr. DuBose, he told Investigator
2 DuBose on the statement, he came over and he pushed me.
3 He pushed me. I fell down. I fell down. What did you do
4 then? I said, Man, don't push me. What happened after
5 that. I said, man, don't push me. What happened after
6 that? He pushed me again. Well, how hard did he push
7 you. He pushed me so hard that I went over back and it
8 knocked the breath out of me and that's when I got up and
9 I did what I did. That's what he said on that tape.
10 Well, then Mr. DuBose asked him so that's when you did
11 what you did? Yeah. When he pushed you down on the
12 ground? Yeah. Well, did y'all fight? Well, after the
13 second time that he pushed me on the ground we tussle a
14 little bit and then I hit him. Do what? And as he's
15 making it up as he goes, he's not the truth. What
16 happened today when he took the stand, tell us what
17 happened. Well, he comes up and he pushed me. How did
18 he push you? He did like that? No. Did you fall down?
19 No. You didn't fall down? No. What happened the next
20 time? He pushed me a little harder? He kind of shoved
21 me. Did you fall down? No, I didn't fall down. He can't
22 keep it straight. Did your momma ever tell you if you
23 tell the truth that you don't ever have to worry about it
24 not coming out right? He didn't get pushed that's why
25 the story changes and that can't change for his defense

1 of self defense or saying this isn't attempted murder.
2 No, sir. No, ma'am. You're on the ground. You're on the
3 ground so hard that it hurts your back. Now, he pushed me
4 like that. Well, he pushed me but I didn't fall down.
5 Well, that's kind of , kind of intimidating. He said,
6 where did you go after that? If you've got the answer
7 then you know. I don't remember. You just stabbed
8 somebody in the gut and you don't remember where you
9 went. Well, I went to my aunts. And then he said, look
10 I didn't mean to it was either an accident or self
11 defense. Do you remember when he said that on the tape.
12 It's either an accident or it's self defense. No, sir.
13 It's attempted murder. And you can't explain it or
14 explain it away and that's why the story is different.
15 It's not minor differences. It's either accident or self
16 defense. That knocks that chair off right there. It
17 could have been an accident. He himself has told you,
18 it's not self defense.

19 Ladies and Gentlemen, it's kind of like what they
20 were wearing when they met each other shows a real
21 intent, doesn't it? He's coming in flip flops and shorts
22 and saying let's get together and be a family. I'm not
23 saying there may not be cursing and all that I do not
24 know. He was coming dressed not for a fight and say let's
25 get ready for the family and he was coming and dressed

1 with a knife, fourteen inch knife in his pocket.

2 I want to thank you all for being here. Thank you
3 for your patience with me. I didn't do this to inflame
4 him but this is what happened to him. If you think he
5 couldn't have died, I'm glad you're alive. I'm glad you
6 didn't die and there's almost this thing that says hi I
7 didn't realize it until I pulled it out myself. That's
8 another good piece of evidence. Wesley Gardner goes up
9 just a couple of hours later. Where does he find that
10 knife, he says you know I pull up in the driveway and
11 it's right near my driver's door, ten feet or so from the
12 house. Right by the driveway. That's incredible
13 evidence right near the car that he got out. There
14 wasn't pushing and pushing. It happened right there. It
15 happened so quick. And it's sitting there.

16 The final thing is the presumption of innocence.
17 Mr. McFadden mentioned it and the judge mentioned it and
18 I love it is pure, the defendant is presumed innocence.
19 He is presumed innocence unless and until you the jurors
20 make a determination that he's guilty beyond a reasonable
21 doubt. That stays with him. It's like a robe, it's like
22 a nice warm shirt, it stays with him and it stays when
23 him now and it stays with him when the judge charges him
24 and it stays with him when you get back to that jury
25 room. As soon as you get to the jury room and you start

1 looking at the pictures and weighing the evidence and
2 start weighing the inconsistencies of the defendant, you
3 can start taking that robe off. That's what the law
4 says. You can take off that presumption of innocence.
5 The shirt of righteousness. And I submit to you that
6 when you go over this evidence you will take it off. I
7 submit you will take it over pretty quick. And usually,
8 save it, save, that shirt, that clothe of innocents and
9 when you come back in here with your verdict which we
10 submit should be based on the evidence, Attempted Murder,
11 malicious attempt and intent to kill. Lawrence Cooley,
12 when you come back in with that verdict, bring the shirt
13 in symbolically. Bring it in symbolically because the
14 only innocent person in this room is Lawrence Cooley.
15 And with your verdict symbolically give him that shirt,
16 that cloak and let it keep him warm. Thank you.

17 Mr. McFadden: Your Honor, I'm going to object that
18 he asked the jury to decide this case on a basis other
19 than the law and evidence provided.

20 Mr. Meadors: I certainly did not, Judge.

21 Mr. McFadden: As a symbolic gesture restore the
22 victim, the alleged victim.

23 The Court: I overrule your objection. Okay, Ladies
24 and Gentlemen, I need to charge you on the law. It's
25 going to take about fifteen, maybe twenty minutes. Are

1 y'all okay? Do you need a break?

2 (Jurors gesture no break needed)

3 The Court: Okay. Now that you've heard all of the
4 evidence in this case as well as the arguments of both
5 the State and the Defendant, I'm going to charge you on
6 the law that you are to apply in this case. Under our
7 Constitution and code of laws only the jury can make a
8 finding of the facts in this case. I am not permitted to
9 indicate to you how I might feel about the facts, so if
10 I've said anything or done anything in this trial that
11 you think I have an opinion about the facts, you are to
12 disregard that. Because you and only you are to
13 determine what the true facts are in this case. The same
14 Constitution and the same code of law that makes you the
15 exclusive judge of the facts makes me the exclusive judge
16 of the law. So if you have any idea or any notion of
17 what you think the law is or what the law ought to be and
18 it defers from what I now tell you the law is, you are to
19 disregard your idea and apply the law exactly as I've
20 given it to you. Now, the fact that this defendant was
21 arrested, charged and indicted in this case is not
22 evidence in this case and cannot be considered by you as
23 evidence of guilt in this case. Nor does it create any
24 presumptions or inference of guilt. The indictment is
25 simply a formal written instrument which contains the

1 charges made against this defendant. It is a formal
2 legal document which simply brings this case to court.
3 Now the defendant has entered a plea of not guilty to
4 this indictment and that cast the burden on the State to
5 prove each and every element of the indictment to you
6 beyond a reasonable doubt. A person charged with
7 committing a criminal offense in South Carolina is never
8 required to prove himself or herself innocent. It is an
9 important rule of law of this country that a defendant in
10 a criminal trial will always be presumed innocent of the
11 crime for which he is indicted unless and until his guilt
12 has been proven by evidence that satisfies you of that
13 guilt beyond a reasonable doubt. The presumption of
14 innocence is not a mere legal theory. It is not just a
15 legal phrase. It is a substantial constitutional right
16 to which every defendant is entitled. This presumption
17 of innocence accompanies the defendant from the time he
18 is charged throughout the trial until you reach a verdict
19 of guilt based upon evidence that satisfies you of that
20 guilt beyond a reasonable doubt. A reasonable doubt is a
21 doubt which makes an honest, sincere, conscientious juror
22 in search of the truth to hesitate to act. Proof beyond
23 a reasonable doubt must therefore be proof of such a
24 convincing character that a reasonable person would not
25 hesitate to rely upon it and act in the most important of

1 his or her own affair. Proof beyond a reasonable doubt
2 can also be described as proof that leaves you firmly
3 convinced of the defendant's guilt. Now there are very
4 few things in this world that we know with absolute
5 certainty. And in a criminal case, the law does not
6 require proof that overcomes every possible doubt. If
7 based on your consideration of the evidence, you are
8 firmly convinced that the defendant is guilty of the
9 crime charged, you must find him guilty. If on the other
10 hand you think there's a real possibility that he is not
11 guilty, you must give him the benefit of that doubt and
12 find him not guilty. Now, in the course of trial, in
13 determining the facts of the case, you must necessarily
14 pass upon the credibility, which simply means the
15 believability of the witnesses and the value and weight
16 to be given to their testimony. You alone must decide
17 the force and effect, the truth of that testimony. In
18 making these decisions, there are many things that you
19 may and should take into consideration. Such as the
20 appearance, the manner of the witness on the stand.
21 Sometimes referred to as the demeanor of the witness.
22 Was the witness forthright or hesitant? Was the
23 witness's testimony consistent or did it contain
24 discrepancies? What was the ability of the witness to
25 know the facts about which he or she testified? Did the

1 witness have reason or cause to be biased or prejudiced
2 in favor of the testimony he or she gave? Was the
3 testimony of a witness corroborated or made stronger by
4 other testimony or evidence? Or was it made weaker or
5 impeached by such other evidence or testimony? As jurors
6 you have a right to believe a small portion of a
7 witnesses testimony and disregard the larger or vice
8 versa. You may believe all of a witnesses testimony or
9 none. You may believe the testimony of a single witness
10 against that of many or the other way around. Now, in
11 criminal case, criminal intent is a necessary element of
12 each crime and must be proven to you beyond a reasonable
13 doubt. Criminal intent is always a matter that must be
14 determined by the jury and the circumstances surrounding
15 the situation. There's no way to prove intent to a
16 mathematical certain. There's no way medical science can
17 dissect a persons brain and determine what he or she had in
18 mind. So the law states criminal intent may be inferred
19 through circumstances shown to have existed both before and
20 after the fact. This is how you, the jury, make a
21 determination of whether or not the element requiring intent
22 was present. Criminal intent is a state of mind that operates
23 jointly with an act or omission in the commission of a
24 crime. Criminal intent is a mental state of conscious
25 wrongdoing. So it is up to you, the jury, to determine

1 what the defendant intended to do based on the
2 circumstances shown to have existed. And I tell you that
3 the State must prove criminal intent beyond a reasonable
4 doubt. The state must proof each and every element
5 beyond a reasonable doubt. There are two types of
6 evidence which are generally presented during trial.
7 Direct evidence and circumstantial evidence. Direct
8 evidence directly proves the existence of a fact and does
9 not require introduction. Circumstantial evidence is
10 proof of a chain of facts and circumstances indicating
11 the existence of a fact. Crimes may be proved by
12 circumstantial evidence and the law makes no distinction
13 between the weight or value to be given to direct or
14 circumstantial evidence. However, to the extent that the
15 State relies on circumstantial evidence all of the
16 circumstances must be consistently be shown and when
17 taken together point conclusively to the guilt of the
18 accused beyond a reasonable doubt. If these
19 circumstances merely portray the defendant's behavior as
20 suspicious, the proof has failed. The State has the
21 burden of proving the defendant guilty beyond a
22 reasonable doubt and this burden rest upon the State
23 regardless if the State relies on direct evidence,
24 circumstantial evidence or some combination of the two.

25 Now, the defendant has raised the defense of self

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

12 The following elements are required to establish
13 self defense: (1) The defendant must be without fault in
14 bringing on the difficulty. If the defendant's conduct
15 was the type which was reasonably calculated to and did
16 provoke a deadly assault, the defendant would be at fault
17 in bringing on the difficulty and would not be entitled
18 to an acquittal based on self defense. Now, the second
19 element of self defense is that the defendant was
20 actually in imminent danger of death or serious bodily
21 injury or that the defendant actually believed he was in
22 imminent danger of death or serious bodily injury. If
23 the defendant was actually in imminent danger it must be
24 shown that the circumstances would have warranted a
25 person of ordinary fitness and courage to strike the

1 fatal blow to prevent death or serious bodily injury. If
2 the defendant believed he was in imminent danger of
3 serious bodily injury or death, it must be shown that a
4 reasonable prudent person of ordinary firmness and
5 courage would have had the same belief. In deciding
6 whether the defendant actually was or he believed he was
7 in imminent danger of death or serious bodily injury, you
8 should consider all the facts and circumstances
9 surrounding the crime including physical condition and
10 characteristics of the defendant and the victim. The
11 defendant does not have to show that he was actually in
12 danger it is enough if the defendant believes he was in
13 imminent danger and a reasonable prudent person of
14 ordinary firmness and courage would have had the same
15 belief. The defendant has a right to act on appearances
16 even though the defendant's belief may have been
17 mistaken. It is for you to decide whether the defendant's
18 fear of imminent danger of death or serious bodily injury
19 was reasonable and would have been felt by an ordinary
20 person in the same situation. Words accompanied by
21 hostile acts may, depending on the circumstances,
22 establish self defense. The relative size, age and
23 weight of the defendant and the victim may be considered
24 in deciding if the apparent of actual need and force in
25 self defense and the amount of force needed. Threats

1 made by the victim may be considered in determining
2 whether the defendant actually was or believed he was in
3 imminent danger. And finally the element of self
4 defense, if the defendant had no other probable way to
5 avoid the danger of death or serious bodily injury then
6 to act as the defendant did in this particular
7 circumstance. That he had a duty to retreat if he had the
8 opportunity to do so. Now, if you determine based on the
9 facts of this case that the defendant was at his own
10 premises, then he would have no duty to retreat before
11 acting in self defense. If you're in your own house, you
12 do not have to retreat in acting in self defense but that
13 is a factual issue that must be determined by you. And
14 also the defendant had no duty to retreat if by doing so
15 would have placed him in danger of being killed or
16 suffering great bodily injury. A person cannot be
17 required to make an exact calculation as to the degree or
18 amount of force which may be needed to avoid death or
19 seriously bodily harm. Therefore, in self defense, the
20 defendant has a right to use the force needed to avoid
21 death or serious bodily harm. The force used in self
22 defense does not have to be limited to the degree or
23 amount of force used by the victim. The defendant has a
24 right to use so much force as appears to be necessary for
25 complete self protection which a person of ordinary

1 reason and firmness would ~~have believed to be needed to~~
2 prevent death or serious bodily injury.

3 Now, the defendant has been charged with the crime
4 of attempted murder. In order to prove this crime, the
5 State must prove that the defendant with intent to kill,
6 attempted to kill another person with malice aforethought
7 and forethought either express or implied. Malice is
8 hatred, ill-will or hostility towards another person. It
9 is the intentional doing of a wrongful act without just
10 cause or excuse and with the intent to inflict an injury
11 or under the circumstances that the law would infer an
12 evil intent. Malice therefore does not require that the
13 malice exist for any particular time before the act is
14 committed. But malice must exist in the mind of the
15 defendant just before or at the time the act is
16 committed. Therefore, there must be a combination of the
17 previous ill intent and the act. Malice aforethought may
18 be expressed or inferred. These terms express and
19 inferred do not mean different kinds of malice but merely
20 the manner in which the malice may be shown to exist.
21 This is either by direct evidence or by inference from
22 the facts and circumstances which should prove.
23 Expressed malice is shown when a person speaks words
24 which express hatred or ill-will for another or when a
25 person prepared before hand to do an act that was later

1 accomplished. For example, lying in wait for a person or
2 any other act in preparation going to show that the deed
3 was in the defendant's mind would be expressed malice.
4 Malice may be inferred with conduct showing a total
5 disregard for human life.

6 A specific intent to kill is an element of attempted
7 murder. Intent means attempting the result that actually
8 occurs not accidentally or involuntarily. Intent may be
9 shown by acts and conduct of the defendant or other
10 circumstances from which you may naturally and reasonably
11 infer intent. Evidence of the character of the act and the
12 character of the instrument used and the manner in which
13 it was used, the purpose to be accomplished and the
14 resulting wounds can show intent.

15 Now, the lesser included offense of the crime of
16 attempted murder is assault and battery of a high and
17 aggravated nature. A person commits the offense of
18 assault and battery of a high and aggravated nature, if a
19 person unlawfully injures another person and great
20 bodily injury to another person results or the act is
21 accomplished by means likely to produce great bodily
22 injury or death. Great bodily injury means great bodily
23 injury which causes a substantial risk death or which
24 causes serious permanent disfigurement or protracted loss
25 or impairment of the functions of a body member or organ.

1 Now, a lesser included offense of attempted murder and
2 assault and battery of a high and aggravated nature is
3 assault and battery in the first degree. A person who
4 commits the offense of assault and battery in the first
5 degree, if a person that injures another person has the
6 present ability to do so and the act is either
7 accomplished by means likely to produce death or great
8 bodily injury or during a burglary, robbery, kidnaping or
9 theft, none of those apply in this case. Great bodily
10 injury means bodily injury that causes substantial risk
11 of death which causes serious permanent disfigurement as
12 I told you before or proactive loss functions of the body
13 and members of an organ of the body.

14 Now, the defendant is also charged with possession
15 of a weapon during the commission of a crime or attempted
16 commission of a violent crime. The State must prove
17 beyond a reasonable doubt that the defendant visibly
18 displayed, was in possession or visibly displayed a knife
19 during the commission of a violent crime. A knife means
20 an instrument or tool, a sharp cutting blade whether or
21 not fastened to a handle which can be used to inflict,
22 cut, slash or wound. In order to prove that the
23 defendant was guilty of possession of a weapon during the
24 commission of a violent crime, you must find the
25 defendant guilty of either committing a violent crime or

1 attempting to commit a violent crime. And I instructed
2 you that attempted murder, assault and battery of a high
3 and aggravated nature and assault and battery in the
4 first degree are all violent crimes and the State must
5 proof beyond a reasonable doubt that the weapon further
6 advanced or helped in the commission of the crime.

7 Now, Mr. Foreman, ladies and gentlemen, you are not
8 advocates for the State of South Carolina or this
9 Defendant. You do not serve as jurors to reward your
10 friends or to punish your enemies. That system of
11 justice simply would not be tolerated. You have been
12 selected as fair and impartial jurors to determine what
13 the true facts are in this case. After determining and
14 applying the evidence and the facts that you've heard in
15 this case and the law that I have now given you, you need
16 to reach a verdict that speaks the truth in this case.
17 And this verdict must be unanimous, all twelve of you
18 must agree on this verdict before you can sign it. I've
19 had my law clerk fill out a possible verdict form for
20 this case. And it is basically the caption of the case
21 and you have a number of potential options on this case.
22 One as to the charge of attempted murder, we the jury
23 unanimously find the defendant guilty or not guilty. And
24 if you find the defendant guilty of this charge then you
25 would go to number four. If you do not feel that the

1 State has proved ~~beyond a reasonable doubt~~ the
2 defendant's guilt, then you will consider whether the
3 State has proven beyond a reasonable doubt the lesser
4 included offense of assault and battery of a high and
5 aggravated nature and you would determine whether the
6 defendant is guilty or not guilty of that. If you find
7 the defendant not guilty of that then the State has not
8 proven beyond a reasonable doubt, you consider number
9 three as to whether the state has proven beyond a lesser
10 included offense of assault and battery of the first
11 degree and the options there are guilty or not guilty.
12 If you find the defendant not guilty on any three of
13 those or all three of those, I guess, then you wouldn't
14 even consider number four because he cannot be guilty of
15 possession of a weapon during a violent crime if he is
16 not guilty of a violent crime. So, first of all, you must
17 determine whether the State has proven beyond a reasonable
18 doubt any of these three before you can consider number four.
19 When you get to number four if you find him guilty of any
20 of the other charges you may consider whether the state
21 has proved him guilty beyond a reasonable doubt to number
22 four, which is possession of a weapon during the
23 commission or attempt to commit a violent crime. When
24 you have reached a verdict on this you sign your name and
25 date it and knock on the door and we will receive your

1 verdict. Now, the order that I've put these in, in the
2 order that we've put guilty or not guilty, you should not
3 draw any inference whatsoever. We just simply had to put
4 them in some order. Now, I've got to go over my charge
5 with the attorneys to be sure that I've covered
6 everything. If I've left something out I will bring you
7 back out and charge you further on the law. If I've
8 covered everything then I will send this verdict form
9 along with the evidence to the jury room and when you get
10 this that will be your sign to begin your deliberations.
11 During your deliberations, at any time one of you needs
12 to be excused, then you need to stop talking about the
13 case because you can only talk about it when all twelve
14 of you are present in the room and you continue your
15 deliberations until you have reached a verdict. If you
16 have a question, you must write that out on a piece of
17 paper and send it out to the bailiff and I can tell you
18 right now I cannot answer a question of fact. I can only
19 answer a question of law. So, if you have a question
20 about what this evidence means or any facts in this case,
21 I can't answer you. You've heard all the evidence and
22 you've got to decide on what you've heard. If you want
23 me to explain the law further or better or have any legal
24 question, I can answer that but I can't answer any
25 factual questions, okay? I'm going to sending you to the

1 jury room. I will either send this back in a few minutes
2 or bring you back.

3 When you have reached a verdict, I need you to knock
4 on the door and we will bring you out to receive that
5 verdict, okay? So you can go to your jury room. Wait a
6 minute. Who is my alternate?

7 Bailiff: Ms. Bradley.

8 The Court: Okay. I need my alternate to stay with
9 me. I'm only going to need my alternate if somebody got
10 sick. It looks like everybody is going to make it.

11 (Jury excused to jury room 4:57 p.m)

12 The Court: All right. Where's my alternate?

13 Bailiff: That was her. I'll get her, Judge.

14 The Court: All right. Go bring her back. Any
15 exceptions or deletions on behalf of the State?

16 Mr. Meadors: No, sir.

17 The Court: The Defense?

18 Mr. McFadden: Your Honor, only with regard to
19 assault and battery first. I don't believe assault and
20 battery first is categorized as a violent crime.

21 The Court: Okay.

22 Mr. McFadden: Under 16-1-60.

23 The Court: You're right. It is not. It's not.
24 Even though I've told them you want me to straighten that
25 out or if they come back with assault and battery first I

1 The Court: Okay. So you want me to bring them back
2 out and charge them on note taking?

3 Mr. McFadden: If there was someone taking notes, we
4 would request that.

5 The Court: I didn't see anybody but if y'all tell me
6 I'll be glad to deal with it.

7 Mr. McFadden: Thank you.

8 The Court: Okay. Bring them back out and let me
9 charge them.

10 (Jury in 4:59)

11 Bailiff: We have all the jurors present, Your Honor.

12 The Court: Okay. Ladies and gentlemen, it was
13 brought to my attention that some of you may have been
14 taking notes throughout this trial. I did not address
15 that in the beginning. Let me explain. I don't have any
16 problem with you taking notes and if you did take notes
17 they need to be your own notes, though, and you can only
18 use those to reflect your own recollection because I need
19 each one of you to decide this case based on your memory.
20 Sometimes when somebody takes notes or one or two people
21 take notes then everybody else can't rely on them because
22 some people take notes better than others and they may be
23 mistaken. So, if you've taken notes that's fine but in
24 considering your own notes you need to consider those to
25 yourself and not read those notes to your fellow jurors

1 if that makes any sense to you. You use those notes to
2 help you with your own memory of the facts in this case
3 and help you decide. This has got to be an unanimous
4 verdict and all twelve of you must decide it on your own.
5 So, you know, if you get into a dispute since all of you
6 didn't take notes, I don't want one or two peoples notes
7 to affect everybody else. They can only be used to
8 reflect your own memory as to what happened. Then as
9 y'all share in your deliberations the evidence in this
10 case and make a determination of what the true facts are
11 that's fine but if you took notes us them for yourself
12 but don't read them or share them with anyone else. I'll
13 send you back in the jury room for a few minutes and then
14 I'll send you the verdict form and evidence and you can
15 begin your deliberations, okay. Thank you.

16 (Jury exits courtroom)

17 The Court: All right. Anything else?

18 Mr. Meadors: No, sir. Thank you.

19 Mr. McFadden: Nothing, Your Honor.

20 The Court: Y'all get the evidence together. Make
21 sure y'all agree what's in evidence before it goes back.

22 (Attorneys go over evidence)

23 (Jury Deliberations begin 5:19 P.M.)

24 (Court's Exhibit Number One - Jury Note)

25 The Court: We have a note. Can we deliberate in the

1 you to tell your family that you're not coming home right
2 now. Okay. I can get y'all rides if necessary to get
3 home if necessary and after dark I can get you escorted.
4 Whatever I need to do.

5 (Jury exits courtroom to continue deliberations)

6 (Back on)

7 (Court Exhibit Number 2 - Jury Note)

8 The Court: Okay. Are y'all ready for the jury. All
9 right bring me the jury and I'll deal with this question
10 real quick and send them back there to eat.

11 Bailiff: Your Honor, all the jurors are present in
12 the courtroom, Your Honor.

13 The Court: All right. Mr. Foreman.

14 Mr. Foreman: Yes, sir.

15 The Court: The question is we would like to have an
16 explanation in writing of the law on the charges of
17 assault and battery of a high and aggravated nature and
18 assault and battery in the first degree.

19 Mr. Foreman: Correct, we want to just get ...

20 The Court: I understand that, but I can't give it to
21 you in writing.

22 Mr. Foreman: Okay.

23 The Court: The appellant court ... I can read it to
24 you again, but I can't give you a written copy. Would
25 you like me to read you the law on that again?

1 Mr. Foreman: Yes, sir.

2 The Court: A person who commits the offense of
3 assault and battery of a high and aggravated nature, if a
4 person unlawfully injured another person and great bodily
5 injury and does great bodily injury to another person
6 that resulted from that assault or the act is
7 accomplished by means likely to produce great bodily
8 injury. Now, the definition of great bodily injury is
9 great bodily injury means bodily injury which causes a
10 substantial risk of death or which causes serious
11 permanent disfigurement or protracted loss or impairment
12 of the function of a bodily member or organ. That's the
13 definition of great bodily injury. The definition of
14 assault and battery in the first degree is a person
15 commits assault and battery in the first degree, if that
16 person unlawfully offers or attempts to injury another
17 person with the present ability to do so and the act is
18 either accomplished by means that are likely to produce
19 death or great bodily injury or -- well, that's it
20 because the rest occurs in the commission of a robbery as
21 I told you before burglary and kidnaping, which is not a
22 issue in this case. And great bodily injury is the exact
23 same definition that I just gave you.

24 Mr. Foreman: Okay.

25 The Court: I know they are really close and they are

1 real similar. You know that's what the law states, okay.
2 If you'll go back to the jury room and continue those
3 deliberations and let me know when you reach a verdict.

4 Mr. Foreman: Thank you.

5 The Court: Thank you.

6 (Jury exits courtroom to continue deliberations 6:30)

7 The Court: All right gentlemen, anything else.

8 Mr. McFadden: No objection from the defense.

9 The Court: Okay.

10 Mr. Meadors: No, sir.

11 The Court: All right. We will be at ease until we
12 either get another question or the verdict.

13 (Court break)

14 The Court: All right. We have a verdict.

15 (Verdict reached at 6:56 p.m.)

16 The Court: Did somebody find Mr. McFadden?

17 Mr. Meadors: Mr. Brown got him.

18 Mr. Brown: He's on his way right now.

19 The Court: Okay. Thank you. Are you ready?

20 Mr. McFadden: Yes, sir.

21 The Court: It's my understanding we have a verdict.
22 If you will get me the jury, please, sir.

23 (Jury enters courtroom 6:59)

24 Bailiff: Your Honor, we have all the jurors present
25 in the courtroom.

1 The Court: Thank you. ~~Mr. Foreman~~, I understand
2 you've reached a verdict?

3 Mr. Foreman: Yes, sir.

4 The Court: Is it unanimous?

5 Mr. Foreman: Yes, Your Honor.

6 The Court: If you would pass it up, please, sir.

7 (Mr. Foreman complies)

8 The Court: Okay. You may publish the verdict.

9 Mr. Bradley: In the Court of General Sessions, in
10 the Third Judicial Circuit. Case Number 2015-GS-43-
11 00710. The State of South Carolina vs. Jermaine A. Hodge,
12 Defendant. Question Number One. As to the charge of
13 attempted murder we the jury unanimously find the
14 defendant not guilty. As to charge of assault and
15 battery of a high and aggravated nature, we the jury
16 unanimously find the defendant guilty. As to the charge
17 of assault and battery in the first degree, we the jury
18 unanimously find the defendant not guilty. As to the
19 charge or possession of a weapon during the commission of
20 or attempting to commit a violent crime, we the jury
21 unanimously find the defendant guilty. Signed James E.
22 Rich, foreperson dated 26th day of May, 2016. Ladies and
23 gentlemen if this is your verdict so say you all by
24 raising your right hand, please, thank you.

25 The Court: Anything from the State before I release

1 the jury?

2 Mr. Meadors: No, sir. Thank you.

3 The Court: Anything from the defense?

4 Mr. McFadden: Nothing from the defense, Your Honor.

5 The Court: Okay. Ladies and Gentlemen, I want to
6 thank you for your service and I'm sorry to keep you here
7 this late. I've been telling you that you couldn't talk
8 about this case, now you can talk about it to anybody you
9 want to, you don't have to if you don't want to. The
10 county is going to --- if you need a work excuse they
11 will provide you one. They are going to send you a huge
12 check for your service and it won't come close to paying
13 you for what you've really done. You don't have to do
14 this again for three years. I won't need you tomorrow so
15 you don't have to report back. Thank you so much. You
16 are free to go.

17 (Jurors excused from service)

18 Mr. Meadors: Your Honor, Mr. Brown will be up here
19 in two minutes with the sentencing sheets.

20 The Court: All right. Do y'all want to tell me
21 anything before I sentence him?

22 Mr. Meadors: Judge, I think you, obviously we've
23 been over his record and you've seen it all what did go
24 before the jury and what didn't. So, I don't believe I
25 need to repeat that again. A few brief words about Mr.

1 Cooley. His mom has been here and his dad to, he's been
2 here mostly but had to go back. He couldn't be here this
3 afternoon. I want to thank them for being here, their
4 patience. Like the trial he drove down for the funeral,
5 the irony of that he didn't get to make the funeral as he
6 testified. Drove down here on my request, I think came
7 down Monday or Tuesday, stayed in North Carolina and he's
8 been here every since. He's got to get back to, but
9 obviously, I want to thank him for being here. He could
10 have just easily died, Judge. It's just amazing and a
11 miracle that he's not dead. Thank goodness he isn't.
12 I've got to know him and he's been just a fine a fellow.
13 As he testified to, you've seen his scars and I've
14 probably seen more of him then I have of most men in a
15 long time but anyway he's got the scars before and
16 afterwards and I think during the trial we talked about
17 some of his other injuries.

18 Mr. Miller: Your Honor, the victim wanted me to
19 speak on his behalf and say he still has trouble with his
20 legs and other issues, nerve issues and he request the
21 max.

22 The Court: Okay.

23 Mr. Meadors: Wayne DuBose is here. I want to thank
24 the Sheriff's Department as always for the job they did
25 and specifically this case. Investigator.

1 Investigator DuBose: Judge, just on Mr. Cooley's
2 injuries that he suffered and he's probably going to
3 suffer for some time. And we just ask that you consider
4 giving the max sentence.

5 The Court: Okay.

6 Mr. Meadors: I don't believe he wants to say
7 anything, we're speaking on his behalf. And, Momma, you
8 don't want to say anything? Anyway, I'm glad he's alive.
9 Thank you.

10 The Court: All right. Mr. McFadden.

11 Mr. McFadden: Your Honor, Mr. Hodge introduced
12 himself on the stand during his testimony. We would
13 submit that the jury found there was no intent to kill
14 here. There was mitigating circumstances to at least
15 drop this down to this lesser included charge. We'd just
16 like to point out that he's been supported in the
17 courtroom all day today and part of yesterday by Ms.
18 Laura Burgess, she's been back there. I don't know if
19 she's wishes to address the court but I'd ask the court
20 to allow her to add a few words. Ms. Burgess, would you
21 like to say anything?

22 Ms. Burgess: My name is Ms. Burgess. I am Jermaine
23 Hodge kids mother. I have two boys by Jermaine. One is
24 3 and the other one is one. My 3 year old name is
25 Jermaine Hodge, Jr. and my other one is Jashawn Hodge and

1 ~~I really don't think Jermaine Hodge is a bad person.~~ I
2 mean, he may be aggravating sometimes but he's a good
3 father. Back to my kids, I have three, matter of fact, I
4 have three. I have three kids. I have a 6 year old, a 3
5 year old and a 1 year old. He has been there since my
6 daughter is 2 and my daughter is 6 now. He's been a good
7 role model to all three children. He even includes my
8 daughter as his. But, the thing that make the situation,
9 would make the conversation shorter for him to prevent
10 him doing that, he must had did something to him because
11 I know he's a very protective person. I love him being at
12 the house because when I and the kids there, I feel like
13 I'm safe, you know, he's a very protective person over
14 his kids and over me. Even though me and him don't be
15 together we was like on and off with the situation. It
16 can't get no better by me telling you this.

17 Mr. McFadden: Your Honor, I would just ask the court
18 for leniency.

19 The Court: Okay. All right. On the offense of
20 Assault and Battery of a High and Aggravated Nature, the
21 sentence of the court is you are committed to the State
22 Department of Corrections for a term of Fifteen (15)
23 years. On the possession of a weapon is five (5) years
24 to run concurrent. I'm giving you credit for whatever
25 time you have served.

291

WITNESSES

W. Dubose

Sumter County Sheriff

Sgt. T. MAYS

ARREST WARRANT NUMBER

2015A4310100320

2015A4310100321

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 7-9-15

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-43-0710

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

July

TERM

2015

THE STATE

vs.

JERMAINE ANTONIO HODGE

Indictment for

Attempted Murder

Possession of a Weapon During a Violent Crime

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

CERTIFIED TRUE COPY
OF ORIGINAL FILED

James C. Campbell

STATE OF SOUTH CAROLINA)

CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF SUMTER)

Attempted Murder
Possession of a Weapon During a Violent Crime

At a Court of General Sessions, convened on July 9, 2015 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE
ATTEMPTED MURDER

That Jermaine Antonio Hodge did in Sumter on or about April 21, 2015, violate Section 16-3-29 of the Code of Laws of South Carolina (1976), as amended, in that the said Jermaine Antonio Hodge did with intent to kill, attempt to kill another person, Lawrence Cooley, with malice aforethought, either express or implied, by stabbing the victim with a knife.

COUNT TWO
POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

That Jermaine Antonio Hodge did in Sumter County, on or about April 21, 2015, possess a knife, 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

Ernest A. Finney III

RECEIVED²⁹³

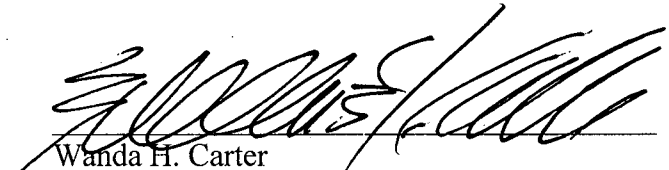
NOV 13 2017

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

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,



Wanda H. Carter
Deputy 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 13th day of November, 2017.