

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASMINE NICOLE FEMIA,

APPELLANT.

APPELLATE CASE NO. 2016-001771

RECORD ON APPEAL

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***THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
COURT’S EXHIBITS #14-16 (SURVEILLANCE PHOTOS) AND
COURT’S EXHIBIT #17 (WAL-MART CD)**

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In the Court of General Sessions for the
State of South Carolina, County of Beaufort

Case No.: 2015-GS-07-00110
2015-GS-07-00111

State of South Carolina,
Plaintiff,

vs. Transcript of Record

Jasmine Nicole Femia,
Defendant.

August 22-24, 2016
Beaufort, South Carolina

BEFORE:

The Honorable MICHAEL G. NETTLES

APPEARANCE PAGE

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JURY SELECTION

1 THE COURT: Good afternoon, everyone. I'm Mike
2 Nettles. I'm a resident judge for the 12th Judicial
3 Circuit, which encompasses Florence and Marion County.
4 I've had the good fortune of being assigned to Beaufort
5 for this entire year. I've enjoyed it.

6 We are here today for a -- as you're well aware,
7 because Judge Mullen has already qualified you. Each
8 of you has been qualified, none of you have exercised
9 an exemption, and we're going to be engaging in a
10 process known as voir dire. And the focus of these
11 questions that I'm going to be asking you under oath,
12 and I'll remind that you that you're still under oath,
13 listen very carefully to the questions and give
14 truthful answers.

15 The case that we are here today about is 2015 GS
16 07110 and 111. And the charges are murder and
17 conspiracy.

18 The indictment alleges that in Beaufort County on
19 or about January 9th, 2015, with malice aforethought,
20 Jasmine Nicole Femia did kill and murder Nicholas
21 Degros by means of shooting, and that Nicholas Degros
22 did die in Beaufort County as a proximate cause thereof
23 on January 9th, 2015.

24 Two substantive criminal allegations arise out of
25 this indictment, one of which is murder and the other

JURY SELECTION

1 is conspiracy. The allegations that give rise to this
2 indictment arises from facts that allegedly look place
3 in downtown Beaufort on Washington Street, those of you
4 who are familiar with downtown Beaufort.

5 I hold in my hand the two indictments which allege
6 murder and conspiracy. These are, as we start, merely
7 allegations, and these indictments have absolutely no
8 evidentiary value whatsoever. As a matter of fact, as
9 the Defendant, Jasmine Nicole Femia, as she sits at the
10 defense table, is presumed to be just as innocent as me
11 or you. We start from that frame of reference.

12 Mr. Bannon, I'm going to ask if you could stand
13 with your client and let her face the jury.

14 MR. BANNON: Thank you, Your Honor.

15 My name is Jim Bannon. I practice law in
16 Bluffton, with my wife Meredith Bannon, and our firm
17 represents Ms. Jasmine Femia.

18 THE COURT: All right. Thank you.

19 Is anyone related by blood or marriage, do you
20 have a close social, business, or personal relationship
21 with Ms. Femia? If so, please stand.

22 (No response.)

23 THE COURT: No response.

24 Potential witnesses in this case are as follows,
25 pay very close attention. The focus of this is, once

MOTIONS

1 five minutes.

2 (Whereupon, a brief recess was taken.)

3 THE COURT: I understand there are a number of
4 motions, Mr. Bannon. You are recognized.

5 MR. BANNON: Thank you, Your Honor.

6 First, there were two different interviews,
7 conducted against -- on Ms. Femia, and so we need to go
8 through a Jackson v. Denno hearing in order to
9 determine voluntariness of the statements and
10 compliance with Miranda.

11 THE COURT: Ms. Swanson.

12 MS. SWANSON: Thank you, Your Honor. By way of
13 background, this murder occurred on January 9th of
14 2015. The Defendant, Jasmine Femia, became a suspect
15 after police spoke with Amanda Allen, the victim's
16 fiancée, at the scene. They did interview her on
17 January 12th of 2015, where she drove herself to the
18 police station and left the police station that night.
19 It was a non custodial interview.

20 Additionally, she was interviewed again once --

21 THE COURT: That date was when?

22 MS. SWANSON: That was January 12th of 2015. She
23 was not arrested until January 16th of 2015, where she
24 was interviewed again, Mirandised, and all of that.

25 All of her statements are self-serving. The State

MOTIONS

1 doesn't intend to introduce any of them. I may use
2 them for impeachment if she takes the stand, but I
3 don't believe we need a Denno hearing today.

4 MR. BANNON: Well, Your Honor, if they're not
5 going to be admitting any prior statements in their
6 case-in-chief, and will be using them only to impeach
7 Ms. Femia should she testify, I don't think that they
8 do need it.

9 THE COURT: I do believe that if there's going to
10 be any mention about any statements, we're going to
11 have a Jackson v. Denno hearing. And if she elects to
12 take the witness stand, there will be no mention of
13 statements until such time as we have a Jackson v.
14 Denno hearing.

15 MS. SWANSON: I believe that they could be used
16 for impeachment, and that's fine, Your Honor. I mean,
17 we can review the six hours of statements where they're
18 all self-serving and she denies having any part of
19 this. They were certainly voluntary, but I'm not going
20 to introduce any of those.

21 THE COURT: I agree with you.

22 MS. SWANSON: Yes, sir.

23 THE COURT: There's no need for us to do it now,
24 but I'm saying in the event you feel compelled to
25 mention any of the interviews --

MOTIONS

1 MS. SWANSON: Yes, sir. Absolutely.

2 THE COURT: -- for whatever reason, then we'll
3 have a Jackson v. Denno hearing prior.

4 MS. SWANSON: Yes, sir.

5 THE COURT: Prior to that.

6 MS. SWANSON: Similarly, there was no
7 identification. So I don't think that a Neil v.
8 Biggers hearing would be appropriate. There was never
9 any sort of photo line-up or ID.

10 The only people that would identify Ms. Femia from
11 the stand are people that knew her intimately, and had
12 known her for quite a while.

13 The only person in question I believe Mr. Bannon
14 specifically pointed out was this snitch from the jail,
15 Steven Crabtree. I'm not going to ask Steven Crabtree
16 to identify Ms. Femia. I don't know if he could. They
17 were speaking through vents at the jail, so that's not
18 something that the State intends to introduce either.

19 THE COURT: Mr. Bannon.

20 MR. BANNON: Well, Your Honor, I -- the case law,
21 I think, is quite clear that at this point if there
22 isn't an out-of-court identification of a witness, that
23 a Neil v. Biggers hearing is not appropriate.

24 We're requesting one under a potential extension
25 of existing case law, because due process is a concern

MOTIONS

1. in the analysis.

2 I think that that's particularly true when it
3 comes to Mr. Crabtree. If Mr. Crabtree can't attribute
4 any statements to Ms. Femia by identifying her, I don't
5 see how he could possibly be relevant to the trial of
6 the case.

7 MS. SWANSON: I think he can identify her as the
8 person he was speaking with, I was speaking with a
9 Jasmine Femia.

10 We also have extrinsic evidence to show where she
11 was located in her cell when he was located in his
12 cell. But I'm not asking him to identify her by sight
13 in court. And that would go to the weight of the
14 evidence, not the admissibility.

15 MR. BANNON: Well, Your Honor, if you take a look
16 at the statement which Mr. Crabtree sent to the
17 prosecutor's office, and it's my understanding that's
18 the only statement he's made either to law enforcement
19 or to the prosecutor's office, he doesn't identify
20 Jasmine Femia. He says that Jasmine O. was speaking to
21 him at the jail.

22 MS. SWANSON: Again, that could be something that
23 could be covered on cross and we'll certainly get to
24 Mr. Crabtree's statements, but I don't think it's --
25 his statements are not relevant in the requested

MOTIONS

1 Biggers hearing.

2 THE COURT: No. A Biggers hearing, normally,
3 typically, if you have a photographic line-up and, you
4 know, the Defendant -- the accused, his wife, and
5 everybody on the photographic line-up is black, with
6 the exception of one white person. Obviously, that
7 would be unconstitutional and suggestive. But in the
8 first thing that I have to do in a Neil v. Biggers
9 examination or analysis is determine whether or not an
10 identification procedure was conducted in a manner that
11 was unduly suggestive. I don't even think that applies
12 in this circumstance. I don't think there is an
13 identification.

14 Whether or not the statement would be admissible
15 probably hinges on other things about voice
16 identification, location, that sort of thing. We'll
17 take that up in the -- before this witness takes the
18 witness stand. It's really not -- Neil versus Biggers
19 I don't think applies in this case.

20 MR. BANNON: Yes, Your Honor. Thank you, Your
21 Honor.

22 THE COURT: We're moving through these very
23 quickly.

24 MS. SWANSON: Judge, the next thing that I have on
25 Mr. Bannon's list that he sent to your law clerk was

MOTIONS

1 Defendant's motion to exclude crime scene and autopsy
2 photos. I have shared with Mr. Bannon the three photos
3 that I think would apply to this, and I'd like to share
4 them with you.

5 The only autopsy image that I seek to enter is an
6 x-ray of the victim's head showing the bullet fragments
7 and projectiles. There is one picture of the
8 defendant's -- I mean, the victim's body at the scene
9 from the way that it was found when law enforcement
10 arrived. It's not particularly gory, I don't think
11 it's anything that shocks the conscience. And then,
12 again, the victim's body with a sheet over it, in which
13 you can't even see any blood.

14 So the State is asking that you consider allowing
15 these images. I have chosen them with an eye to making
16 sure that we are not showing anything extremely gory or
17 anything that would arouse the feelings of the jury in
18 a way that's not appropriate.

19 THE COURT: Mr. Bannon.

20 MR. BANNON: Thank you, Your Honor.

21 THE COURT: All right. Let's start with -- do you
22 have an objection to that photograph?

23 MR. BANNON: Yes, Your Honor, because I think that
24 it's unduly prejudiced based on the circumstances that
25 we have here. I think it's also cumulative in the fact

MOTIONS

1 that we're going to be hearing from Mr. Ellison, at
2 least presumably, the testifying co-Defendant, who is
3 going to testify that he was, in fact, the one who shot
4 and killed Mr. Degros. And so where Mr. Degros fell,
5 the status of his body, you know, I think that showing
6 this to the jury could only be used to inflame the
7 passions because it doesn't go to show anything else.

8 THE COURT: What do you have to say about this,
9 Ms. Swanson?

10 MS. SWANSON: Well, Judge, this is a murder case.
11 I still have to prove murder. I'm not going to let the
12 jury forget that there is a dead victim in the case.

13 Ms. Femia --

14 THE COURT: You're probably going to have a
15 pathologist testify.

16 MS. SWANSON: Right. And Ms. Femia planned the
17 entire murder including where it took place. So it is
18 relevant, and the State can try their case and prove
19 their case with whatever witnesses and evidence they
20 choose, assuming it's admissible evidence.

21 THE COURT: What do you have to say about this
22 particular photograph?

23 MR. BANNON: Well, Your Honor, essentially, it's
24 the -- it's the same thing, the same objection that I
25 raised before.

MOTIONS

1 Particularly in this one, the -- I believe that
2 the testimony is going to be that that also isn't the
3 position of the body as it was initially found. I
4 believe that all the testimony would be that Mr. Degros
5 was found laying face down, and that during the course
6 of an attempt to try to revive him, he was rolled onto
7 his back in order to treat him.

8 So for that -- for that photo to come in, I
9 honestly don't know what it would be used for aside
10 from to be arousing the passions of the jury.

11 MS. SWANSON: Your Honor, this was an execution
12 style murder. I do think that it shows that the
13 decedent walked outside. His fiancée, Amanda Allen,
14 found him and flipped him over in order to try and
15 administer CPR. And in doing so, she did get blood all
16 over herself, which is going to be testified to. And
17 this shows how his body was when law enforcement came.
18 She had been hunched over him, trying to breathe life
19 back into him, and he's clearly -- he has a cigarette
20 that he was smoking. I mean, he was completely taken
21 unawares. I do think it's relevant to an execution
22 style murder. And that's what I'm here prosecuting
23 today.

24 THE COURT: What do you have to say about this,
25 Mr. Bannon?

MOTIONS

1 MR. BANNON: Well, Your Honor, again, you know, we
2 don't have any issue with the fact that Mr. Degros was
3 murdered. I think that the testimony is going to be
4 quite clear that he was murdered and that he was
5 murdered by Mr. Ellison.

6 I think Mr. Ellison's testimony is that he was the
7 one that hit him three times in the head. I think that,
8 you know, to admit these photographs would be to unduly
9 arouse the passions of the jury. It's unduly --

10 THE COURT: Essentially you're going to stipulate
11 what this would prove, that he was shot three times in
12 the head?

13 MR. BANNON: Your Honor, absolutely. I think
14 that, you know, that there's -- all the evidence points
15 to Mr. Degros' death and that that death was caused by
16 Mr. Ellison, who shot him three times in the head.

17 THE COURT: Very good. I'm not going to allow
18 this. In the course of -- the pathologist can be able
19 to testify that there were three bullets found in his
20 head. He's stipulating that there were three bullets
21 found in the head. For that reason, I'm not going to
22 allow this one in.

23 So if there is -- the Supreme Court is becoming
24 increasingly sensitive about bloody pictures. And one
25 of the quickest ways you can get a murder in a case

MOTIONS

1 reversed would be to allow something like this in. I'm
2 not going to allow that because I think it is indeed --
3 could be determined to inflame the jury.

4 Clearly, the issue is not whether or not he was
5 murdered or shot execution style. All of those things
6 you can prove. But as far as this photograph, I'm
7 going to exclude that to protect it on the record. In
8 that regard, I'm not going to allow this one. I will,
9 indeed, allow that one.

10 MS. SWANSON: Okay. And might I ask that you
11 reconsider the x-ray photograph? It would help my
12 pathologist in her testimony about where the shot took
13 place, that it took place behind the ear.

14 Again, the x-ray is not something that's going to
15 inflame the passion of the jury. It's not gory in any
16 way. So I would ask that Your Honor reconsider that
17 ruling, respectfully.

18 THE COURT: I don't think it's going to affect the
19 case one way or the other, but I'm not going to allow
20 that. The pathologist clearly is going to be able to
21 testify any way she wants to about how many bullets
22 were found in the man's head. And I think they're
23 stipulating that there were three bullets found in his
24 head.

25 MS. SWANSON: And certainly I'm not going to agree

MOTIONS

1 to a stipulation, I'm still going to be calling my
2 pathologist to the stand.

3 THE COURT: Okay.

4 MS. SWANSON: Okay. Thank you, Your Honor.

5 May I have the images back, please?

6 THE COURT: Yes. This one's admissible.

7 MS. SWANSON: Yes, sir.

8 I believe the fourth matter on Mr. Bannon's list
9 is to exclude images from decedent's phone, which were
10 apparently taken from a group posting on Facebook. The
11 State does not intend to introduce any of those images.
12 I don't think that they're relevant, and I believe
13 they're hearsay.

14 MR. BANNON: If they're not going to be -- I mean,
15 those are certainly my objections as well, Your Honor.
16 So if they're not going to be included, that would be
17 fine with me.

18 THE COURT: So we agree that those would not be
19 introduced into evidence. But if the State were to --
20 if the spirit were to move you that you did want to get
21 into that, we'll address it at that time. As I
22 understand it, she's agreed that she'll not introduce
23 those.

24 MS. SWANSON: That's correct, Your Honor.

25 The fifth thing I have on the list is Defendant's

MOTIONS

1 motion to exclude the testimony of Steven Crabtree
2 based on a 404(b) argument. I would point out, Judge,
3 that this is not a 404(b) issue, this is a witness
4 intimidation issue. And that the analysis is laid out
5 in the State v. Edwards, if I may hand up copies of
6 that case.

7 Evidence of threats against a witness or
8 co-Defendant are relevant and probative to establish
9 consciousness of the Defendant's guilt. Much like clay
10 evidence, when they can be linked to the Defendant,
11 they're admissible. We've had this issue come up here
12 in this county, in this court. This is a Supreme Court
13 case in 2009, Edwards is, and this is admissible
14 evidence.

15 Yes, of course, it's prejudicial, like most of the
16 evidence that I'll be presenting to the jury, because I
17 have to prove the case against Ms. Femia.

18 But, essentially, she was having problems with the
19 father of her child. So what is her solution to it, to
20 kill him. She learns that her co-Defendant is going to
21 testify against her. What is her solution to that,
22 kill him. It's not something that I can argue to the
23 jury; however, it's certainly relevant. And this is
24 her M.O., if we're going to talk about motive. I
25 understand that I can't, you know, argue it as

MOTIONS

1 propensity evidence, and it's not. It's evidence to
2 establish consciousness of guilt.

3 She talks to Steven Crabtree through the vents at
4 the jail, their two cells in particular, in Bravo 1 and
5 Bravo 2, where defendants can do this. The jail is
6 aware of it. You know, I'm going to, I realize, have
7 to call someone from the jail to show where they were
8 housed. There were six different occasions in May and
9 June that Steven Crabtree and Jasmine Femia were in
10 these places where they could speak.

11 What Ms. Femia wanted Steven Crabtree to do was
12 take batteries out of radios or whatever they had
13 available to them at the jail and poison Anthony
14 Ellison so that he would be brain damaged and not be
15 able to testify against her. And he wrote all this in
16 a letter to the Solicitor's office. So I am seeking to
17 have his testimony come in.

18 MR. BANNON: Well, Your Honor, first of all, I
19 think this gets us sort of back to the identification
20 issue. If there's no way that Mr. Crabtree can say
21 that it was Ms. Femia who asked her (sic) to do these
22 things, which he doesn't identify her in the letter,
23 it's my understanding there's been no other contact in
24 law enforcement with Mr. Crabtree, I still don't get to
25 how we even intend for this to be relevant, unless

MOTIONS

1 we're just saying there is a person at the jail named
2 Jasmine, who ordered me -- or somehow convinced me to
3 commit a murder, which I didn't commit.

4 I mean, you know, it's a -- I view this entirely
5 as a prior bad act, I view it as entirely irrelevant.
6 Because there's essentially no association between, you
7 know, the acts alleged to have been done and Ms. Femia
8 directly.

9 I mean, the Solicitor's office, it's my
10 understanding Your Honor hasn't spoken to this person,
11 and in all honesty, we have no idea what he's going to
12 get up there and say.

13 THE COURT: Hang on just one minute.

14 MS. SWANSON: Again, under State v. Edwards.

15 THE COURT: Again, just one second.

16 MS. SWANSON: Oh, sure.

17 (Pause.)

18 THE COURT: One of the things, after reviewing
19 this case, one of the things that's obvious is that in
20 the case where it was allowed, it was clear that they
21 could identify the one who made the threat, and that's
22 one of the issues that has to be addressed is whether
23 or not there can be identification.

24 I think in one of these it was disallowed, and
25 there is a letter that was not signed. There was no

MOTIONS

1 handwriting expert. And so a lot of it is going to
2 depend on whether or not -- and I'm not going to rule
3 on it now, but before the testimony is proffered, I
4 want to hear how the witnesses are going to be able to
5 identify her.

6 There's actual cases in here talking about voice
7 identification, and I'm not real sure. That's one of
8 the elements, and then obviously I have to determine
9 whether or not the probative value outweighs the risk
10 of prejudice, which is a whole other analysis.

11 But -- and one of -- you know, this Court
12 indicates that there's a -- you know, that there's --
13 you know, it says that witness identification should be
14 viewed with skepticism. There's a high likelihood that
15 it could be fabricated, and it should be entered into
16 only after it's been examined with regard to
17 identification, and whether or not it's unduly
18 prejudicial.

19 So the first thing I'm going to have to do is,
20 outside the presence of the jury, if you intend on
21 doing it, I'm going to have to find out whether or not
22 this witness is able to identify this person as the one
23 who made the statement, and it's going to involve voice
24 identification and a number of other things.

25 But might counsel approach the bench for a moment?

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1 (Off-the-record discussion held.)

2 THE COURT: The next motion.

3 MS. SWANSON: Your Honor, the next matter that --

4 THE COURT: Yeah. And let me put on the record,
5 I'm going to hold my ruling in abeyance, and before any
6 testimony with regard to the witness intimidation we
7 will take up the matter and we will take up some
8 testimony outside of the presence of the jury. I'm
9 going to hold my ruling in abeyance.

10 MS. SWANSON: Thank you, Your Honor. And just for
11 the Court's information, that witness would not be
12 scheduled to testify until Wednesday. So we can take
13 it up at that time if we do get to that point.

14 The next issue that was brought up was Defendant's
15 motion to compel impeachment evidence for testifying
16 witnesses. I believe that just meant turning over rap
17 sheets for any lay witnesses that had them. That has
18 been done. That was done last Thursday, I believe.

19 I don't think that there's anything else that
20 Mr. Bannon was seeking, but if so, this is his motion.

21 MR. BANNON: Well, there were a number of people
22 this morning, when I got the witness list, who I don't
23 think were previously disclosed nor were we given rap
24 sheet information on them.

25 In looking at the government's list, I believe

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1 that that's Jennifer Dalmida, their witness number
2 eight; Willie Mae Fripp, another person who's been in
3 the detention center; Castran Aiken, a member of
4 Beaufort County Detention Center; Eric Kyle, a regional
5 manager of Enterprise Rental Car; Shonette Mungin, a
6 manager of Wal-Mart. Richard Stantsy, the owner of
7 Tuffy Tire & Services.

8 I believe that's it, Your Honor. But I don't
9 believe that any --

10 THE COURT: Essentially what we're talking about
11 is records.

12 MR. BANNON: Well, records, and Your Honor, I
13 don't believe I've ever been -- any of these witnesses
14 have been disclosed to me previously.

15 THE COURT: And I'm not real sure that there's an
16 obligation they disclose the witness list to you. The
17 rules don't require that, do they?

18 MR. BANNON: No, Your Honor, that's true. But --
19 but we also don't have any information as to exactly
20 what their qualifications are or what they're going to
21 be testifying to.

22 THE COURT: Well, I think what they have an
23 obligation to do is to figure out what they're going to
24 say and talk with them. And if there's anything that's
25 exculpatory, they're required to give it to you.

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1 MR. BANNON: Yes, Your Honor. And so I guess the
2 second part is that I haven't received any information
3 as to whether or not those people have rap sheets, and
4 if so, what the rap sheet would show.

5 MS. SWANSON: Your Honor, each one of the people
6 that were listed are simply records custodians for the
7 establishment.

8 The records that I seek to enter have all been
9 turned over to Mr. Bannon. The Beaufort County
10 Detention Center, two witnesses, one keeps a jail mail
11 log from inmates, and the other can testify as to where
12 people are located in cells. All that information was
13 turned over.

14 Jennifer Dalmida is just simply the regional
15 Verizon rep that was sent for the phone records for
16 Anthony Ellison.

17 THE COURT: I think what he's saying is
18 essentially he's entitled to know if they have any
19 conviction. Most of which, people that work at the
20 Detention Center, I think, can't have convictions.

21 The bottom line is, I think he's entitled to the
22 criminal records, if indeed they have them.

23 MS. SWANSON: Sure. And I will work on getting
24 these non fact witnesses' rap sheets.

25 THE COURT: Okay. All right.

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1 Anything further from anybody?

2 MR. BANNON: Yes, Your Honor. We have a motion to
3 exclude and suppress the evidence and the search of the
4 Hyundai Elantra that was seized, Your Honor.

5 THE COURT: The what? What's that? The what?

6 MR. BANNON: The vehicle.

7 THE COURT: Okay.

8 MR. BANNON: It's a Hyundai Elantra.

9 THE COURT: Oh, okay.

10 MR. BANNON: And essentially, Your Honor, my
11 contention is that the warrant which was sworn out was
12 attached to the motion, doesn't rise to the level of
13 probable cause to grant a search of the vehicle.

14 Essentially it just says that someone overheard
15 the use of the word -- or the name "Tone," before the
16 victim was murdered, that a Hyundai Elantra was seen
17 leaving the scene of the crime, and then it identifies
18 Ms. Femia and Anthony Tone Ellison as being admitting
19 to having driven a Hyundai Elantra around the time of
20 the crime.

21 Essentially, Your Honor, I don't think, you know,
22 having the name Anthony essentially, and owning or
23 driving a car matching one seen leaving the scene of
24 the crime gives rise to probable cause to grant a
25 warrant to search that vehicle. Your Honor, if it's --

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1 THE COURT: Probable cause is a real low standard.
2 Let me hear what Ms. Swanson has to say about it.

3 MS. SWANSON: Yes, sir.

4 The Hyundai Elantra was a rental car from
5 Enterprise. Ms. Femia rented it on January 9th until
6 January 10th, for less than 24 hours. The car was not
7 searched until January 13th. It belongs to Enterprise.
8 She was no longer renting it. Enterprise was
9 completely cooperative in the investigation. She has
10 no standing to assert any sort of constitutional
11 violation.

12 I don't think a search warrant was needed. She
13 had no reasonable expectation of privacy here. There
14 was no Fourth Amendment violation. The only reason law
15 enforcement sought one was because SLED was called in
16 to process the car. It's just their standard policy to
17 have search warrants.

18 Now, that being said, I do think that there was
19 probable cause in this search warrant because it also
20 mentioned the fact that Jasmine Femia had rented a
21 silver Hyundai Elantra that they both agreed they, you
22 know, had custody of around the time of the murder, and
23 then was, you know, matching the description of the
24 getaway car from the murder.

25 THE COURT: All right. What do you have to say

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1 about the issue of standing, Mr. Bannon, and the
2 expectation of privacy in a rental car, which you no
3 longer rent? Ms. Swanson has a good point there.

4 MR. BANNON: Yes, Your Honor.

5 Beg the Court's indulgence, Your Honor.

6 THE COURT: Sure.

7 (Pause.)

8 MR. BANNON: Your Honor, I have nothing further to
9 add.

10 THE COURT: Okay. Well, I think under these
11 circumstances, the fact that there was a Hyundai
12 Elantra identified as being involved or around the
13 scene of the incident would give rise to probable
14 cause. And in addition to that, the Defendant, I find,
15 does not have standing to object. Standing, nor does
16 she have a reasonable expectation to privacy in a
17 rental car, which she no longer rents..

18 MR. BANNON: Thank you, Your Honor.

19 Your Honor, we're starting to wind down, but I
20 believe I filed a motion to suppress the blood evidence
21 that was taken from the vehicle as more prejudicial
22 than probative. Essentially the crime scene processed
23 the car. During the processing they found what they
24 believed to be blood evidence. That blood evidence was
25 analyzed. It was compared and found to be of no value

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1 for comparison. So it's not able to be compared to the
2 deceased or anyone else.

3 Further, Your Honor, the rental car had been
4 rented out to another party before the search warrant
5 was executed. And so, Your Honor, I don't think that,
6 number one, it's relevant because it doesn't have --
7 you know, it doesn't give any weight to any sort of
8 material fact, to establishing any material fact.

9 And number two, if it does help in weighting any
10 material fact, it's substantially more prejudicial than
11 probative because we can't tell where this blood came
12 from, whether it came from before the renting when
13 Ms. Femia rented the vehicle, or even potentially after
14 she rented the vehicle.

15 THE COURT: I say no to all issues that should be
16 examined on cross examination, but I think it probably
17 goes to the weight as opposed to the admissibility.

18 But let me hear what Ms. Swanson has to say about
19 that.

20 MS. SWANSON: Thank you, Your Honor.

21 When SLED processed the Hyundai Elantra, there
22 were two spots on the floorboard of the driver's side
23 that showed up with Bluestar and tested presumptively
24 positive for blood when they got it back to the lab at
25 SLED. They simply were not able to determine a DNA

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1 profile from it.

2 However, I do believe it's certainly relevant that
3 there is blood in the rental car that Jasmine Femia,
4 whose name is on the rental car contract, rented the
5 night of the murder, shortly before closing, and rented
6 for less than 24 hours. You know, the car that her
7 boyfriend is going to testify he used to go commit the
8 murder that she sent him to commit.

9 So I do believe it's relevant. Anything that the
10 Defense is arguing goes to weight, not admissibility,
11 and I agree it can be covered on cross.

12 THE COURT: I'm going to allow you great latitude
13 to explore the idea that they can't make a
14 determination as to whose blood it was, who put it
15 there. However, I think it is circumstantial evidence
16 that's admissible and relevant.

17 MR. BANNON: Thank you, Your Honor.

18 We have a motion to exclude the 911 recordings,
19 Your Honor. And also, there's also a lot of, I guess,
20 sort of radio communications which have also been
21 disclosed between members of dispatch and members of
22 the law enforcement who were responding to the scene of
23 the crime.

24 MS. SWANSON: If I can save the Defense just some
25 time -- I'm sorry to interrupt -- but we are not

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1 seeking to enter any of the dispatch recordings.

2 THE COURT: All right. Then that resolves it.

3 But in the event that you elect or you have a
4 change of heart in that regard, we'll take those
5 matters up before there's any discussion about -- or an
6 attempt to introduce any recordings.

7 MR. BANNON: Thank you, Your Honor.

8 Aside from that, if I'm not mistaken, there's sort
9 of three distinct 911 calls which are disclosed. There
10 are two 911 calls from sort of disinterested third
11 parties who say that they heard shots fired. And then
12 there's one phone call from a young -- I believe it's a
13 young lady who's inside the home of Mr. Degros at the
14 time of the shooting. And, you know, initially what
15 she calls to report is she thinks that her mother is
16 being murdered just outside her home.

17 You know, she's not seeing what's going on.
18 Essentially she relays that her mother went outside, to
19 tell her to call 911 if she hears screaming, and she
20 hears screaming, and she's incredibly upset. But
21 essentially, you know, she's relaying that she thinks
22 that her mother is being murdered. But obviously
23 that's not the case. You know, Your Honor, so we're
24 objecting to it under a 403(b) analysis.

25 Also, the fact is that, you know, while it does

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1 have some relevant evidence to it, in general, it's
2 irrelevant because she doesn't know exactly what's
3 going on.

4 Also, it's --

5 THE COURT: Did I misunderstand Ms. Swanson, who
6 said she wasn't going to offer it?

7 MR. BANNON: Oh, I'm sorry, Your Honor. I thought
8 she said that --

9 MS. SWANSON: Oh, no. I'm not offering the
10 dispatch radio back and forth that Mr. Bannon was
11 referring to. I am offering the 911 phone calls. I do
12 believe that --

13 THE COURT: Okay. Very good. I misunderstood
14 you. Go ahead.

15 MS. SWANSON: Sorry.

16 MR. BANNON: Yes, sir, Your Honor. So it's also,
17 you know, it -- I suppose, because it's not only
18 inaccurate and it's -- I mean, I'll concede. I think
19 anyone would concede that it's a very emotional
20 telephone call between this young girl and the
21 dispatcher. But that's sort of exactly -- exactly the
22 problem that we're dealing with, Your Honor, is that it
23 has sort of very little evidentiary value, but it's
24 extremely emotionally charged. As well as the fact
25 that it's emotionally charged over sort of, you know --

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1 she thinks it's her mother who's being murdered, with
2 no information as to what's happening to Mr. Degros.

3 Further, Your Honor, it's my understanding that
4 the mother who goes outside is going to be one of the
5 government's witnesses who can testify about what's
6 actually happening, and not sort of the mistake, with
7 the understanding of a mistake that the child was --

8 THE COURT: What do you have to say about the 911
9 call that makes the assumption that her mother is being
10 killed?

11 MS. SWANSON: It does not make that assumption.
12 She is fearful that something might be happening
13 because her mother is screaming for help, which is
14 understandable when she comes across the dead body of
15 her victim.

16 I do understand Mr. Bannon wants to be able to
17 dictate what I offer, and what's relevant and what's
18 not, but these 911 calls are relevant. They set the
19 scene. I do intend to put them in. I'm happy to play
20 them for the Court. They're about ten minutes. The
21 whole tape is ten minutes long. And it's Sky Allen,
22 she is not overly emotional. She is crying at the
23 beginning, but then she is clearly able to answer the
24 questions that the dispatcher is posing to her.

25 Having to let the Court listen to them, I think

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1 that's probably -- if Your Honor's on the fence about
2 allowing them in, that's probably going to be the best
3 course of action.

4 THE COURT: It's only ten minutes?

5 MS. SWANSON: Yes, sir.

6 THE COURT: All right. Let's hear it.

7 MS. SWANSON: Okay.

8 MR. BANNON: And, Your Honor, you know, I urge the
9 Court to take a listen to it as well. But, you know,
10 some of the things which you hear, including in the
11 beginning, we contend are certainly credibly
12 disturbing. I mean, she describes that her mother is
13 begging for her life in the front yard. And I think at
14 one point the caller actually says, If anything happens
15 to my mother, I'll kill myself.

16 THE COURT: Okay. Let me hear what it says and
17 then we'll editorialize about it.

18 MS. SWANSON: So there are three shots fired,
19 calls just from neighbors that are not emotional.
20 They're reporting the shots fired that they just heard,
21 and then Sky Allen's call.

22 (Audio played beginning at 4:15 p.m.)

23 THE COURT: Stop that just a moment.

24 Now, is this individual going to be here to
25 testify, the one who made the call?

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1 MS. SWANSON: The shots fired call?

2 THE COURT: Yes.

3 MS. SWANSON: No, I'm not going to call her.

4 (Audio resumed playing, and stopped at 4:21 p.m.)

5 MS. SWANSON: And that's it, Your Honor. I do
6 believe that it corroborates what Amanda is going to
7 testify to about the chain of events, how her fiance
8 Nick --

9 THE COURT: Now, this lady who is on the 911 will
10 testify?

11 MS. SWANSON: \No, sir. That is the -- well, now,
12 13-year-old daughter of the victim's fiancée. So I
13 wasn't planning on putting her on the stand, just
14 because she's extremely soft spoken. She was inside at
15 the time. But this corroborates her mother's testimony
16 about the chain of events and --

17 THE COURT: Well, what exception of the hearsay
18 rule are you relying upon?

19 MS. SWANSON: Well, this would come in under
20 excited utterance, and that she is identified, so
21 there's not an identification issue about, like, where
22 did this information come from. Because that can be an
23 issue, I understand that.

24 However, she is identified, it is an excited
25 utterance, and is admissible under that exception.

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1 THE COURT: What do you have to say about this,
2 Mr. Bannon?

3 MR. BANNON: Well, Your Honor, I -- I just get
4 back to the fact that, you know, this is being offered
5 for -- you know, to show sort of the horror, you know,
6 that this young girl is experiencing, and I think
7 rightfully so. And it all sort of gets back to, you
8 know, we're not -- we're not here to determine whether
9 or not Mr. Degros was murdered, it's quite clear that
10 he was.

11 But what we're really here to determine is whether
12 or not Ms. Femia had anything to do with that. And
13 what's on that 911 tape doesn't offer one bit of
14 evidence to show that Ms. Femia had anything to do with
15 it, aside from the fact that, you know, Sky Allen
16 inside the house was terrified of what was going on.

17 You know, I mean, I think you could hear it -- you
18 know, she says that her mother is begging for her life.
19 She says that if anything happens to her mother, she's
20 going to kill herself. I think that she says that one
21 twice. I mean, it's incredibly prejudicial, and I
22 don't see what it offers whatsoever to the case.

23 MS. SWANSON: I failed to mention that it's also a
24 business record, and we would be calling the 911
25 records custodian. But it does corroborate the

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1 victim's fiancée's testimony. And I mean, if
2 Mr. Bannon wants to stipulate to Ms. Femia's role in
3 the murder, I don't have to put any of this stuff up.
4 But, you know, I mean, I still have to prove my case,
5 Judge.

6 I will also say, I don't know where the Defense is
7 going with any of this. So, I mean, that's the thing.
8 I mean, I know Mr. Bannon says we're not here to
9 dispute this and that. But I don't know, at the end of
10 the day, what he's going to be arguing to the jury. So
11 I have to present everything.

12 Thank you, Judge.

13 THE COURT: I'm going to allow you to present
14 whatever evidence you have to indicate there were
15 reports of -- 911 reports of shots being fired.
16 Because, really, the -- you know, if you examine what
17 was played on the 911 call, it really -- the only thing
18 that is probative is, is that there's shots fired.
19 That, you know, her assumptions about what happened,
20 which were actually, you know, inaccurate is not
21 relevant or probative. So I'm not going to allow that
22 in. However, you can testify that there were
23 contemporaneous -- you can put whatever evidence you
24 want to -- on the witness stand to indicate there was
25 911 calls made contemporaneously to report gunshots

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1 being fired.

2 And if you look at it, it really doesn't help your
3 case. It doesn't indicate that she's the one who did
4 it. You've got other witnesses who's going to indicate
5 that there was conspiracy. I imagine the shooter is
6 going to testify about that. And it is admissible for
7 you to say that there was a report made to 911 and that
8 there were gunshots being fired.

9 I mean, if you want to call the person who made
10 the call and say, What did you hear, what did you do?
11 I mean, that would be fine as well.

12 But as far as playing the inaccurate -- her
13 inaccurate perception of what was going on, I think
14 it's irrelevant.

15 MS. SWANSON: Thank you, Your Honor.

16 THE COURT: Anything else?

17 MR. BANNON: Well, yes, Your Honor. Lastly, we
18 have a motion for sanctions due to destruction of
19 evidence.

20 THE COURT: I'll be glad to hear from you.

21 MR. BANNON: Thank you, Your Honor.

22 A interview was conducted. Well, I guess, two
23 interviews were conducted by Officer Raley with a
24 witness who came forward, whose name is Anastasia
25 Harley. His written report only indicates that one

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1 interview was conducted.

2 Contemporaneously with that, a audio and video
3 recording of an interview was disclosed to the Defense.
4 On this interview, actually you see that Investigator
5 Dowling comes into the room for part of the
6 investigation -- or part of the interview. There's no
7 mention in Officer Dowling's reports of him
8 participating in any interview with Ms. Harley.

9 In reviewing the evidence I came to realize that
10 there was an original audio recording, which I believe
11 Officer Raley was referencing when he made a summary in
12 his report, which was conducted on January the 14th.
13 The one which was disclosed to the Defense was the
14 subsequent interview, which took place on January the
15 15th.

16 We filed our motion to dismiss for the loss and
17 destruction of evidence, I believe it was, Thursday
18 afternoon, Your Honor, of last week. The next day I
19 was informed that Investigator Raley had gone into his
20 investigative file and was able to produce the
21 interview which took place on the 14th.

22 In reviewing that evidence, I believe that in
23 regards to the motion, that there are exculpatory
24 statements in -- as far as inconsistencies in
25 Ms. Harley's initial disclosure and second conversation

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1 with law enforcement. There's material differences
2 between the two.

3 Also, Your Honor --

4 THE COURT: How do you know that?

5 MR. BANNON: Well, because, now, we have both
6 recordings.

7 THE COURT: Okay.

8 MR. BANNON: Like -- just for example --

9 THE COURT: But I thought your motion was for
10 destruction of evidence, and you now have it.

11 MR. BANNON: We now have it, Your Honor, which
12 brings me to the second part.

13 Is, what was also clear from the interview
14 conducted on the 14th is that Investigator Raley took a
15 photograph of something on Ms. Harley's phone. What
16 they're talking about at the time is what they believe
17 to be Mr. Ellison's telephone number and his contact
18 information, which is on her phone. But that
19 information was never disclosed.

20 THE COURT: How is that exculpatory?

21 MR. BANNON: Well, Your Honor, I don't -- I don't
22 know what it is because I don't have the ability to
23 see --

24 THE COURT: I do think it's incumbent upon you to
25 prove that it would be exculpatory, isn't it really?

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1 MR. BANNON: Well, Your Honor, I think -- I think
2 that it could be exculpatory, but I'm afraid at this
3 point, I believe it's been destroyed. At least none
4 has been forthcoming since I brought it up with the
5 government today.

6 And so what's actually on that photograph, I
7 couldn't tell you. I don't know if it shows when the
8 last time the parties talked, whether or not there's
9 any text messages between the parties, whether or not
10 there's any voice mails left between the parties.

11 All of this information, I have absolutely no way
12 of knowing what's on there. And at this point, it
13 seems clear that --

14 THE COURT: What evidence do you have that it was
15 done in bad faith?

16 MR. BANNON: Well, Your Honor, I think that
17 there's two different things. That initially, the
18 initial recording in general, which I believe to be
19 exculpatory in nature, was entirely sort of submarined
20 by the Beaufort Police Department. It was never turned
21 in to evidence, it's not on the evidence list that was
22 disclosed to the Defendant.

23 THE COURT: But you do have that now?

24 MR. BANNON: I do have it now, yes, sir, Your
25 Honor. It was disclosed to me after I made --

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1 THE COURT: So really what we need to focus on is
2 the picture of the phone, as far as destruction of
3 evidence.

4 MR. BANNON: As far as destruction of evidence,
5 yes, sir.

6 And also, I -- you know, just in joining, because
7 I filed my motion without knowing that Investigator
8 Raley could produce this secondary recording. There is
9 a secondary recording, Your Honor. I would object to,
10 I guess, the timeliness of the manner that it was
11 brought to my attention, and I ask that as a sanction
12 for that Rule 5 violation, I ask that you exclude
13 Ms. Harley as a witness in the case.

14 THE COURT: And you received it Friday of last
15 week?

16 MR. BANNON: Yes, Your Honor.

17 THE COURT: Being Monday?

18 MR. BANNON: What's that, Your Honor?

19 THE COURT: Today being Monday?

20 MR. BANNON: Yes, Your Honor. I picked it up
21 three days ago.

22 THE COURT: Ms. Swanson, I'll be glad to hear from
23 you.

24 MS. SWANSON: Thank you, Your Honor.

25 State v. Breeze, a Court of Appeals case from

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1 2008, which cites State v. Cheeseboro, which I'm sure
2 Your Honor is familiar with, deals with the destruction
3 of evidence, as she even attached, and that the burden
4 is on the Defense to show that it was either in bad
5 faith, or that it was exculpatory evidence.

6 We do have the audio recordings now of Anastasia
7 Harley, and there is a four-minute portion at the end,
8 which deals with Investigator Raley asking to take a
9 photo of Anastasia Harley's phone. And I can play that
10 as well as something that was brought up by Mr. Bannon
11 this morning regarding -- let me check into what I --
12 you know, let me check with some people about what I
13 can do for you, trying to allege that Beaufort Police
14 Department somehow paid this witness, or that there was
15 some promise of something, and they get into a
16 discussion about her safety, which she is clearly
17 concerned about.

18 So I can -- I can call Investigator Raley to the
19 stand or I can play this four-minute portion so that we
20 know what actually took place at the time before I
21 continue my argument.

22 THE COURT: Well, let's hear the recording, then
23 you can call your witness.

24 MS. SWANSON: Thank you.

25 And this is the audio interview on the 14th.

COLLOQUY

1 All right. Ms. Swanson, you're recognized.

2 MS. SWANSON: Thank you, Your Honor. May it
3 please the Court.

4 THE COURT: Yes.

5 MS. SWANSON: It doesn't get more evil than
6 plotting the execution of the father of your child.
7 And that's exactly what Jasmine Femia did over the
8 Christmas holidays in 2014.

9 It was January 9th of 2015 when it finally
10 happened. Amanda Allen, Nicholas Degros' new fiancée,
11 and she were at their shared duplex. She had her three
12 children at home, they had just gotten back from
13 dinner, it was shortly before 8:00.

14 Nick gets a call from a number that he doesn't
15 recognize, and he goes back outside to call the person
16 back. Shortly after he steps out the back door of
17 their duplex, shots ring out.

18 Amanda, scared, texts Nick, calls Nick, gets no
19 answer, screams out the back door for Nick, no answer.
20 She finally goes to the front door, sees a police car
21 with blue lights in the distance and feels safe enough
22 to go outside.

23 As she rounds the corner out of that duplex, onto
24 the sidewalk in front of the parking lot, she stumbles
25 upon the slain body of her fiancé, Nicholas Degros.

COLLOQUY

1 Frantic and hysterical, she rolls him over, tries
2 to administer CPR. There's nothing she can do to save
3 his life. He's been shot three times in the head. She
4 screams for help, and the officer down the street
5 responds. EMS comes.

6 Who could have done this? Did Nick have any
7 enemies? Was there anyone who he had a problem with?
8 One name came up, Jasmine Femia, the mother of his
9 child, whom he was taking back to court the following
10 Wednesday for violation of child custody visitation
11 order.

12 Now, there's another player in this, and his name
13 is Anthony Ellison. He met Jasmine after getting out
14 of prison, having served eight and a half years. He
15 quickly falls in love with Jasmine, don't know that
16 Jasmine felt the same, but she certainly manipulated
17 those feelings. She was the puppet master, and blinded
18 by this love for Jasmine, the idea of a fresh start, he
19 allowed her to pull the strings. He shot Nick Degros.
20 He confessed to shooting Nick Degros, and he has pled
21 guilty to shooting Nick Degros. He will be spending
22 the next 30 to 40 years in the Department of
23 Corrections, day for day.

24 So today we're in court for Jasmine. What's her
25 part in all of this? Well, in a twisted act of what I

COLLOQUY

1 imagine you could call chivalry, Anthony Ellison
2 confesses to the murder, to investigators, in order to
3 save Jasmine. That wasn't the truth, and he is going
4 to tell you on the stand what happened, what led up to
5 this. I want you to pay attention to the details, who
6 bought the murder weapon, who rented the car, who
7 wanted to move to Tennessee, who had these Family Court
8 issues, who had motive, who wanted so desperately to
9 get rid of Nick Degros.

10 Jasmine may not have pulled the trigger, but she
11 certainly used Anthony Ellison as her weapon. And
12 under South Carolina law, the hand of one is the hand
13 of all. This is a legal theory that Judge Nettles will
14 be charging you on at the end of the case.

15 And basically it means that if two people, two or
16 more people, combine together to commit an unlawful
17 act, they're both guilty of that act. They can't just
18 be merely present or have knowledge of the act, they
19 have to participate in some way. And you're going to
20 see the ways that Jasmine participated in plotting this
21 murder. She did everything but pull the trigger in
22 this case.

23 So, I ask of you, as jurors, to uphold that oath,
24 to follow the law as it's written, and apply it to what
25 you deem to be the truth. Most of the evidence will

COLLOQUY

1 come from this witness stand right here. This is not a
2 who done it. There's not a lot of CSI, forensic
3 evidence. We know who pulled that trigger. We're
4 trying to prove to you what led up to it, and Jasmine's
5 part in all of this.

6 So most of the evidence will come from this
7 witness stand, and it is my burden of proof to prove to
8 you beyond a reasonable doubt that Jasmine Femia
9 committed these crimes.

10 Now, the Judge will also tell you, beyond a
11 reasonable doubt does not mean any possible doubt. It
12 means the sort of doubt that would cause a reasonable
13 person to hesitate to act.

14 Although you will not be hearing a lot about
15 forensics, CSI evidence, that sort of thing, you will
16 be hearing from a few key people that knew Jasmine and
17 know Jasmine intimately. The truth is, is that Jasmine
18 Femia committed the most heinous of crimes, and at the
19 end of this case, after you've listened to the part
20 that she played in the murder of the father of her
21 child, Nicholas Degros, I'm going to ask that you
22 return a guilty verdict. Thank you.

23 THE COURT: Thank you, Ms. Swanson.

24 Mr. Bannon, you're recognized.

25 MR. BANNON: Thank you, Your Honor. May it please

COLLOQUY

1 the Court.

2 THE COURT: Yes, sir.

3 MR. BANNON: Anthony Ellison killed Nicholas
4 Degros. By all accounts, you're going to hear that
5 Mr. Degros was a good man and he did not deserve to
6 die. It's not in dispute that Mr. Ellison shot and
7 killed him.

8 But now, what the State's here to prove, that they
9 have to prove, that their burden is to prove is that it
10 was the 22-year-old girl, the pimply-faced girl, who is
11 the puppet master in the murder of Mr. Degros. And not
12 the 38-year-old hardened ex-con who admitted to the
13 crime.

14 In fact, I expect you're going to hear evidence
15 about multiple different stories that Mr. Ellison is
16 going to tell you about the murder of Mr. Degros.

17 You are not going to hear any bit of credible
18 evidence come from this witness stand. Not one bit.
19 And when you think about that, when you evaluate the
20 credibility of the people who the government will bring
21 before you to testify, I want you to think about the
22 burden that they have to meet. The Judge already
23 instructed you that Ms. Femia sits before you cloaked
24 in a robe of righteousness, and the only evidence that
25 can prove her guilty is credible evidence beyond a

COLLOQUY

1 reasonable doubt. And you are not going to hear any
2 credible evidence that Ms. Femia had anything to do
3 with this.

4 At the end of this case, the Judge is going to ask
5 you to deliberate to deliver a verdict. The word
6 "verdict" comes from vera dicta in Latin, which means
7 to speak the truth. The process is that all you get
8 together and talk about things that you heard from the
9 witness stand and you render a verdict which speaks the
10 truth.

11 What you are not going to hear from the witness
12 stand today, or during the rest of the trial, are any
13 witnesses who are going to speak the truth to you. And
14 that is not the kind of evidence that leads to beyond a
15 reasonable doubt proof.

16 Beyond a reasonable doubt proof is the highest
17 proof, the highest burden of proof that we have in our
18 legal system. The Judge already instructed you on it.
19 This isn't probably, this isn't suspicion, this is
20 beyond a reasonable doubt.

21 And the evidence that you're going to hear is
22 simply not credible enough to rise to the level of
23 beyond a reasonable doubt. This is a case about
24 motivations, motivations of the witnesses. What
25 stories would they tell? When would they tell them?

COLLOQUY

1 Did they have an incentive to tell these stories? Did
2 their stories change? I need you to pay very close
3 attention to that, because this is a case about
4 motivations.

5 At the end of this case, after we've had an
6 opportunity to hear all the evidence and take all the
7 testimony, I'm going to ask you to render a verdict of
8 not guilty. Thank you.

9 THE COURT: Thank you, Mr. Bannon.

10 Ms. Swanson, you're recognized. You may call your
11 first witness.

12 MS. SWANSON: Thank you. State calls Amanda
13 Allen.

14 Thereupon,

15 AMANDA NICOLE ALLEN

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows:

18 THE COURT: Ms. Allen, please come forward. I'm
19 going to ask you, if you could, to come around here.
20 Watch your step. I'm going to ask you to place your
21 left hand on the Bible and raise your right hand as the
22 clerk administers the oath.

23 (Sworn.)

24 THE COURT: Please be seated and say and spell
25 your name for us.

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 Pull up real close to that microphone, speak
2 loudly, clearly, and slowly in order we can hear
3 everything that you have to say. And let's start with
4 your full name.

5 THE WITNESS: Amanda Nicole Allen, A-L-L-E-N.

6 DIRECT EXAMINATION

7 BY MS. SWANSON:

8 Q Amanda, we're going to go through this slowly.

9 Who is Nicholas Degros? Who was he?

10 A He was my fiance.

11 Q How long had y'all been together at the time of
12 his death?

13 A A year and three months.

14 Q Where were you guys living?

15 A On Street, the corner of and
16 Street,

17 Q Okay. Was that a duplex?

18 A Yes, ma'am.

19 Q A brick duplex?

20 A Yes, ma'am.

21 Q Okay. I'm going to show you some pictures, and
22 I've shown these to the Defense already. These are labeled
23 State's 1, 2, and 3. And if you can just pan through those
24 and tell me if those are fair and accurate depictions of the
25 duplex that you resided in.

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 A Yes, ma'am.

2 Q Okay. Back in January of 2015?

3 A Yes, ma'am.

4 MS. SWANSON: The State moves 1, 2, and 3 into
5 evidence.

6 THE COURT: Any objection from Defense?

7 MR. BANNON: No objection.

8 THE COURT: State's 1, 2, 3 into evidence.

9 *(Whereupon, State's Exhibit No(s). 1-3 marked for*
10 *identification and received in evidence.)*

11 MS. SWANSON: Thank you, Your Honor.

12 BY MS. SWANSON:

13 Q Let's talk about January 9th of 2015, your last
14 night with Nick. What can you remember, starting at about
15 7:00 p.m.?

16 A We went to dinner.

17 Q If I could have you speak up a little.

18 A We went to dinner and then we came back home, and
19 we were sitting in the living room. And the kids were in
20 their rooms playing, and he got a phone call. And he didn't
21 know it, and then he called back. And then they said, This
22 is Tone. And he said, I don't know nobody named Tone, and
23 they said --

24 MR. BANNON: Your Honor, I object to hearsay.

25 THE COURT: Sustained.

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 BY MS. SWANSON:

2 Q Okay. Without saying what Nick said, he received
3 a call from a number that he didn't recognize?

4 A Yes, ma'am.

5 Q Okay. And after he received that call, what did
6 he do next? Not what he said, but what did he do after he
7 received that call?

8 A He grabbed the cigarettes and then he went out our
9 back door.

10 Q Okay. And --

11 MS. SWANSON: I'm going to publish State's 1.

12 BY MS. SWANSON:

13 Q Okay. The color is a little off, but I think we
14 can see. Is this the back door of your duplex?

15 A Yes, ma'am.

16 Q And when you say he went out the door, is this
17 back door what you're referring to?

18 A Yes, ma'am.

19 Q Okay. And you said that the kids were in the
20 house playing in their rooms?

21 A Yes, ma'am.

22 Q Now, what kids were in the house?

23 A My three children.

24 Q And how old were they?

25 A At the time, I had a 12-year-old, a ten-year-old

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 and an eight-year-old.

2 Q And did they live with and you and Nick full time?

3 A Yes, ma'am.

4 Q At this residence?

5 A Yes, ma'am.

6 Q After he walks outside, what is the next thing

7 that you remember?

8 A I hear gunshots.

9 Q Do you recall how many gunshots?

10 A I believe it was four.

11 Q Okay. What did you do after you heard the

12 gunshots?

13 A First, I had to protect my children. I wanted to

14 get my children away from windows and protect them and hide

15 them. And then I text messaged Nick and called Nick

16 numerous times.

17 Q Did you get any answer?

18 A No, ma'am.

19 Q Do you remember what Nick's phone number was?

20 A -4061, I believe.

21 Q Okay. And did you give that phone number to

22 investigators?

23 A Yes, ma'am.

24 Q Okay. After your texting him and calling him and

25 getting no response, what's the next thing that you do?

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 A I looked outside and I saw the police were up the
2 road, and I went out my front door.

3 Q Okay.

4 MS. SWANSON: I'm going to publish State's Exhibit
5 2, Amanda.

6 BY MS. SWANSON:

7 Q And if you can look up there to the monitor and
8 tell me if this is your front door?

9 A Yes, ma'am.

10 Q Okay. So that's the door that you went out of and
11 you saw blue lights down the road?

12 A Yes, ma'am.

13 Q Okay. Where did you step when you stepped out of
14 your front door?

15 A When you step out the door, you -- there's the
16 pavement right there, and then you come down the sidewalk.
17 And the side right here, where you can't see, there are the
18 mailboxes, and that's where I found Nick.

19 Q Okay. Tell us about how you found Nick.

20 A He was closest to the brick wall, and he wasn't
21 moving in there, and I flipped him over because I wanted him
22 to wake up.

23 Q Okay. So when you found him, he was laying face
24 down?

25 A He was like on his side almost. Like -- because

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 the wall was there, it kind of, I guess, stopped him from
2 going all the way over.

3 Q Okay.

4 MS. SWANSON: I'm going to publish State's 3.

5 BY MS. SWANSON:

6 Q It's hard to see, but is this the wall that you're
7 referring to here with the mailboxes?

8 A Yes, ma'am. Yes, ma'am.

9 Q I think we can see his body covered by a sheet
10 there.

11 What did you do when you found him?

12 A I did everything. I tried to open his eyes, I was
13 trying to push on his chest, and the police officers told me
14 to stop doing that. And I just wanted him to wake up. I
15 kept telling him to wake up.

16 Q Did you scream for help?

17 A Oh, yeah. I screamed for help over and over,
18 because I knew the police officers were down the road. And
19 then I heard somebody say -- somebody up the street yelling
20 for help, and then the police officers came.

21 Q Okay. And so they did hear your cries for help
22 and they came?

23 A Yes, ma'am.

24 Q Okay.

25 MR. BANNON: Objection as to leading.

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 THE COURT: Sustained.

2 BY MS. SWANSON:

3 Q Did police interview you multiple times that
4 night?

5 A Yes, ma'am.

6 Q And did they ask you if Nick had any enemies?

7 A Yes, ma'am.

8 Q What did you tell them?

9 A I told them no, only one person he had a problem
10 with.

11 Q And who was that?

12 A His kids' mother, Jasmine Femia.

13 Q Can you identify Jasmine Femia?

14 A Uh-huh. (Indicating affirmatively.)

15 Q Can you point her out in the courtroom today?

16 A (Nods yes; pointing.)

17 Q Who was the child that they had in common?

18 A They had a son, Braden.

19 Q How old was Braden?

20 A Two.

21 Q And did they have a visitation policy in place?

22 A Yes, ma'am.

23 Q And where did they exchange Braden?

24 A At the McDonald's on Boundary Street.

25 Q So not at y'all's duplex?

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 A No.

2 Q Okay.

3 MS. SWANSON: Beg the Court's indulgence.

4 (Pause.)

5 MS. SWANSON: Amanda, that's all I have for you
6 now. If you can please answer any questions that the
7 Defense may have.. Okay?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Cross examination, Mr. Bannon.

10 MR. BANNON: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. BANNON:

13 Q Good morning, Ms. Allen.

14 A Good morning.

15 Q I'm very sorry for your loss. Do you need a glass
16 of water or anything?

17 A No.

18 Q Okay. I only have a couple of questions for you.

19 Isn't it true that when you first spoke with
20 police officers that you told them that Nick was lying face
21 down?

22 A He -- well, because of the wall. His face was in
23 it, and then because the wall stopped him. I flipped him
24 over.

25 Q And isn't it also true that Nick was paying child

CROSS EXAMINATION OF AMANDA ALLEN BY THE DEFENDANT

1 support to Jasmine for the child that they had in common?

2 A Yes, sir.

3 Q Do you know how much that was a month?

4 A No. I mean, I never looked. He did that on his
5 own. I didn't try to interfere.

6 Q Okay. But you don't know whether it would be a
7 hundred dollars or \$500?

8 A They took it out of his check automatically.

9 Q Okay.

10 MR. BANNON: Beg the Court's indulgence, Your
11 Honor.

12 (Pause.)

13 MR. BANNON: No further questions, Your Honor.

14 THE COURT: Redirect?

15 MS. SWANSON: No redirect, Your Honor. I ask that
16 Ms. Allen be allowed to step down and remain in the
17 courtroom.

18 THE COURT: You may step down.

19 You may call your next witness.

20 MS. SWANSON: Thank you. Kathy Wilson.

21 THE COURT: Ms. Wilson, please come forward.

22 I'd ask, if you could, to please come up here to
23 the witness stand. Come around, watch your step. I'm
24 going to ask that you come forward, place your left
25 hand on the Bible and raise your right hand while the

DIRECT EXAMINATION OF KATHLEEN WILSON BY THE STATE

1 clerk administers the oath.

2 Thereupon,

3 KATHLEEN WILSON

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 THE CLERK: Please be seated and say and spell

7 your name for us.

8 THE WITNESS: Kathleen Wilson. K-A-T-H-L-E-E-N,

9 W-I-L-S-O-N.

10 DIRECT EXAMINATION

11 BY MS. SWANSON:

12 Q Officer Wilson, who do you work for?

13 A City of Beaufort Police Department.

14 Q Okay. And how long have you worked for the City
15 of Beaufort?

16 A Next month will be 22 years.

17 Q Wow. Okay. What is your rank?

18 A PT three.

19 Q Okay. I'll just call you officer. I never know
20 how to call rank.

21 Were you on duty back in January 9th of 2015?

22 A Yes, ma'am.

23 Q Okay. And can you tell us what sort of call you
24 responded to, at what time, and where?

25 A I responded to a shots fired call, the area of

DIRECT EXAMINATION OF KATHLEEN WILSON BY THE STATE

1 Washington Street and Wilmington Street. And it's
2 approximately a quarter until 8:00 p.m.

3 Q Approximately a quarter till eight?

4 A Yes, ma'am.

5 Q Okay. Do you know what time those calls came in?

6 A Yes, ma'am. The dispatch time for that call was
7 at 1953, 7:53 p.m.

8 Q Okay. So that's what time you were dispatched to
9 the scene?

10 A Yes, ma'am.

11 Q And is Washington Street within the city of
12 Beaufort?

13 A Yes, ma'am.

14 Q And is that within Beaufort County?

15 A Yes, ma'am.

16 Q Okay. What did you do when you got to Washington
17 Street?

18 A Got to the general area. We traveled around the
19 blocks with the windows down, music off, trying to, you
20 know, see or hear if anything is going on. That was
21 actually the second set of calls we had that night within
22 the past hour and a half.

23 Q Okay. Who did you first talk to when you were
24 investigating the shots fired?

25 A Well, since it was the second set of calls that we

DIRECT EXAMINATION OF KATHLEEN WILSON BY THE STATE

1 had during that time frame, and we had multiple calls into
2 dispatch, I had parked my car on Washington Street and -- I
3 think 1505 Washington Street -- and gotten out and I
4 started -- decided to walk the area to see if I could see
5 something going on on foot. And I did about a house down,
6 when a woman came out of her house and told me that she had
7 called about the shots fired.

8 Q Okay. And do you -- was that a neighbor?

9 A I'm sorry?

10 Q Was that a neighbor?

11 A She resided there.

12 Q Someone that lived in the neighborhood?

13 A Yes, ma'am.

14 Q Okay. And then so while you're talking to her,
15 what happens next?

16 A While I was talking to her, and also I had a
17 reserve officer, Thompson, out there with me, while I was
18 talking to her. We -- Officer Thompson had left to go to
19 another call, and while I was still talking to her I
20 heard -- we both heard a female voice screaming, Help me,
21 somebody please help me, over and over again.

22 I started walking toward that voice, which was west of
23 where I was, walking towards the higher block. I was in the 1500
24 block at that time, I started walking towards the 1600 block. When I
25 finally saw where the source of the voice was coming from, I started

DIRECT EXAMINATION OF KATHLEEN WILSON BY THE STATE

1 running to her. And I saw a female that was on the ground leaning
2 over what appeared to be a prone body.

3 Q Okay. Can you describe the residence?

4 A It was a red brick duplex from housing authority.

5 Q Okay. I'm going to show you a picture of
6 State's 4 and ask that you identify this and tell us if it's
7 a fair and accurate depiction.

8 A Yes, ma'am, it is.

9 Q Okay. What is it?

10 A That is the duplex at the corner of Wilmington and
11 Washington Street.

12 Q Okay. And that's the -- essentially the same way
13 it looked that night?

14 A Yes, ma'am.

15 Q Okay.

16 MS. SWANSON: I would move four into evidence at
17 this time.

18 MR. BANNON: No objection.

19 MS. SWANSON: And publish to the jury, Your Honor.

20 THE COURT: States Exhibit 4 is into evidence.

21 *(Whereupon, State's Exhibit No(s). 4 marked for*

22 *identification and received in evidence.)*

23 BY MS. SWANSON:

24 Q Okay. So Officer Wilson, is this the scene that
25 you came up to, albeit Mr. Degros probably did not have that

DIRECT EXAMINATION OF KATHLEEN WILSON BY THE STATE

1 sheet on him, right?

2 A That's correct.

3 Q Okay. And Amanda, the victim's fiancée, was
4 leaning over him?

5 A Yes. I had identified her as Ms. Allen a little
6 bit later. She was over him crying and demanding I help
7 her -- help her help him. She was trying to administer CPR
8 at that time.

9 Q Okay. And did you try and help him?

10 A I got her back off. I put some gloves on. He did
11 not appear to be alive at that time. I reached down and
12 checked for a pulse. I did not find one, but when my hand
13 came away it was covered with blood and gray matter.

14 Q Was this a bloody crime scene?

15 A Yes, ma'am.

16 Q Was blood pooled on the sidewalk?

17 A Yes, ma'am, there was, and around his body. And
18 Ms. Allen was covered in it because she had been kneeling in
19 it next to his body.

20 Q After you tried to find a pulse and got Ms. Allen
21 off of the victim, what was the next thing that you did?

22 A I had already notified dispatch on my way over
23 there of what I was responding to. When I got there, I
24 advised dispatch that he was unresponsive. Then I -- after
25 I checked for a pulse, I advised dispatch I could not find a

DIRECT EXAMINATION OF KATHLEEN WILSON BY THE STATE

1 pulse and he appeared to be deceased.

2 Q Did you --

3 THE COURT: Ms. Swanson, are we going to --
4 Mr. Foreman, ladies and gentlemen of the jury, I'm
5 going to ask that you return to the jury room and
6 refresh yourself. We're going to take a break. Do not
7 discuss the case.

8 We're going to take about a five-minute recess.

9 Anything from the State before the recess?

10 MS. SWANSON: No, sir.

11 THE COURT: Anything from Defense?

12 MR. BANNON: No, Your Honor.

13 THE COURT: We'll stand at ease for five minutes.

14 (Whereupon, a brief recess was taken.)

15 THE COURT: Anything from the State before we
16 bring the jury in?

17 MS. SWANSON: No, sir.

18 THE COURT: Anything from the Defense?

19 MR. BANNON: No, Your Honor.

20 THE COURT: We're ready for the jury.

21 THE BAILIFF: The jury is entering the courtroom,
22 Your Honor.)

23 (The Jury entered the courtroom at 10:34 a.m.)

24 BY MS. SWANSON:

25 Q Okay. Officer Wilson, I think we were just about

CROSS EXAMINATION OF KATHLEEN WILSON BY THE
DEFENDANT

1 anybody, she mentioned his ex-girlfriend.

2 Q Okay.

3 MR. BANNON: Permission to approach the witness,
4 Your Honor?

5 THE COURT: It's all right.

6 *(Whereupon, Defendant's Exhibit No(s). 1 marked*
7 *for identification.)*

8 BY MR. BANNON:

9 Q I'm going to show you what's been marked as
10 Defense Exhibit No. 1. I'll ask you to take a look at it.

11 A Uh-huh. (Indicating affirmatively.)

12 Q What is it?

13 A It's a police report.

14 Q Okay. And I'll call your attention specifically
15 to the second page of the police report.

16 A Correct.

17 Q And the bottom paragraph.

18 A Okay.

19 Q And does that identify Mr. Ellison as having a
20 dispute with Mr. Degros, on the second page, bottom
21 paragraph?

22 A Well, it's not the bottom paragraph, but, yes,
23 it's in here.

24 Q Okay. So Ms. Allen did identify Mr. Ellison as
25 someone who had a dispute with Mr. Degros?

CROSS EXAMINATION OF KATHLEEN WILSON BY THE
DEFENDANT

1 A Yes. Yes. Yes.

2 Q Thank you.

3 MR. BANNON: Beg the Court's indulgence, Your
4 Honor.

5 (Pause.)

6 MR. BANNON: No further questions, Your Honor.

7 THE COURT: Any redirect?

8 MS. SWANSON: No redirect.

9 THE COURT: All right. You may step down.

10 MS. SWANSON: The State would like to briefly
11 recall Amanda Allen.

12 MR. BANNON: Your Honor, I object.

13 THE COURT: Might counsel approach the bench.

14 (Off-the-record discussion held.)

15 MS. SWANSON: Amanda Allen.

16 THE COURT: Ms. Allen, I'll remind you that you're
17 still under oath.

18 Thereupon,

19 AMANDA ALLEN

20 was called as a witness, having been previously duly sworn,
21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. SWANSON:

24 Q Amanda, did you know the name of Jasmine Femia's
25 current boyfriend?

DIRECT EXAMINATION OF AMANDA ALLEN BY THE STATE

1 A Yes, ma'am.

2 Q And what's -- what's his name?

3 A Anthony Ellison.

4 Q Had you ever met him?

5 A No, ma'am.

6 Q Had he ever been to your house?

7 A No, ma'am.

8 Q Had he ever met Nick --

9 A No.

10 Q -- to your knowledge?

11 A No, ma'am.

12 Q Had Jasmine ever been to your house?

13 A Yes, ma'am.

14 MS. SWANSON: Okay. Thank you. That's all.

15 MR. BANNON: No further questions.

16 THE COURT: All right. You may step down.

17 You may call your next witness.

18 MS. SWANSON: Thank you. Shayna Orsen.

19 THE COURT: Please come forward. I'm going to ask
20 you, if you could, to come forward to the witness
21 stand. Watch your step. I'm going to ask you to place
22 your left hand on the Bible and raise your right hand
23 while the Clerk administers the oath.

24 Thereupon,

25 SHAYNA MARIE ORSEN

DIRECT EXAMINATION OF SHAYNA ORSEN BY THE STATE

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 THE COURT: Have a seat in the witness chair.

4 Pull up real close to that microphone and speak loudly,
5 clearly, and slowly in order that we can hear
6 everything that you have to say. And let's start with
7 your full name, please, ma'am.

8 THE WITNESS: My full name is Shayna Marie Orsen.

9 THE COURT: Spell that last one.

10 THE WITNESS: O-R-S-E-N.

11 DIRECT EXAMINATION .

12 BY MS. SWANSON:

13 Q Shayna, who do you work for?

14 A I work for Beaufort County as a paramedic.

15 Q Okay. And how long have you been a paramedic?

16 A Ten years.

17 Q All right. And as a paramedic, are you allowed to
18 treat and administer life saving measures to victims?

19 A Yes, ma'am.

20 MR. BANNON: Objection, leading.

21 THE COURT: Sustained.

22 BY MS. SWANSON:

23 Q What are you allowed to do as a paramedic?

24 A Paramedics can do a number of things from giving
25 life saving medications, we can defibrillate stopped hearts,

DIRECT EXAMINATION OF SHAYNA ORSEN BY THE STATE

1 we can do physical measures to stop bleeding, things like
2 that.

3 Q Okay. Were you on duty the evening of January 9th
4 of 2015?

5 A Yes, ma'am.

6 Q Can you tell us about the call that you responded
7 to on Washington Street?

8 A We responded to a call of, I believe it was a man
9 down, possible gunshot wound.

10 Q Okay.

11 A I believe that's what it was. I don't have a
12 report in front of me.

13 Q Would it help you if I provided you with your
14 report?

15 A Please.

16 MS. SWANSON: All right. And does the Defense
17 have any objection to that?

18 MR. BANNON: I suppose if it's used to refresh her
19 recollection, no objection.

20 MS. SWANSON: Right. I'm not moving to enter the
21 report, I'm just asking that she be allowed to review
22 it and refer to it throughout her testimony.

23 THE COURT: You may do so.

24 MS. SWANSON: Thank you.

25 BY MS. SWANSON:

DIRECT EXAMINATION OF SHAYNA ORSEN BY THE STATE

1 Q What time were you guys called out to the scene at
2 Washington Street?

3 A Dispatch time was 2013 hours.

4 Q What's that in normal people time?

5 A 8:13 at night. Sorry.

6 Q That's okay.

7 All right. So EMS arrives at 8:13?

8 A We were dispatched at 8:13.

9 Q Dispatched at 8:13. And what time did you arrive?

10 A We arrived at 8:19.

11 Q What did you find when you arrived?

12 A When we arrived on scene, we were initially
13 greeted by the fire department personnel, who informed us
14 that this was a deceased person on scene. We proceeded over
15 and found the patient on the ground, obvious signs of death.

16 Q Okay. At that point, do you still write a report
17 and pronounce him dead?

18 A Yes, ma'am.

19 Q Okay. And is that what you did on January 9th?

20 A Yes, ma'am.

21 Q From what you could tell, what were the -- what
22 was -- what were the injuries?

23 A We noticed what we consider an entry wound to the
24 right side of the head. There was coagulated blood around
25 the body and on the body, and there was also brain matter

DIRECT EXAMINATION OF SHAYNA ORSEN BY THE STATE

1 visible.

2 Q Okay. Were you able to administer any life saving
3 measures?

4 A No, ma'am.

5 Q Okay. And referring to State's 4, which I have up
6 on the screen, is this what you recall seeing when you
7 arrived?

8 A Yes, ma'am.

9 Q Okay. Did he have the sheet on him at that point
10 or --

11 A No.

12 Q Okay. It was prior to?

13 A Yes, ma'am.

14 Q All right.

15 MS. SWANSON: That's all I have for you, Shayna.
16 Please answer any questions that the Defense may have.

17 THE COURT: Any cross examination, Mr. Bannon?

18 MR. BANNON: No, Your Honor. Thank you.

19 THE COURT: You may step down.

20 THE WITNESS: Thank you.

21 MS. SWANSON: Thank you. And I would ask that
22 Ms. Orsen be excused.

23 THE COURT: Any objection?

24 MR. BANNON: No objection.

25 THE COURT: You're free to leave.

DIRECT EXAMINATION OF SHAYNA ORSEN BY THE STATE

1 THE WITNESS: Thank you.

2 MS. SWANSON: Thank you.

3 State calls Anastasia Harley.

4 THE COURT: Please come forward, Ms. Harley.

5 Please come forward.

6 I'll ask you to come forward and come up here to
7 the witness stand. Watch your step. Place your left
8 hand on the Bible and raise your right hand as the
9 clerk administers the oath.

10 Thereupon,

11 ANASTASIA HARLEY

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 THE COURT: Have a seat in the witness chair.
15 Pull up real close to that microphone, speak loudly,
16 clearly, and slowly, and let's start with your full
17 name, please.

18 THE WITNESS: Anastasia Harley.

19 THE COURT: Very good.

20 DIRECT EXAMINATION

21 BY MS. SWANSON:

22 Q And, Ana, because we've met before, I know that
23 you tend to speak very quickly. So let's just make sure you
24 speak slow and loud so that this jury can hear you. This is
25 the first time they're hearing any of this. Okay?

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 A Yeah.

2 Q All right. And you go by Ana, right?

3 A Uh-huh. (Indicating affirmatively.)

4 Q All right. Ana, tell us how you know

5 Jasmine Femia.

6 A Know her from work and then school, a little bit

7 of school.

8 Q From work and a little bit of school?

9 A (Nods in the affirmative.)

10 Q Okay. I'm going to ask you to slow down when you

11 talk.

12 Where did you go to school with Jasmine?

13 A Battery Creek.

14 Q All right. And where did you work with Jasmine?

15 A Air station.

16 Q Air station?

17 A Uh-huh. (Indicating affirmatively.)

18 Q Okay. What kind of relationship did you have with

19 Jasmine?

20 A It was like messing around, dating.

21 Q Dating. So she was your girlfriend?

22 A Yeah.

23 Q All right. For how long of a period of time?

24 A About two or three years.

25 Q Was that off and on or --

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

- 1 A Uh-huh. (Indicating affirmatively.)
- 2 Q You're going to have to say yes or no.
- 3 A Oh, yes. Yes.
- 4 Q Okay. Can you identify Jasmine Femia?
- 5 A There.
- 6 Q Okay. Sitting next to defense counsel, let the
- 7 record reflect that Ms. Harley did identify Jasmine Femia.
- 8 Back in December and January 2015, where was
- 9 Jasmine living?
- 10 A In Port Royal.
- 11 Q Were they apartments or --
- 12 A Uh-huh. (Indicating affirmatively.)
- 13 Q Okay. What road were they off of?
- 14 A Ribaut.
- 15 Q Ribaut?
- 16 A Ribaut, I guess.
- 17 Q Okay. In Port Royal?
- 18 A Uh-huh. (Indicating affirmatively.)
- 19 Q And are you familiar with where the Wal-Mart in
- 20 Beaufort is?
- 21 A Yes.
- 22 Q Is that -- about how far away is Wal-Mart from her
- 23 apartment?
- 24 A Like ten or 15 minutes.
- 25 Q Okay. So you had been to Jasmine's apartment?

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 A Yes.

2 Q Let's talk about what led you to contact police.

3 How did that all happen?

4 A I was at work one day -- well, we went to the air
5 station one day, and they was talking about it. Well, the
6 people in the office was talking about it, and then they
7 told me, when they told me about it, I said, Are you
8 serious?

9 Q Everyone was talking about what?

10 MR. BANNON: Objection, hearsay.

11 THE COURT: Sustained.

12 THE WITNESS: Well --

13 BY MS. SWANSON:

14 Q What did you learn?

15 A Oh, that Nicholas died. Got killed.

16 Q Okay. So you go to work and you learn that Nick
17 was killed?

18 A Uh-huh. (Indicating affirmatively.)

19 Q Who is Nick?

20 A Jasmine baby daddy.

21 Q I'm sorry?

22 A Jasmine baby father.

23 Q Okay. Did Jasmine ever talk to you about Nick?

24 A Yes.

25 Q What did she say about Nick?

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 A She didn't like him and she wanted to get rid of
2 him. She wished he wasn't in her life.

3 Q She what?

4 A She wished he wasn't in her life.

5 Q Oh. She wished he wasn't in her life. Okay.

6 Once you learned what happened to Nick, what
7 did you do after that?

8 A I told my friend and then I went to -- well, I
9 called the thing, the police station, and they referred me
10 to Officer Raley to interview.

11 Q Okay. So you called the police and they referred
12 you to Officer Raley?

13 A Uh-huh. (Indicating affirmatively.)

14 Q Did you go in and talk to him at that point?

15 A No, not -- not until we went -- I think we went
16 across the street, or we had told him to come to the office.
17 So I went there.

18 Q Okay. So you did sit down and talk to him?

19 A Uh-huh. (Indicating affirmatively.)

20 Q All right. And what did you tell him?

21 A About what I heard and stuff like that, what I
22 knew.

23 Q I'm sorry?

24 A About what I heard.

25 Q What Jasmine told you?

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 A Uh-huh. (Indicating affirmatively.)

2 Q What you know about the death of Nicholas Degros,
3 yes, starting from the beginning.

4 A Went to the movie theater, and I guess -- and I
5 guess Anthony had called her and said that he locked her
6 house door. And then he was like, he left something in the
7 house. And so whenever he came, I was like, Oh. And then
8 we had -- he had gave her a kiss and I got mad or whatever.
9 So she had (inaudible) --

10 Q Okay. I'm going to stop you right there and ask,
11 were you and Jasmine, when she picked you up at the nail
12 salon, for the nail salon, were you and Jasmine dating?

13 A Yeah.

14 Q Okay. Did you know Anthony?

15 A No.

16 Q Had you ever met Anthony?

17 A No.

18 Q Did you even know he existed?

19 A From -- from hearsay. Just at work, people talk
20 about it at work.

21 MR. BANNON: Objection, hearsay.

22 THE COURT: Sustained.

23 BY MS. SWANSON:

24 Q Okay. So you didn't know he existed with your own
25 knowledge. You had never seen him, talked to him, anything

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 like that.

2 So when he shows up, was it a surprise to you
3 that somebody else kissed her?

4 MR. BANNON: Objection, leading.

5 THE WITNESS: Ma'am?

6 THE COURT: Rephrase the question.

7 BY MS. SWANSON:

8 Q Okay. When he showed up, what did he do?

9 A He came in, just took a little bit. Then she gave
10 him something and then he gave her a kiss and he left.

11 Q And then what happened? Did you and Jasmine talk
12 about that?

13 A Not that night, no.

14 Q Okay. When did you talk about it?

15 A The next day.

16 Q All right. Tell us about that.

17 A I asked her why was she with him or whatever. And
18 she at first, she didn't want to tell me. And then she was
19 like, I don't want to get you involved and stuff like that.

20 Q Okay. What else did she tell you?

21 A That she -- in her life -- he's in her life so he
22 can get rid of Nick.

23 Q Okay. When was this that you went to the nail
24 salon?

25 A I think the 22nd.

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 Q Twenty-second of what month?

2 A December, I think.

3 Q December. Okay. So it was around Christmastime?

4 A Uh-huh. (Indicating affirmatively.)

5 Q Was this the first time she had talked about
6 getting rid of Nick?

7 A No. It was like -- it was like -- she didn't like
8 him. Like, every time he had got on her nerves, that's when
9 she would say something like that.

10 Q Did either Jasmine or Anthony talk to you about
11 getting a gun?

12 A Yeah, they both.

13 Q I'm sorry?

14 A Yes, they both.

15 Q They both did?

16 A Uh-huh. (Indicating affirmatively.)

17 Q Tell us about that.

18 A They say that -- they was talking about getting
19 rid of Nick or whatever. He knew somebody that had a gun.
20 And then Anthony had called me, that's what it is, the same
21 thing.

22 Q Okay. So both Jasmine and Anthony approached you
23 about getting a gun?

24 A Uh-huh. (Indicating affirmatively.)

25 Q Did you get them a gun?

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 A No.

2 Q Okay. Now, at some point, did you go over to
3 Jasmine's house to collect some of your things?

4 A Yes.

5 Q And what did you hear Jasmine discussing?

6 A They was talking about -- Anthony asked her if she
7 can get a car or whatever.

8 MR. BANNON: Objection, hearsay.

9 THE COURT: Sustained.

10 BY MS. SWANSON:

11 Q What did Jasmine say about getting a car?

12 A She was going to see if she could ask somebody.

13 Q She wanted to see if she could ask somebody?

14 A Uh-huh. (Indicating affirmatively.)

15 MR. BANNON: Objection, leading.

16 BY MS. SWANSON:

17 Q If you could just repeat what you testified to.

18 A She said that she was going to see if she could
19 ask somebody to get a car for her.

20 Q Okay. Why did you not come forward when Jasmine
21 told you that Anthony was in her life to get rid of him?

22 A Because I didn't believe her.

23 Q Okay. When you talked to investigators, did you
24 give them Anthony and Jasmine's phone numbers?

25 A Uh-huh. (Indicating affirmatively.)

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 Q Do you remember what those phone numbers were?

2 A They both were 986 numbers.

3 Q Okay. Local numbers?

4 A Yes.

5 Q Like (843) 986?

6 A Yes.

7 Q Do you recall giving Investigator Raley,

8 (843) 986 --

9 MR. BANNON: Objection, leading.

10 THE COURT: Sustained.

11 BY MS. SWANSON:

12 Q All right. So both (843) 986 numbers, we have both
13 of them in your phone that you referred to?

14 A Yes.

15 Q Okay. And did investigators have you try and call
16 those numbers?

17 A Yes.

18 Q All right. And so when you called Jasmine's
19 number, did anyone pick up?

20 A No.

21 Q All right. And when you called Anthony's number,
22 what happened?

23 A It was turned off.

24 Q The phone was turned off?

25 A Uh-huh. (Indicating affirmatively.)

DIRECT EXAMINATION OF ANASTASIA HARLEY BY THE STATE

1 MS. SWANSON: Beg the Court's indulgence.

2 (Pause.)

3 MS. SWANSON: Ana, please answer any questions
4 that the Defense may have for you at this time.

5 THE COURT: Cross examination.

6 MR. BANNON: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. BANNON:

9 Q Good morning, Ms. Harley, how are you?

10 A Good.

11 Q Okay. You testified previously that you and
12 Jasmine went to the Magic Nail salon on December the 22nd of
13 2014, correct?

14 A Yes.

15 Q Okay. And at that point in time, the two of you
16 were still dating; isn't that correct?

17 A Yes.

18 Q And isn't it true that you loved Jasmine at that
19 point?

20 A No.

21 Q Isn't it true that shortly thereafter you asked
22 her to marry you?

23 A No, huh-uh.

24 Q But when you saw -- you said -- you testified that
25 you saw Mr. Ellison kiss her?

CROSS EXAMINATION OF ANASTASIA HARLEY BY THE
DEFENDANT

1 A Uh-huh. (Indicating affirmatively.)

2 Q And that that was very upsetting to you?

3 A Uh-huh. (Indicating affirmatively.)

4 Q Isn't that the case?

5 A Yes.

6 Q And that's because you had been in a relationship
7 for approximately three years?

8 A Yes.

9 Q And when you were at the nail salon, it was you,
10 Jasmine, and her two kids originally, correct?

11 A Yes.

12 Q Okay. And isn't it true that Jasmine was sitting
13 in one of the chairs having her nails done while you were
14 sitting at sort of the front entrance?

15 A Uh-huh. (Indicating affirmatively.)

16 Q Okay. And isn't it true that you were watching
17 the kids while she was having her nails done?

18 A Uh-huh. (Indicating affirmatively.)

19 Q And that the two of you actually had plans to go
20 shopping afterwards, correct?

21 A Uh-huh. (Indicating affirmatively.)

22 Q But that it was so upsetting when you saw
23 Mr. Ellison kiss her that you asked her to take you home?

24 A Uh-huh. (Indicating affirmatively.)

25 Q You have to say yes or no.

CROSS EXAMINATION OF ANASTASIA HARLEY BY THE
DEFENDANT

1 A Yes.

2 MR. BANNON: Beg the Court's indulgence, Your
3 Honor.

4 (Pause.)

5 BY MR. BANNON:

6 Q You had testified previously that Mr. Ellison had
7 called you on the phone and asked how to get a gun; isn't
8 that true?

9 A Uh-huh. (Indicating affirmatively.)

10 Q You have to say yes or no.

11 A Yes.

12 Q All right. And isn't it true that when he had
13 asked you, you had suggested that he could get a gun from
14 Jasmine's father's house?

15 A No.

16 Q Isn't it true that when Investigator Raley was
17 interviewing you that that's what you told him?

18 A I said, I told -- I asked -- I asked Jasmine why
19 she didn't come ask her dad, step dad, not to get a gun.

20 Q And you testified previously that you believe --
21 you didn't believe that any of this was actually going to
22 happen, correct?

23 A No, sir.

24 Q Okay. Isn't it true that you have difficulty
25 keeping secrets?

CROSS EXAMINATION OF ANASTASIA HARLEY BY THE
DEFENDANT

1 A No.

2 Q Isn't it true that you told Investigator Raley
3 during his interview with you that you have a difficult time
4 keeping secrets?

5 A Huh-uh, no.

6 Q Okay.

7 MR. BANNON: Beg the Court's indulgence, Your
8 Honor.

9 (Pause.)

10 BY MR. BANNON:

11 Q Isn't it true that you told police officers in an
12 interview that Mr. Ellison had asked you to sell drugs for
13 him?

14 A Yeah.

15 Q Okay. And that you told investigators that you
16 were texting and calling both Mr. Ellison and Ms. Femia
17 regularly through, you know, the holiday season of 2014?

18 A Yes.

19 Q Okay. And how old is Jasmine?

20 A Twenty-two and a half, probably.

21 Q Okay. So at the time?

22 A Twenty-one.

23 Q Okay. And over Christmas, isn't it true that
24 Jasmine and Anthony went to Tennessee?

25 A Yes.

CROSS EXAMINATION OF ANASTASIA HARLEY BY THE
DEFENDANT

1 Q And isn't it true that you were originally
2 supposed to go with them?

3 A Yes.

4 Q But it's also true that you didn't go with them;
5 isn't that the case?

6 A Yes.

7 Q Okay. And that made you angry, didn't it?

8 A No. Because I just went to work.

9 Q I'm sorry?

10 A Because I just turned around and went back to
11 work.

12 MR. BANNON: No further questions, Your Honor.

13 THE COURT: Redirect.

14 MS. SWANSON: Just briefly.

15 REDIRECT EXAMINATION

16 BY MS. SWANSON:

17 Q Ana, after Jasmine takes you to the nail salon and
18 you have a conversation about you shouldn't be involved, did
19 she tell you why she took you to the nail salon?

20 A So that -- so we can be seen around each other on
21 camera.

22 Q So you could -- can you repeat that louder?

23 A So we can be seen around each other on camera.

24 Q All right. Why did she want to be seen around you
25 on camera?

REDIRECT EXAMINATION OF ANASTASIA
HARLEY BY THE STATE

1 A I don't know. They said that -- she said it would
2 be an alibi.

3 Q Okay. And when Anthony drove up to the nail
4 salon, do you recall what he drove up in?

5 A A gray truck. I think it was a Dodge probably.

6 Q A gray truck?

7 A Yes.

8 Q Was that one of Jasmine's cars that you're aware
9 of?

10 A No.

11 Q What does Jasmine drive?

12 A A gray, I think, Camry.

13 Q Who lives in Tennessee, her mother?

14 A Yes.

15 Q Did Jasmine want to move to Tennessee?

16 A Yes.

17 MS. SWANSON: No further questions.

18 THE COURT: All right. You may step down.

19 MR. BANNON: Your Honor, may I cross on that
20 redirect?

21 THE COURT: There's no such thing as recross.
22 It's direct, cross, and you have an obligation to
23 object to any new material on redirect. That's the
24 rules, always has been the rules.

25 MR. BANNON: Thank you.

REDIRECT EXAMINATION OF ANASTASIA
HARLEY BY THE STATE

1 THE COURT: Always will be the rules.

2 You may be excused.

3 MS. SWANSON: I'm going to ask that Ms. Harley be
4 excused at this time.

5 THE COURT: Any objection?

6 MR. BANNON: No objection.

7 THE COURT: You're free to leave.

8 MS. SWANSON: State calls Anthony Ellison.

9 Mr. Ellison, if you can please just take the stand
10 right over here.

11 THE COURT: Watch your step. Have a seat in the
12 witness chair. I'll ask you to place your left hand on
13 the Bible and raise your right hand as the clerk
14 administers the oath.

15 Thereupon,

16 ANTHONY ELLISON

17 was called as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 THE COURT: Ms. Swanson.

20 MS. SWANSON: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. SWANSON:

23 Q Mr. Ellison, obviously you are an inmate, right?

24 A Yes, ma'am.

25 Q Okay. Were you charged with the murder of

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 Nicholas Degros?

2 A Yes, ma'am.

3 Q Did you plead guilty to that murder as well as
4 conspiracy?

5 A Yes, ma'am.

6 Q And did the State offer you anything for that?

7 A No, ma'am.

8 Q Well, what --

9 A I mean, yes, my plea.

10 Q What were the plea negotiations?

11 A Thirty years for my testimony.

12 Q Was it a cap of 40 years?

13 A Yes, ma'am.

14 Q So you could get anything between 30 and 40?

15 A Yes, ma'am.

16 Q Okay. And so in exchange for pleading guilty and
17 getting a 30- to 40-year sentence, you've agreed to come
18 forward and testify against your co-Defendant, Jasmine
19 Femia?

20 MR. BANNON: Objection, leading.

21 MS. SWANSON: I'm just trying to get through the
22 reveal the deal portion.

23 THE COURT: I'll sustain the objection. Once
24 again, you can ask him what the negotiations were.

25 BY MS. SWANSON:

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 Q Okay. Have you agreed to testify against Jasmine
2 as a State's witness?

3 A Yes, ma'am.

4 Q Okay. And let's get in briefly to your
5 background. Have you been in prison before?

6 A Yes, ma'am.

7 Q For what?

8 A Armed robbery.

9 Q Okay. And how long did you spend in prison?

10 A Eight years -- eight and a half years, ma'am.

11 Q And who did you meet in prison?

12 A Daniel Lopez.

13 Q Who's Daniel Lopez?

14 A Jasmine Femia's uncle.

15 Q Where are you from, Anthony?

16 A New York City.

17 Q And how did you end up in South Carolina?

18 A I came down here because of a divorce for me and
19 my wife. We had the split, so I came down here to get
20 myself together. And when that happened, I got into it with
21 some wrong people and committed a armed robbery.

22 Q A robbery. And where was that robbery?

23 A In Richland County.

24 Q And is that in Columbia?

25 A Yes, ma'am.

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 Q Okay. How did you end up in Beaufort, South
2 Carolina?

3 A Upon my release from prison, I didn't have
4 anywhere to live. So Daniel Lopez told me I could come stay
5 with him, use his address. And I was like, okay, cool, so I
6 gave it to the probation people that came, and they
7 forwarded my paperwork from Columbia to Beaufort.

8 Q And they what?

9 A They forwarded my address from Columbia to
10 Beaufort.

11 Q Okay. And so how did you end up meeting
12 Jasmine Femia?

13 A Through Daniel Lopez, when she came over to his
14 house.

15 Q Can you identify Jasmine Femia?

16 A Yes. She was --

17 Q Is she in the courtroom today?

18 A Yes.

19 Q Okay. And can you point her out for me?

20 A (Witness pointing to Defendant.)

21 Q Okay. Did you have a relationship with
22 Jasmine Femia?

23 A Yes, ma'am.

24 Q And what was that relationship?

25 A Very intimate. We was falling for each other, and

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 she gave me the assumption we was falling for each other. I
2 did have feelings for her. And we had put money down on a
3 ring because we was going to get married.

4 Q Okay. And did you end up moving in with her?

5 A Yes, ma'am.

6 Q All right. And where was the apartment located?

7 A In Port Royal. I don't know the actual address, I
8 can't remember.

9 Q All right. Do you know what street it was off of?

10 A I couldn't --

11 Q It's okay if you don't.

12 Okay. So an apartment in Port Royal. About
13 how long did you live with Jasmine?

14 A For a couple months.

15 Q About how long did you live in Beaufort before
16 your arrest?

17 A About -- about three months after my release.

18 Q Did you know many people here?

19 A I didn't know nobody but Lopez and Jasmine's
20 family.

21 Q Did you know your way around?

22 A No, only places that she took me.

23 Q Did Jasmine ever talk to you about
24 Nicholas Degros?

25 A Yes, ma'am.

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 Q Do you know who Nicholas Degros is?

2 A It was her baby father, but I didn't know who he
3 was at the time until she explained everything to me about
4 him.

5 Q Okay. Had you ever met Nicholas Degros?

6 A Never.

7 Q All right. Did you know where he lived?

8 A No, not until she showed me.

9 Q How many times did she show you where Nick lived?

10 A About two or three times.

11 Q And why was that?

12 A Because she wanted Nicholas dead.

13 Q All right. What was her plan once Nicholas was
14 dead?

15 A That she was going to finish school, getting a
16 nursing degree. She was going to pay for my probation and
17 finish on it, and we were supposed to move to Tennessee.

18 Q And were y'all going to get married?

19 A Yes, before we left.

20 Q Did she ever talk to you about an upcoming Family
21 Court date?

22 A She mentioned it to me like a couple times that
23 she had something going on with Nick and that she said if
24 she was to go into court, that she would lose her children
25 and that she would go to jail. And she said that couldn't

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 happen. Because, at that time I was staying with her, and I
2 wouldn't have a place to stay if she went to jail. So she
3 said that Nick had to go.

4 Q Okay. Tell us where you got the gun to shoot
5 Nick.

6 A It was behind her apartment building, a hotel
7 behind there, at nighttime we met somebody. I can't
8 remember the guy's name.

9 Q Who set that up?

10 A Jasmine and I.

11 Q Who paid for the gun?

12 A Jasmine.

13 Q What happened to the gun after the murder?

14 A We drove out somewhere, I think. And the place
15 she called it was Hilton Head, somewhere in a park area. I
16 don't -- I don't know the area. And she was with the kids
17 and I went up on it's kind of like a pier, and I dropped the
18 gun in the water.

19 Q Okay. So she was driving?

20 A Her car.

21 Q Her Camry?

22 A Yes, ma'am.

23 Q And where were she and the kids when you got rid
24 of the murder weapon?

25 A She was in the area, about probably like about a

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 couple of yards from me.

2 Q Okay. Was she in the car or outside of the car?

3 A Outside of the car.

4 Q Okay. Did she watch you throw the gun in the
5 water?

6 A No, ma'am.

7 Q Okay. What was the purpose of going to Hilton
8 Head?

9 A To get rid of the gun.

10 Q Okay. What kind of gun was it, Anthony?

11 A Twenty-two revolver.

12 Q Tell me about the rental car.

13 A Jasmine said that her car was messed up, but I
14 don't remember it being messed up. And she said that she
15 had to get a rental and put her car in the shop. And when
16 she put her car in the shop, she had a rental.

17 Q Okay. So when did she come home with the rental,
18 was it the night of the murder?

19 A No. It was the day before -- probably a couple of
20 days before.

21 Q Okay. What did she tell you about the rental
22 car -- what car did you take to do the murder?

23 A The rental.

24 Q And what did she tell you?

25 A She only told me that she had the car. She said

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 go ahead and do what I needed to do, and then we would take
2 the car back.

3 Q And so you took the rental car, and where did you
4 drive?

5 A If I remember, you leave out of her complex, you
6 take a left, and it's like almost like trying to go to --
7 she showed me how to get to my probation office, and it's
8 on -- was it Washington Street, I believe, something like
9 that.

10 Q Okay. Close to downtown Beaufort?

11 A Yes, ma'am.

12 Q All right. And were you able to drive there right
13 away, did you remember where it was?

14 A No, ma'am. I got lost.

15 Q Okay. And so when you got lost, what did you do?

16 A I called Jasmine.

17 Q And what did Jasmine tell you when you got lost?

18 A She gave me directions.

19 Q All right. And so did you finally get there?

20 A Yes, ma'am.

21 Q And what did you do when you got there?

22 A I waited for Nick to pull up. When he pulled up,
23 I think it was -- I think him and his family was going into
24 the house and I was sitting in the car. And I think when he
25 came back outside, that's when I got out of my car.

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 Q Okay. Did you ever call Nick that night?

2 A Yes, ma'am.

3 Q How did you get Nick's number?

4 A From Jasmine.

5 Q And why did you call Nick?

6 A Because Jasmine needed -- I needed to get him to
7 come outside, and Jasmine gave me the number to get him to
8 come outside.

9 Q Okay. And why did you need him to -- need him to
10 get outside?

11 A Because Jasmine wanted me to kill him.

12 Q Okay. Did you also call Jasmine after the murder?

13 A Yes, ma'am.

14 Q And why did you call Jasmine after the murder?

15 A Because it was her idea to get us to go to
16 Wal-Mart to be on the cameras for an alibi.

17 Q Okay. What car did y'all drive to Wal-Mart?

18 A Her Camry.

19 Q The car that was having trouble?

20 A Yes, ma'am.

21 Q Okay. But you didn't notice any trouble?

22 A No, ma'am.

23 Q The day after the murder, did you do anything with
24 your phone?

25 A Yeah, I destroyed it.

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

- 1 Q Why did you destroy your phone?
- 2 A She said we had to get rid of everything.
- 3 Q Who said that?
- 4 A Jasmine.
- 5 Q Did you shoot Nick in the head?
- 6 A Yes, ma'am.
- 7 Q Three times?
- 8 A Yes, ma'am.
- 9 Q To make sure he was dead?
- 10 A Yes, ma'am.
- 11 Q For Jasmine?
- 12 A Yes, ma'am.
- 13 Q And after you did that, did you get back in the
- 14 rental car?
- 15 A Yes, ma'am..
- 16 Q And where did you go first?
- 17 A Straight to Jasmine.
- 18 Q Straight to the apartment in Port Royal?
- 19 A Yes, ma'am.
- 20 Q And then where did y'all go after you got to the
- 21 apartment in Port Royal?
- 22 A We went straight to Wal-Mart.
- 23 Q Straight to Wal-Mart?
- 24 A Yes, ma'am.
- 25 Q About how long did it take to get to Wal-Mart from

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 the apartment in Port Royal?

2 A Pretty quick, because she was already in -- she
3 was already in the car with the kids.

4 Q All right. So she had packed up the car with the
5 kids?

6 A Yes, ma'am.

7 Q The Camry?

8 A Yes, ma'am.

9 Q All right. Anthony, let's talk a little bit about
10 what you first told investigators. You talked to them
11 several times?

12 A Yes, ma'am.

13 Q And what did you tell them the first time you
14 talked to them?

15 A I committed a crime, and Jasmine had nothing to do
16 with it.

17 Q And was that the truth or was it a lie?

18 A It was a lie.

19 Q And why did you lie?

20 A I was protecting Jasmine because I thought she
21 loved me.

22 Q Okay. And why are you telling the truth now?

23 A It's the right thing to do.

24 Q Did you also talk to investigators again after
25 that?

DIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 A Yes, ma'am.

2 Q All right. And what did you tell them?

3 A That it was an MS 13, because I was scared, and I
4 was trying to cover up to keep Jasmine out of jail.

5 Q Okay. And again, why did you tell them that lie?

6 A Because I was trying to keep Jasmine out of jail,
7 because I thought she loved me.

8 Q Okay. And, again, why are you telling the truth
9 now?

10 A Because it's the right thing to do by his family.

11 Q Okay.

12 If Jasmine wasn't in your life, would you have
13 killed Nick?

14 A No.

15 MR. BANNON: Objection, calls for speculation.

16 THE COURT: I think she's just asking about his
17 intentions and motivations. I think it's a perfect
18 question.

19 Rephrase the question or re-ask the question.

20 BY MS. SWANSON:

21 Q If Jasmine had not been in your life, would you
22 have killed Nick?

23 A No, ma'am.

24 MS. SWANSON: Thank you. Nothing further.

25 Please answer any questions, Mr. Ellison, that

CROSS EXAMINATION OF ANTHONY ELLISON BY THE
DEFENDANT

1 A Yes, I believe so.

2 Q And you told them that you got Mr. Degros' picture
3 and his address out of the cell phone while she wasn't at
4 the apartment, correct?

5 A Yes, sir.

6 Q And you told investigators that that night you and
7 Jasmine had gotten into a fight because of these text
8 messages which you had found on her cell phone, correct?

9 A No, I don't remember me saying that.

10 Q In fact, you told investigators that night that
11 the text messages and the fight made you so upset that you
12 left the house in the rental car; isn't that correct?

13 A I don't remember telling them that. I told them
14 that I left the house and I took the rental car.

15 Q Okay. And that you took the rental car and that
16 you were so upset that you drove to Mr. Degros' house and
17 murdered him, correct?

18 A Yes, sir.

19 Q You then told investigators that you drove back to
20 the house, but not before throwing the gun and your cell
21 phone off of the Port Royal bridge; isn't that true?

22 A Yes. That was a lie.

23 Q And that when you get back home, you run into
24 Jasmine and the kids, and you badger her to get out of the
25 house; isn't that correct?

CROSS EXAMINATION OF ANTHONY ELLISON BY THE
DEFENDANT

1 in order for the murder to be carried out?

2 A Yes, sir.

3 Q Okay. But then you tell police that it wasn't you
4 who shot Mr. Degros, but that it was a person named Hector;
5 isn't that true?

6 A Yes, sir.

7 Q And that Hector had a 13 tattooed on the side of
8 his neck?

9 A Yes, sir.

10 Q Okay. And isn't it true that you made this story
11 up purely just to help yourself out?

12 A No, sir.

13 Q It's not the case?

14 A No. I made it up to protect Jasmine.

15 Q Isn't it true that the first time the State of
16 South Carolina offered you the plea deal, which you said
17 that you've accepted, was on July 22nd of 2016?

18 A Yes, sir.

19 Q Okay. And that guilty plea was to plead guilty to
20 murder and conspiracy for the negotiated cap of 40 years?

21 A Yes, sir.

22 Q And that they agreed to dismiss the possession of
23 a firearm by a felon, of a violent crime, and possession of
24 a weapon during commission of a violent crime?

25 A Yes, sir.

CROSS EXAMINATION OF ANTHONY ELLISON BY THE
DEFENDANT

1 Q And isn't it true that without this plea deal that
2 you'd be looking at life in prison without the possibility
3 of parole?

4 A Yes, sir.

5 Q And isn't it true that the first time you told
6 anybody about the version of events you've given here today
7 is after you received this plea offer?

8 A No, sir.

9 Q Who did you talk to about it before?

10 A I believe that's -- the one that came to see me,
11 from the police department.

12 Q Okay. But you had never -- you had never told
13 Ms. Swanson, you'd never told Mr. Raley, you'd never told
14 any members of law enforcement this version of your story
15 until you got this plea deal; isn't that the case?

16 A Yes, sir.

17 Q Isn't it true that the sentencing in your case has
18 been held until after your performance here today?

19 A Yes, sir.

20 Q Okay. Do you know Anastasia Harley?

21 A I don't know anyone by that name.

22 Q Do you know a girl named Ana?

23 A Yes, sir.

24 Q And was there ever an attempt by you or anyone
25 else to have Nick killed before January 9th?

CROSS EXAMINATION OF ANTHONY ELLISON BY THE
DEFENDANT

1 A I believe that was between Jasmine and her.

2 Q But on the night of the 9th, you had never gone to
3 Mr. Degros' house before? On the night of the 9th, you had
4 never been to Mr. Degros' house before; isn't that what you
5 tell investigators?

6 A Yes, sir.

7 Q Okay. Isn't it true that you had spoken with Ana
8 about you selling drugs or -- or giving her drugs to sell
9 for you?

10 A Yes, sir.

11 MR. BANNON: No further questions, Your Honor.

12 MS. SWANSON: Just briefly.

13 THE COURT: Redirect.

14 MS. SWANSON: Thank you.

15 REDIRECT EXAMINATION

16 BY MS. SWANSON:

17 Q Anthony, how old are you?

18 A Thirty.

19 MR. BANNON: Objection, outside the scope of
20 cross.

21 MS. SWANSON: Okay.

22 THE COURT: Sustained.

23 BY MS. SWANSON:

24 Q How much of that 30- to 40-year sentence are you
25 going to serve?

REDIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 A All of it. Day for day.

2 Q All of it, day for day?

3 A Yes, ma'am.

4 Q Okay. So how old will you be out -- will you be
5 when you get out of prison?

6 A Like 76 years old.

7 Q Okay. Mr. Bannon asked you a lot about what you
8 told investigators --

9 A Yes, ma'am.

10 Q -- in your two interviews with them.

11 A Yes, ma'am.

12 Q Is it easy to remember -- is it easier to remember
13 the truth or the string of lies that you told them?

14 MR. BANNON: Objection.

15 THE COURT: I'll allow it.

16 THE WITNESS: It's easier to tell the truth than
17 the lies.

18 BY MS. SWANSON:

19 Q To remember the truth?

20 A Yes, ma'am.

21 Q Okay. And so what you've said here today, is that
22 a truth -- the truth or a lie?

23 A The truth.

24 Q And the things that you told investigators were
25 what?

REDIRECT EXAMINATION OF ANTHONY ELLISON BY THE STATE

1 Oh, I'm sorry.

2 THE COURT: You may step down.

3 Yes, ma'am. Please come forward. I'll ask, if
4 you could, to watch your step. Come up here to the
5 witness stand, and ask you to place your left hand on
6 the Bible and raise your right hand as the clerk
7 administers the oath.

8 Thereupon,

9 VANESSA BRYAN

10 was called as a witness, having been first duly sworn,
11 was examined and testified as follows:

12 THE COURT: Pull up real close to that microphone,
13 speak, loudly and clearly and slowly in order that we
14 can hear everything that you have to say. And let's
15 start with your full name, please.

16 THE WITNESS: Vanessa P. Bryan.

17 DIRECT EXAMINATION

18 BY MS. SWANSON:

19 Q Ms. Bryan, how are you doing?

20 A Great. How are you today?

21 Q I'm fine, thank you.

22 Can you tell us what your position is here in
23 the courthouse?

24 A I'm the division chief of the Family Court in
25 Beaufort County.

DIRECT EXAMINATION OF VANESSA BRYAN BY THE STATE

1 Q Okay. And what does the Family Court do? Do they
2 keep court filings?

3 A Well, they keep up the records for all domestic
4 relation cases.

5 Q All right. And you keep those in the regular
6 course of business?

7 A Yes, ma'am.

8 Q All right. I'm going to show you what's been
9 marked as State's 6, and ask that you identify this
10 document, please, ma'am.

11 A This is a Rule to Show Cause for a violation of
12 visitation signed by the Honorable Peter L. Fuge, and it's
13 dated December the 9th of 2014.

14 Q Okay. Is that a fair and accurate copy of a
15 record that's contained within your office?

16 A Yes, it is. It's the certified true copy.

17 Q Okay. And does it state who the moving party is?

18 A Yes. The parties, the Plaintiff in the case, was
19 Nicholas Degros, and the Defendant was Jasmine Femia,
20 F-E-M-I-A..

21 Q Okay. And does it have a court date on it?

22 A The court date for the Rule to Show Cause hearing
23 was scheduled for January the 14th, 2015, at 3:00.

24 MS. SWANSON: All right. At this time, I would
25 move State's 6 into evidence.

DIRECT EXAMINATION OF VANESSA BRYAN BY THE STATE

1 THE COURT: Any objection from Defense?

2 MR. BANNON: No objection, Your Honor.

3 THE COURT: It's into evidence.

4 *(Whereupon, State's Exhibit No(s). 6 marked for*
5 *identification and received in evidence.)*

6 MS. SWANSON: Thank you, Ms. Bryan.

7 And I have nothing further from this witness.

8 THE COURT: Cross examination?

9 MR. BANNON: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. BANNON:

12 Q Good morning, ma'am. How are you?

13 A Good. How are you?

14 Q Just one second.

15 MR. BANNON: Permission to approach the witness,

16 Your Honor?

17 THE COURT: Yes.

18 BY MR. BANNON:

19 Q I'd like to have you take a look at what's been
20 marked as State's Exhibit No. 3.

21 A This is an administrative process order for
22 financial responsibility, which is a child support order
23 that has been entered and filed with the Family Court on
24 September the 5th of 2012.

25 Q Okay. And who are the -- I guess, who is the

CROSS EXAMINATION OF VANESSA BRYAN BY THE DEFENDANT

1 paying party and who is the receiving party?

2 A The custodial parent, which is the person
3 receiving the child support for this is Jasmine Femia. And
4 the obligor, or the defendant in the case, was Nicholas
5 Degros.

6 Q And is that a -- is that a certified copy of
7 what's in your records?

8 A This is a certified copy of our record, yes, it
9 is.

10 Q And does the order state how much Mr. Degros is to
11 pay Ms. Femia every month?

12 A Yes.

13 Q And what is that amount?

14 A The Defendant in this case was ordered to pay the
15 amount of \$234, plus the 5 percent monthly, to the Family
16 Court of Beaufort County, for a total payment of \$245.10.
17 And that was to begin on October the 5th of 2012.

18 MR. BANNON: Thank you.

19 Thank you, Your Honor. No further questions.

20 THE COURT: Redirect?

21 MS. SWANSON: No sir.

22 THE COURT: You may step down. Any objection to
23 this witness being excused?

24 MS. SWANSON: No, sir.

25 MR. BANNON: No, Your Honor.

DIRECT EXAMINATION OF JENNIFER DALMIDA BY THE STATE

1 Q Okay. And you actually provided us with that
2 information?

3 A Our team did.

4 Q Or Verizon did?

5 A Correct.

6 Q Okay.

7 MS. SWANSON: State would move, I believe that's
8 seven, into evidence at this time.

9 THE COURT: Any objection?

10 MR. BANNON: No objection, Your Honor.

11 THE COURT: State's 7 is into evidence.

12 *(Whereupon, State's Exhibit No(s). 7 marked for*
13 *identification and received in evidence.)*

14 BY MS. SWANSON:

15 Q Okay. And, Jennifer, I'm just going to ask that
16 you publish a few of these calls.

17 At 7:38, what number calls what number?

18 A At 7:38, we have -7447 placing a call to
19 -4943.

20 Q Okay. And then 7:42 p.m.?

21 A At 7:42, we have -4943 placing a call to
22 -7447.

23 Q 7:43 p.m.?

24 A We have -7447 placing a call to
25 -4061.

DIRECT EXAMINATION OF JENNIFER DALMIDA BY THE STATE

1 Q 7:44 p.m.?

2 A We have -4943 placing a call to
3 -7447.

4 Q Another 7:44 p.m.?

5 A We have -4061 placing a call to
6 -7447.

7 Q And then at 7:53?

8 A We have -7447 placing a call to
9 -4943.

10 Q Thank you. That's all I have.

11 THE COURT: Cross examination?

12 MR. BANNON: None, Your Honor.

13 MS. SWANSON: Thank you.

14 THE COURT: You may step down. Any objection to
15 this witness being excused?

16 MR. BANNON: No, sir.

17 MS. SWANSON: No, sir.

18 THE COURT: Mr. Foreman, ladies and gentlemen of
19 the jury, we're going to recess for lunch. I'm going
20 to ask that you be back at 1:30, 1:30 sharp.

21 Once again, do not discuss the case amongst
22 yourselves or with anyone else. There has been some
23 news coverage with regard to this case, do not read any
24 of that. Divert your attention from that. Do not do
25 any independent investigation.

DIRECT EXAMINATION OF CHARLES RALEY BY THE STATE

1 THE COURT: Rephrase the question.

2 BY MS. SWANSON:

3 Q What number did you see on the phone for
4 Ms. Femia?

5 MR. BANNON: Objection, hearsay.

6 THE COURT: Overruled.

7 THE WITNESS: Ms. Femia's number was
8 4943.

9 BY MS. SWANSON:

10 Q And what phone number was identified as
11 Anthony Ellison's?

12 A -7447.

13 MS. SWANSON: Thank you. That's all I have.

14 THE COURT: Cross examination.

15 MR. BANNON: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. BANNON:

18 Q Good afternoon, Investigator Raley.

19 A Good afternoon, sir.

20 Q How are you?

21 A Very well.

22 Q You were the head investigator for this
23 investigation; isn't that the case?

24 A Yes.

25 MS. SWANSON: I'm going to object, Your Honor.

DIRECT EXAMINATION OF DAVID JENKINS BY THE STATE

1 MS. SWANSON: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. SWANSON:

4 Q Mr. Jenkins, where did you grow up?

5 A In Beaufort, in the north quadrant.

6 Q Okay. You said, "north quadrant."

7 A Yes, ma'am.

8 Q All right. And where is that?

9 A In the inner city of Beaufort, mostly in the block
10 areas of Washington, Duke, Green, Press, Congress.

11 Q All right. And how much of your life did you
12 spend there?

13 A All of my life.

14 Q All right. Were you in that area on January 9th
15 of 2015?

16 A Yes. I was in front of my mother's house.

17 Q What address is your mother's house?

18 A Street.

19 Q And what did you see the night of January 9th,
20 2015?

21 A Well, me and a friend of mine was standing in
22 front of my mother's house talking and we heard a gunshot.
23 And we looked down Washington Street, and I noticed somebody
24 walking -- we heard the gunshot, I noticed somebody walking
25 across. I can't say who it was, but I noticed somebody

DIRECT EXAMINATION OF DAVID JENKINS BY THE STATE

1 walking across. And then not even a minute later a car came
2 out of -- out of the field. The car had no lights on, and
3 it came all the way down Washington, and it came to the
4 block of Washington and Blade. Then they cut the lights on.

5 But a car proceeded and passed me right by -- passed
6 right by me standing in front of my mother's house.

7 Q Okay. Do you recall what color the car was?

8 A It was a silver car, and it had a rhino horn on
9 it.

10 Q Okay. And when you say "rhino horn," where was
11 this horn located?

12 A On the top of the car.

13 Q Okay. Could it be an antenna that you're
14 referring to?

15 A I guess so. It was a horn.

16 Q Does it look kind of like a shark fin?

17 A Yeah. Yes, ma'am.

18 Q Did you know exactly what kind of car it was at
19 the time?

20 A No, ma'am, I didn't know.

21 Q And then later, did you call police regarding that
22 type of car?

23 A Well, there was a lady standing where the incident
24 had happened. She was crying real hysterically, and she was
25 crying and saying, If somebody knows something --

DIRECT EXAMINATION OF DAVID JENKINS BY THE STATE

1 MR. BANNON: Objection, hearsay.

2 THE COURT: Sustained.

3 MS. SWANSON: That would fall under excited
4 utterance.

5 THE COURT: Sustained.

6 BY MS. SWANSON:

7 Q Okay. Did you call law enforcement after this
8 night --

9 A Yes.

10 Q -- to give them more details about the car?

11 A Yes, ma'am. I didn't know what kind of car it
12 was. But my mother had had a stroke and I went to the
13 hospital to see her, and when I came downstairs, it was the
14 exact car was downstairs. And it had that emblem in the
15 back and it was a Hyundai.

16 Q Okay. I'm going to show you what's been marked as
17 State's Exhibit 10, just for identification purposes at this
18 point, and ask if this looks like the car that you saw that
19 night?

20 A It looks like it, yes, ma'am. I can't say it's
21 exactly the same car, but it looks just like it.

22 Q Okay. Thank you, sir.

23 Now, Mr. Jenkins, I don't know if Mr. Bannon
24 is going to bring this up, but did you get into some trouble
25 about ten years ago?

DIRECT EXAMINATION OF ERIC KYLE BY THE STATE

1 THE COURT: Mr. Kyle, please come forward. I'm
2 going to ask, if you could, to have a seat here in the
3 witness chair. Watch your step. I'm going to ask you,
4 if you could, to place your left hand on the Bible and
5 raise your right hand as the clerk administers the
6 oath.

7 Thereupon,

8 ERIC KYLE

9 was called as a witness, having been first duly sworn,
10 was examined and testified as follows.

11 THE CLERK: Thank you. Can you please state your
12 whole name and spell your last name for the court
13 reporter.

14 THE WITNESS: Okay. Eric Eugene Kyle. Last
15 name's K-Y-L-E.

16 THE COURT: Thank you. And you can have a seat.

17 DIRECT EXAMINATION

18 BY MS. SWANSON:

19 Q Thank you, Mr. Kyle. Who do you work for?

20 A Enterprise Rent A Car.

21 Q Okay. And what's your position there?

22 A I'm an area manager.

23 Q And as part of your duties, are you considered a
24 records custodian? Or can you testify --

25 A Sort of, yeah. Oh, yeah, I deal -- I deal a lot

DIRECT EXAMINATION OF ERIC KYLE BY THE STATE

1 with that as well, yes.

2 Q Okay.

3 A We have an administrative office in Columbia, but
4 I handle everything locally, yes.

5 Q Okay. I'm going to show you what the State has
6 marked as Exhibit 8, and ask that you identify this
7 document, please, sir.

8 A This is one of our rental agreements, rental
9 contracts.

10 Q All right. And do you guys keep those rental
11 contracts in the normal course of business?

12 A We do.

13 Q Okay.

14 MS. SWANSON: At this time, I would move -- is
15 that State's 8 --

16 THE COURT REPORTER: It is.

17 MS. SWANSON: -- with just the red stickers.

18 THE WITNESS: Yes, eight, uh-huh.

19 MS. SWANSON: State's 8 into evidence, please,
20 sir.

21 THE COURT: Any objection from Defense?

22 MR. BANNON: No, objection, Your Honor.

23 THE COURT: All right. It's into evidence.

24 *(Whereupon, State's Exhibit No(s). 8 marked for*
25 *identification and received in evidence.)*

DIRECT EXAMINATION OF ERIC KYLE BY THE STATE

1 BY MS. SWANSON:

2 Q Mr. Kyle, if I could just direct you to portions
3 of this contract and have you publish it for the jury.

4 Who was this contract for? Who was the
5 renter?

6 A The renter is Jasmine Femia.

7 Q And what is the home phone number listed?

8 A -7447.

9 Q And what date did she rent a car?

10 A On January 9th, 2015, at 5:42 p.m.

11 Q And what time does Enterprise close?

12 A 6:00 p.m.

13 Q What kind of car did she rent?

14 A A Hyundai Elantra.

15 Q What color?

16 A Silver.

17 Q What was the mileage in?

18 A The mileage in is 10,675.

19 Q And when it was returned, what was the mileage
20 out?

21 A Well, it's actually -- the mileage out is a little
22 confusing. The mileage out is when we rent it out, and the
23 mileage in is when it comes back in.

24 Q Okay.

25 A So if you notice those --

DIRECT EXAMINATION OF ERIC KYLE BY THE STATE

1 Q I'm sorry.

2 A Yeah.

3 Q Yeah.

4 A So the mileage --

5 Q So the mileage --

6 A Yes.

7 Q -- out --

8 A The mileage -- yes. The mileage when she went out
9 with the car was 10,651; and the mileage in, when it was
10 returned, is 10,675.

11 Q All right. And is her signature at the bottom?

12 A Yes.

13 MS. SWANSON: I think that's all I need. No
14 further questions.

15 THE COURT: Cross examination?

16 MR. BANNON: None, Your Honor.

17 THE COURT: Any objection to this witness being
18 excused?

19 MS. SWANSON: No, sir.

20 THE COURT: You're free to leave.

21 MS. SWANSON: The State calls James Tallon.

22 THE COURT: Please come forward. Ask, if you
23 could, to have a seat in the witness chair. Place your
24 left hand on the Bible and raise your right hand as the
25 clerk administers the oath.

DIRECT EXAMINATION OF JAMES TALLON BY THE STATE

1 Thereupon,

2 JAMES TALLON

3 was called as a witness, having been first duly sworn,

4 was examined and testified as follows:

5 THE CLERK: Thank you, sir. Please state your
6 whole name and spell your last name for the court
7 reporter.

8 THE WITNESS: James Tallon, T-A-L-L-O-N.

9 DIRECT EXAMINATION

10 BY MS. SWANSON:

11 Q Good afternoon, Agent Tallon. Who do you work
12 for?

13 A I work for the South Carolina Law Enforcement
14 Division, commonly known as SLED.

15 Q All right. In what area of SLED do you work in?

16 A I'm a crime scene agent.

17 Q And were you called out to Beaufort County to
18 process a crime scene in January of 2015?

19 A I was called out to process a vehicle, that's
20 correct.

21 Q Okay. Can you tell the jury about that, please?

22 A On January the 12th, 2015, I was contacted by one
23 of our other special agents in crime scene who received a
24 call from Investigator Anthony Re, from the Beaufort Police
25 Department, and advised that on January the 13th, the next

DIRECT EXAMINATION OF JAMES TALLON BY THE STATE

1 day, we were needed to process a vehicle.

2 Q All right. What kind of vehicle were you needed
3 to process?

4 A It was a 2015 Hyundai Elantra.

5 Q And who did that car belong to?

6 A I believe the tag came back to EAN Holdings.

7 Q All right. Belonging to -- and if you need to
8 refer to your report, you can.

9 A Enterprise. It's Enterprise.

10 Q Okay. Enterprise. All right. I'm going to show
11 you State's exhibits marked 5, 9, and 10, and ask that you
12 identify what's in these pictures.

13 A This is the vehicle that we were called to
14 process.

15 Q Okay.

16 A And photos that I -- or -- well, that Special
17 Agent Melinda Worley took.

18 Q All right. And are these fair and accurate
19 depictions of how the car appeared when you went to process
20 it?

21 A Yes, ma'am.

22 MS. SWANSON: I would move 5, 9, and 10 into
23 evidence, Judge.

24 THE COURT: Any objection from Defense?

25 MR. BANNON: No objection, Your Honor.

DIRECT EXAMINATION OF JAMES TALLON BY THE STATE

1 Raley, I believe is how you say it, and victim's advocate
2 Stephanie Karafa, and discussed what kind of processing
3 would be needed for the vehicle we talked about. And then I
4 did so, which was to process the outside of the vehicle with
5 black powder to look for any kind of fingerprints, possible
6 fingerprints, which we came up with none. And then we
7 processed the interior of the vehicle with a
8 chemiluminescence chemical called Bluestar.

9 Q Okay. And what area of the vehicle did you
10 process with the Bluestar?

11 A Well, we processed the entire interior of the
12 vehicle.

13 Q All right. I want to show you State's 11, 12, and
14 13, and ask for you to describe these pictures, please.

15 A This is the driver's floorboard, State's Exhibit
16 No. 11.

17 Q Okay.

18 A It's the driver's floorboard. Exhibit 12 is also
19 the driver's floorboard with killing the chemiluminescence
20 reaction with Bluestar, which is presumptive for blood. And
21 it glows blue, kind of like if you were to take one of those
22 glow sticks -- when you're a kid and you pop those, you
23 shake them and they glow, it -- it does the same kind of
24 glow.

25 Q Okay. And the final picture?

DIRECT EXAMINATION OF JAMES TALLON BY THE STATE

1 Q All right. So you turn it in for further testing?

2 A Yes, ma'am.

3 Q Okay.

4 MS. SWANSON: Beg the Court's indulgence.

5 I think that's all I have for you, Agent Tallon.

6 Thank you. Please answer any questions that Mr. Bannon
7 may have.

8 THE COURT: Cross examination.

9 MR. BANNON: Yes, Your Honor.

10 CROSS EXAMINATION

11 BY MR. BANNON:

12 Q Good afternoon, Mr. Tallon. How are you?

13 A Good, sir.

14 Q And so the Bluestar, when it illuminates blue, is
15 that a -- is that conclusively proven that what's it's
16 illuminating on is blood?

17 A No, sir. It's a presumptive test.

18 Q Okay. So does that mean -- and correct me if I'm
19 wrong -- but does that mean that there are other items which
20 could glow blue and not be blood?

21 A That is correct.

22 Q Okay. And that's why you collected them, correct,
23 for further testing?

24 A Correct.

25 Q Okay. So you cut out pieces from the car, which

DIRECT EXAMINATION OF VERONA HERRERA BY THE STATE

1 THE CLERK: Please state your full name and spell
2 your last name for the court reporter.

3 THE WITNESS: Verona Herrera, H-E-R-R-E-R-A.

4 THE COURT: Ms. Swanson.

5 DIRECT EXAMINATION

6 BY MS. SWANSON:

7 Q Good afternoon, Agent Herrera. Who do you work
8 for?

9 A The South Carolina Law Enforcement Division, or
10 SLED.

11 Q And what division of SLED do you work in?

12 A The forensics laboratory and the DNA department.

13 Q All right. And back in January of 2015, where was
14 your area of expertise?

15 A The -- in forensic evidence processing.

16 Q And what does that mean; what do you do in that
17 area?

18 A We get larger pieces of evidence that need DNA
19 processing. So we look for body fluids -- blood, semen,
20 saliva -- and we do presumptive testings for those, those
21 body fluids.

22 We also collect what's called ownership DNA, or touch
23 DNA, where we're trying to collect skin cells off an item. And that
24 would just be forwarded straight on to DNA.

25 Q Okay. And what is your area of expertise now?

DIRECT EXAMINATION OF VERONA HERRERA BY THE STATE

1 A I'm a forensic serologist. So forensic serology
2 kind of has two components. It's still the evidence
3 processing that I've been doing for eight years. But, now,
4 I also can take the testing a little bit further and
5 identify blood and semen through testing as well as
6 microscopic identification.

7 And we also evaluate hair to determine whether it's
8 sufficient for performing the type of DNA analysis we perform.

9 Q Okay. And, then, let's see. Did you have the
10 occasion to do any presumptive testing on carpet cuttings
11 that were taken by James Tallon?

12 A I did, yes, ma'am.

13 Q Okay. I'm going to have you identify State's 18,
14 and confirm that your initials are on this bag, and talk
15 about how this bag is sealed and unsealed.

16 A When it came -- when the packaging came to me, it
17 was sealed up here by Agent Tallon. His initials and the
18 date that he sealed it are up here. When I opened it, I
19 resealed it here. My initials and the date that I resealed
20 it are here.

21 The box on the inside, as well as the item number, my
22 initials, the lab number, and the date that I opened it on the box.
23 We can also identify it by our lab number and the individual item
24 number it was given as it was logged in at SLED.

25 Q Okay. So these were the carpet cuttings that you

DIRECT EXAMINATION OF VERONA HERRERA BY THE STATE

1 tested?

2 A Yes, ma'am.

3 MS. SWANSON: State would move item 18 into
4 evidence at this time.

5 MR. BANNON: No objection.

6 *(Whereupon, State's Exhibit No(s). 18 marked for*
7 *identification and received in evidence.)*

8 BY MS. SWANSON:

9 Q And can you just explain what your findings were?

10 A There are tests for -- the presumptive test for
11 blood was positive on both the small cuttings in the
12 container.

13 MS. SWANSON: I don't have any further questions.

14 Thank you.

15 THE COURT: Cross examination.

16 CROSS EXAMINATION

17 BY MR. BANNON:

18 Q Good afternoon. And so the testing that you do is
19 presumptive blood testing?

20 A Correct.

21 Q Okay. And does that mean that if you get a
22 presumptive positive for blood that it's conclusively
23 determined to be blood?

24 A No, sir, it's not.

25 Q Okay. So when you conduct these presumptive

DIRECT EXAMINATION OF SHONETTE MUNGIN BY THE STATE

1 Bible and raise your right hand as the clerk
2 administers the oath.

3 Thereupon,

4 SHONETTE MUNGIN

5 was called as a witness, having been first duly sworn,
6 was examined and testified as follows:

7 THE CLERK: Thank you, ma'am. Please state your
8 name and spell your last name for the court reporter.

9 THE WITNESS: Shonette Mungin.

10 THE COURT: You may be seated.

11 DIRECT EXAMINATION

12 BY MS. SWANSON:

13 Q Ms. Mungin, where do you work?

14 A At the Wal-Mart right here on 350 Robert Smalls
15 Parkway.

16 Q Okay. And what are your duties there?

17 A Shoplifters, safety, and complaints.

18 Q All right. So you have access to the store's
19 surveillance?

20 A Correct.

21 Q Okay. And I'm going to show you State's 14, 15,
22 and 16 for you to identify for me, please.

23 You can identify these items.

24 A That's our parking lot, row two and three.

25 Q Okay. Is that a still shot from surveillance,

DIRECT EXAMINATION OF SHONETTE MUNGIN BY THE STATE

1 from the store's surveillance?

2 A Yes.

3 Q Okay. And does it have a date and time stamp on
4 it?

5 A Yes.

6 Q All right.

7 A January 9th, 2015, 8:23.

8 Q And so is that a fair and accurate depiction of
9 what came from the store surveillance?

10 A Yes.

11 Q And, in fact, did you pull that?

12 A Yes.

13 MS. SWANSON: I would move at this time State's 14
14 into evidence.

15 MR. BANNON: No objection, Your Honor.

16 *(Whereupon, State's Exhibit No(s). 14 marked for*
17 *identification and received in evidence.)*

18 BY MS. SWANSON:

19 Q The next one?

20 A Is an entry shot on the grocery side.

21 Q Okay. And, again, is that surveillance footage
22 from the store, a still shot of it?

23 A Yes.

24 Q All right.

25 MS. SWANSON: State would move -- is that a fair

DIRECT EXAMINATION OF RICHARD STANTSY BY THE STATE

1 THE WITNESS: Richard Stantsy.

2 THE COURT: Pull up real close to that microphone,
3 speak loud and clearly and slowly.

4 Ms. Swanson, you're recognized.

5 DIRECT EXAMINATION

6 BY MS. SWANSON:

7 Q Thank you, Rick. Thank you for being here this
8 morning.

9 Please tell us what you do for a living.

10 A I own the automotive shop in Beaufort called Tuffy
11 Auto Service.

12 Q Where is that shop located?

13 A It's in the Cross Creek shopping center, 308
14 Robert Smalls.

15 Q Is that over by the Wal-Mart?

16 A Yes, ma'am.

17 Q And in the regular course of business, do you keep
18 records of any services that are provided to customers?

19 A Yes, ma'am, we would.

20 Q I'm going to show you State's Exhibit 19 and ask
21 that you identify this piece of paper, please, sir.

22 A This appears to be one of our invoices from
23 January of last year, 2015.

24 MS. SWANSON: All right. State would move 19 into
25 evidence at this time.

DIRECT EXAMINATION OF RICHARD STANTSY BY THE STATE

1 MR. BANNON: Your Honor, I would just object to
2 the hearsay.

3 MS. SWANSON: This is a business record,
4 Your Honor, so it falls under a hearsay exception.

5 THE COURT: Overrule your objection. It is
6 admitted in the record.

7 MS. SWANSON: Thank you.

8 *(Whereupon, State's Exhibit No(s). 19 marked for*
9 *identification and received in evidence.)*

10 BY MS. SWANSON:

11 Q Rick, I'm going to let you hang onto Exhibit 19
12 and ask that we publish a few things to the jury.

13 What customer was this invoice for?

14 A It's listed as a Jasmine F-E-M-I-A; is that
15 correct?

16 Q Jasmine Femia?

17 A Femia, yes, that's correct.

18 Q And what is that first cell phone number that's
19 listed as a contact?

20 A Area code of -4943.

21 Q What is the date and time of the service?

22 A It was January the 10th of 2015. We completed the
23 service at 9:39 a.m.

24 Q What car was serviced?

25 A It was an '07 Toyota Camry.

DIRECT EXAMINATION OF RICHARD STANTSY BY THE STATE

1 Q And what services were performed on the car?

2 A Looks like just general maintenance, oil changes,
3 a couple of filters were replaced at the same time.

4 Q And is there any note about any issues with the
5 car?

6 A No, ma'am. Just looks like basic service was
7 performed.

8 Q Oil change and air filter?

9 A Correct.

10 Q Okay.

11 MS. SWANSON: Thank you, sir. That's all I have.

12 THE COURT: Cross examination.

13 MR. BANNON: Thank you, Your Honor. Just briefly.

14 CROSS EXAMINATION

15 BY MR. BANNON:

16 Q Good morning, sir.

17 A Yes, sir.

18 Q How are you?

19 A I'm well.

20 Q If a -- if a car hasn't had an oil change in a
21 long time, or it needs oil, is it possible for it not to be
22 functioning properly?

23 A Yes.

24 MR. BANNON: Thank you Honor. No further
25 questions.

. DIRECT EXAMINATION OF LEE MARIE TORMOS BY THE STATE

1 BY MS. SWANSON:

2 Q Dr. Tormos, can you please tell us where you work
3 and what you do there?

4 A I am a forensic pathologist at the Medical
5 University of South Carolina.

6 Q And how long have you been a forensic pathologist?

7 A I have been a forensic pathologist for about eight
8 years.

9 Q Can you please tell us about your education and
10 career path leading up to this?

11 A Yes. I started my undergraduate education, I have
12 a bachelors degree in science, which originally was called
13 pre med, which was given to me by the University of Puerto
14 Rico. Then I went to medical school at the University of
15 Puerto Rico, where I got my M.D. degree. Then I did four
16 years of anatomic and clinical pathology, which is a
17 specialty that is -- sorry -- a specialty that diagnoses
18 disease and helps follow disease in individuals and how it
19 affects health and causes death.

20 After that I worked as a medical examiner in Puerto
21 Rico for two years, and one year in private practice, a surgical
22 practice, before moving to South Carolina and then the subspecialty
23 training in forensic pathology at the Medical University of South
24 Carolina.

25 After I completed my specialty, I stayed there, and

DIRECT EXAMINATION OF LEE MARIE TORMOS BY THE STATE

1 If I qualify them as an expert, you can take their
2 opinions into consideration. Just by virtue of the
3 fact that they're an expert and they render an opinion
4 does not mean that you have to accept that opinion.
5 But you're allowed to hear it and give it the weight
6 that you think it deserves.

7 Ms. Swanson.

8 MS. SWANSON: Thank you, Your Honor.

9 BY MS. SWANSON:

10 Q Dr. Tormos, did you have an occasion to perform an
11 autopsy on Nicholas Degros?

12 A Yes, I did.

13 Q Can you tell the jury about your findings?

14 A Yes. During the course of the autopsy, we will
15 examine the body externally and internally. Externally, he
16 appeared the age of 30 years. He was a large man, 6 feet
17 tall, about 300 pounds. And the main injuries that we found
18 were three gunshot wound trajectories to his head.

19 Q Okay. Can you please describe each of those
20 gunshot wounds?

21 A Yes. The order in which I am going to describe
22 them does not necessarily reflect the order in which they
23 were sustained. Okay?

24 The first gunshot wound that I will describe was a
25 gunshot wound to the nose. This one is very peculiar because it

DIRECT EXAMINATION OF LEE MARIE TORMOS BY THE STATE

1 enters the right side of the nose, right where most people get a
2 piercing, and it comes out the hole, the nares. It comes out that
3 way. It only pierces the side of the nose on the right side.

4 The other two trajectories are to the right side of the
5 head. There is an entry to the right ear helix, so this would be the
6 highest part of the ear, right on the inside, again, where some people
7 get piercings up here. The bullet enters the ear, goes out the
8 backside of the ear, and enters the skull immediately behind the ear,
9 where it goes through the skin, the bone, and the right and left
10 hemispheres of the brain. This projectile was recovered from the left
11 side of the brain, on the surface, where it likely hit the -- the
12 other side of the skull bone and stopped right there.

13 And then there's a third trajectory that is behind the
14 right ear. This one is slightly more horizontal in trajectory. It
15 enters about three-quarters of an inch behind the right ear, and it
16 goes through the skin, through the skull, and it travels along the
17 posterior fossa, where the cerebellum on the brain sits. And it is
18 recovered on the left side at the base of the brain, near the brain
19 stem.

20 Q Which of those wounds were fatal?

21 A The two wounds to the side of the head are fatal.

22 Q And you testified, I believe, were the projectiles
23 recovered from Nick's skull?

24 A There were two projectiles recovered. Both
25 projectiles correspond to the trajectory on the superior

DIRECT EXAMINATION OF LEE MARIE TORMOS BY THE STATE

1 aspect of the right ear, which is recovered right here on
2 the left side of the head, right underneath the skull bone,
3 and the second projectile corresponds to the gunshot wound
4 behind the ear. And it is recovered at the base of the
5 brain, near the cerebellum.

6 Q What was the condition of those projectiles?

7 A The projectiles are deformed and somewhat
8 fragmented.

9 Q In your opinion, would the injuries that Nick had
10 be consistent with a .22 caliber revolver?

11 A They would be.

12 Q What can you tell us about any toxicology that was
13 done on the victim?

14 A We routinely perform toxicology as part of our
15 autopsy protocol. And in this case, the decedent had both
16 blood and urine sent to an independent toxicology lab,
17 called NMS Labs. The blood results will give us an idea of
18 what effects a person may be under at the time that they
19 die. Whereas the urine will give us an idea of any things
20 that the person may have consumed in the recent past, but
21 not necessarily be in their system at the moment that they
22 died.

23 The only thing that we found in the blood was cotinine,
24 which is a metabolite of nicotine. He was a smoker. In fact, he did
25 have a cigarette with him when the body was transported to us.

DIRECT EXAMINATION OF LEE MARIE TORMOS BY THE STATE

1 His urine screen, which would give us an idea of recent
2 consumption, was completely negative of any drugs of abuse.

3 Q And to a reasonable degree of certainty, what did
4 you determine to be the cause of death?

5 A The cause of death is gunshot wounds to the head.

6 Q And what did you determine to be the manner of
7 death?

8 A The manner of death would be homicide.

9 MS. SWANSON: Thank you, Dr. Tormos. I don't have
10 anything further.

11 MR. BANNON: Thank you, Your Honor.

12 THE COURT: Yes, sir, Mr. Bannon.

13 CROSS EXAMINATION

14 BY MR. BANNON:

15 Q Good morning, Dr. Tormos.

16 A Good morning.

17 Q How are you?

18 A Good.

19 Q Okay. In your opinion, based off of your
20 observations of Mr. Degros, can you determine who caused his
21 death?

22 A No.

23 Q Can you determine --

24 MR. BANNON: No further questions, Your Honor.

25 THE COURT: Any redirect?

RIGHTS GIVEN TO DEFENDANT

1 witnesses?

2 MR. BANNON: No, Your Honor.

3 THE COURT: All right. Under these circumstances,
4 we will proceed forward with closing arguments, and the
5 State would go first.

6 I think it would be appropriate at this time for
7 us to have a charge conference. I'm going to charge
8 then the fact that Ms. Femia was indicted -- it's not
9 evidence -- I'm going to charge the divergent duties of
10 the jury and the trial judge. I'm going to charge
11 presumption of innocence, define reasonable doubt, and
12 I'll define it in both ways, reasonable doubt is the
13 kind of doubt that would cause a reasonable person to
14 hesitate to act. I'm going to give the alternate
15 definition as well.

16 Direct and circumstantial evidence, explain to
17 them how the law allows them to evaluate the
18 credibility of witnesses. I'm going to charge the law
19 with regard to the Defendant's not taking the witness
20 stand. I'm going to charge the hand of one is the hand
21 of all. I'm going to charge the law with regard to the
22 prior record of the witness.

23 I'm going to charge the substantive law of murder
24 and the substantive law of conspiracy.

25 Any objection as to what I intend to charge from

COLLOQUY

1 the State, Ms. Swanson?

2 MS. SWANSON: No, sir.

3 THE COURT: All right. Any additional requests
4 from the State?

5 MS. SWANSON: No, sir.

6 THE COURT: Mr. Bannon, do you object to anything
7 I intend to charge? And, of course, both of you are
8 given an opportunity to object after I render the
9 charge. But preliminarily, do you object to anything I
10 intend to charge?

11 MR. BANNON: No, Your Honor.

12 THE COURT: Do you have any additional requests?

13 MR. BANNON: Would the Court consider charging
14 mere presence, and that association is not guilty?

15 THE COURT: I'm -- I'll be glad to hear from
16 Ms. Swanson. I just don't really think that applies.
17 Nobody is contending that she was present when it took
18 place. And the presence is not really relevant with
19 regard to conspiracy.

20 And nobody -- but I want to hear what Ms. Swanson
21 has to say about it.

22 MS. SWANSON: Well, I would agree with Your Honor.
23 There are no facts in the record that allege -- or that
24 Ms. Femia was at the scene of the crime. So it just
25 wouldn't be appropriate to charge. It's not relevant.

COLLOQUY

1 MR. BANNON: Well, Your Honor, specifically what
2 I'm referencing is, I guess not necessarily the mere
3 presence, but I guess the second part of it that says,
4 Or the mere association by a defendant with people who
5 have committed a crime is insufficient to prove the
6 Defendant committed the crime.

7 That's sort of specifically the language that I
8 think is relevant to the case which has been presented
9 and the facts that the jury will have.

10 THE COURT: You can have an opportunity to listen
11 to the charge on the hand of one is the hand of all.
12 It goes into that in great detail. It takes more than
13 just being around someone, it takes a meeting of the
14 minds, and you'll be able to hear that. And I'll
15 advise you to make additional requests if you think
16 that the hand of one is the hand of all is not adequate
17 to cover that particular point.

18 MR. BANNON: Thank you, Your Honor.

19 THE COURT: But I think it does.

20 Does counsel need an opportunity to kind of get
21 that stuff -- things together for closing arguments?

22 MS. SWANSON: I would request just a five-minute
23 recess.

24 THE COURT: All right. And we'll stand at ease
25 for five minutes.

CLOSING REMARKS BY THE COURT

1 before you and give you a summary presentation. But
2 these are different than opening statements in that
3 they're truly argumentative in nature because, at this
4 time, all the evidence has been presented, and these
5 very fine lawyers can point to the evidence that
6 supports their relative theory.

7 What they have to say is not evidence, but it will
8 aid you immensely in your deliberation process. You
9 and I have been dealing with this case for a very short
10 period of time, but they've been dealing with it for a
11 long period of time.

12 So pay very close attention. It will aid you
13 immensely in your deliberation process.

14 Under these circumstances, Ms. Swanson goes first.

15 MS. SWANSON: Thank you, Your Honor. May it
16 please the Court.

17 THE COURT: Yes.

18 CLOSING ARGUMENT BY THE STATE

19 MS. SWANSON: This is going to be the last time I
20 get to address you all. I will not be able to respond
21 to any of the arguments that Mr. Bannon makes on behalf
22 of his client. So I'm going to do my best to
23 anticipate some of the things that you might hear.

24 So I wanted to start by touching on some of the
25 things that the Defense mentioned in opening.

CLOSING ARGUMENT BY THE STATE

1 The Defense wants you to believe that this
2 Defendant right here could not possibly be capable of
3 murder, that she lacks sophistication, that she could
4 not plot the execution of the father of her children.
5 I beg to differ.

6 And I think probably everyone has been surprised
7 at some point by what someone or people are capable of.
8 We know that Jasmine is capable of having multiple
9 relationships, some even at the same time. Remember,
10 she was dating Ana while she was dating Anthony, and
11 neither one of them knew about each other. She's
12 telling Anthony, We're going to get married, we're
13 going to go away. And then Ana confronts her about
14 Anthony.

15 We're talking about the mother of two children, a
16 woman who's had a number of romantic relationships in a
17 short period of time -- a little more sophisticated
18 than what the Defense would have you believe, and
19 certainly no stranger to drama.

20 Where Jasmine may lack some sophistication in
21 plotting the murder, like the not really well thought
22 out alibi. She's certainly a master in the art of
23 manipulation. That's where she really shines.

24 If Anthony had not literally landed on her
25 doorstep, she would have found somebody else to commit

CLOSING ARGUMENT BY THE STATE

1 this murder, because Nick "needed to be killed." Nick
2 had to go.

3 She didn't love Anthony, she used Anthony. She
4 wasn't going to marry Anthony. Did she want to run off
5 to Tennessee? Yes, she wanted to be able to do
6 whatever she wanted to do, free and clear. She simply
7 said those things to him to manipulate him, to use him.

8 Remember, he's a guy that spent eight and a half
9 years in prison, had just gotten out. He's seduced by
10 the thought of a fresh start in Tennessee, someone
11 who's going to pay off his probation, someone that he
12 loves, the family that he's wanted, the family that
13 he's spent the last eight and a half years in prison
14 thinking about. Thinking, gosh, if I could just start
15 all over.

16 I'm not asking you to feel sorry for Anthony,
17 because he murdered Nick. But so did Jasmine.
18 Anthony's paying for it. You heard him tell you he's
19 going to probably be in his 70s when he's out of
20 prison.

21 Today is Jasmine's day in court. Mr. Bannon
22 talked about credible evidence, told you that there was
23 no credible evidence against Jasmine. So is this all
24 happenstance? Is this all coincidence? Was there a
25 month long chain of events that just made it look like

CLOSING ARGUMENT BY THE STATE

1 Jasmine plotted this murder?

2 And I apologize for this flashing light. I can't
3 do anything about it.

4 This chain of events starts with the filing of a
5 rule to show cause. Jasmine is not abiding by the
6 court ordered visitation for hers and Nick's son,
7 Braden. This motion, this rule to show cause, was
8 filed on December 14th, exactly one month before they
9 were due in court, and within that month Nick was
10 murdered.

11 Around December 22nd, Ana, Jasmine, and Anthony go
12 to the nail salon. They all see each other there.
13 December 25th, Jasmine and Anthony are in Tennessee.
14 Ana's at work. She doesn't -- she doesn't get to go
15 along.

16 During these holidays, Jasmine Femia is not at
17 home with her two young children baking cookies,
18 getting ready for the holiday season, having nice
19 family time. She's searching for a gun. She's got
20 quite the to-do list throughout this month. She's got
21 to get a gun, she's got to get someone to get her a
22 car, or rent a car. She's got to make sure Anthony
23 knows how to get to Nick's house. Anthony is from New
24 York. Anthony spent the last eight and a half years in
25 prison. Anthony only ended up here in Beaufort because

CLOSING ARGUMENT BY THE STATE

1 he was in prison with Jasmine's uncle. He doesn't know
2 anyone else here. How in the world would he know how
3 to get to Nick's? Where would he find a gun? Where
4 would he get Nick's phone number?

5 January 9th, the day of the murder, Jasmine rents
6 a silver Hyundai Elantra at 5:42 p.m., 18 minutes
7 before closing, two hours before Nick is murdered.

8 7:38 to 7:44, telephone calls between Anthony and
9 Jasmine. Telephone calls between Anthony and Nick.
10 Another phone call to Jasmine after the reports of
11 shots fired, Nick is dead.

12 Kathy Wilson responds about the time Anthony calls
13 Jasmine at 7:53. He runs home, Jasmine's in the Camry,
14 kids all loaded in the car, they're off to Wal-Mart,
15 the planned alibi. 8:26, they're walking into
16 Wal-Mart. January 10th, 9:39 a.m., Camry goes to
17 Tuffy's for an oil change.

18 The other things on the to-do list for the day
19 after the murder: Dump the gun, return the rental by
20 3:30, turn off and destroy Anthony's phone.

21 Is that happenstance?

22 Now, some of the things that we heard about on
23 cross examination, one of them was about child support.
24 And it may be that Mr. Bannon argues to you that, you
25 know, Nick being gone doesn't help Jasmine out at all,

CLOSING ARGUMENT BY THE STATE

1 because she was getting \$245 a month.

2 Jasmine's not motivated by money, she's motivated
3 by control. \$245 a month, she told Anthony she was
4 going to go up to Tennessee, finish her degree, pay off
5 his probation. Does she sound like she's worried about
6 money? No.

7 And who lives in Tennessee? Her mother. Her
8 mother lives in Tennessee. She's going to go live with
9 her mother, get her degree, and do whatever she wants
10 to do, free and clear of Nick.

11 Mr. Bannon also referenced motivations rather
12 cryptically in his opening statements. Let's look at
13 those.

14 What motive does Anastasia Harley have to get up
15 here, put her hand on the Bible and swear to you that
16 Jasmine wanted Nick gone? Did she want to sit up
17 there, stare her ex-lover in the face, and accuse her
18 of plotting a murder? No.

19 Is she an oddball? Yes. Is she hard to
20 understand? Yes. She mumbled, she talks fast, she was
21 nervous.

22 Why is she nervous? Who would think that when
23 they're dating someone they'd be hauled up to court to
24 testify against them in a murder plot? It's a scenario
25 she probably never imagined herself in. But she's

CLOSING ARGUMENT BY THE STATE

1 certainly not in cahoots with Anthony Ellison.

2 Anthony, he's not getting out of prison until he's
3 probably in his 70s. Does that sound like a sweet deal
4 that would lead someone to make up a whole lie about
5 Jasmine Femia, to become a State's witness? Does that
6 make sense?

7 He knows what an awful thing he has done. He has
8 had time away from Jasmine to realize that he has been
9 manipulated, and he's had time to think about what he
10 did and how he could possibly try and make it right.

11 It's never going to be made right, but he has
12 taken responsibility, and he told you, he's coming
13 forward now because it's the right thing to do for the
14 family.

15 Let me ask you this, too. Did Ana or Anthony ever
16 seem angry? Did they seem vindictive? Did they seem
17 like they had it out for Jasmine? No, not at all.

18 Anthony had no reason to kill Nick but for
19 Jasmine. He never met Nick. Nick had moved on to
20 another woman. There was absolutely nothing that he
21 would be jealous about.

22 Anthony had more of a reason to be jealous of
23 Anastasia Harley than Nick. Nick had moved on. Nick
24 was done with Jasmine's manipulation. Nick's fatal
25 mistake was not being Jasmine's pawn anymore. He was

CLOSING ARGUMENT BY THE STATE

1 taking control, he was asserting his control, holding
2 her accountable, for once. She hated him for it.

3 How do we know Jasmine planned this murder? Well,
4 we have talked about motive. She had the reason to.
5 And it all starts with the Family Court filing on
6 December 14th. She was being threatened to be held in
7 contempt for violating that visitation policy. Okay.
8 She wanted to be free and clear of it. She wanted Nick
9 out of her life so she could take her kids wherever she
10 wanted to go. She wanted control.

11 Anastasia Harley and Anthony Ellison tells that
12 she planned this murder. Ana didn't come forward
13 initially because she didn't think Jasmine was telling
14 the truth. She didn't think she would actually do it.
15 But you heard her testimony. She went in to work,
16 realized, oh my God, Nick is actually dead, and she
17 called the police. And she was interviewed twice, and
18 she came in here, put her hand on the Bible, and told
19 you the truth.

20 Jasmine confided in her, saying that Anthony was
21 only in her life to get rid of Nick. I don't want you
22 to be involved, she told her, you shouldn't be involved
23 in this.

24 But then she actually does approach her about,
25 Hey, Ana, do you know where I could find a gun? Ana is

CLOSING ARGUMENT BY THE STATE

1 like, oh, no, no, I'm not going to get involved in
2 this, okay, you know. God, are you crazy.

3 And then we have the instance where prior to the
4 murder Ana goes over to Jasmine's house to grab some of
5 her clothing, and she walks in on them. Jasmine
6 discussing, Hey, we need someone to get a car for us.
7 And then, in fact, merely two hours before his murder
8 she goes and rents a car.

9 I think you probably remember Anthony's testimony,
10 but let's briefly go over what he says she did. She
11 meets Anthony through the uncle that she accused of
12 molesting her. Apparently they still have a close
13 relationship.

14 Jasmine offers Anthony a place to stay. Now, does
15 this make any sense? The woman with two small children
16 in her home offers the guy that was in prison with the
17 uncle that molested her a place to stay with her and
18 her two kids. Why would that ever make sense? Because
19 she needed a fall guy. She needed someone to
20 manipulate. She needed someone to get rid of Nick.
21 She welcomed this convicted felon into her home and
22 talks about marrying him after a whirlwind romance,
23 although she's still carrying on with Anastasia Harley.

24 Anthony told us how much she hated Nick. She
25 hated Nick, she wanted him gone. He told us that they

CLOSING ARGUMENT BY THE STATE

1 set up the purchase of the murder weapon, a .22 caliber
2 revolver. They went and purchased it with her money
3 behind a hotel behind her apartment. She drove him
4 over to Nick's place two to three times so he wouldn't
5 get lost; however, he did end up getting lost and had
6 to call her. He verifies all those phone calls, the
7 phone records that you will have back in the jury room.

8 Anthony said, Well, she rented a car. Mentioned
9 something about her car wasn't acting right. Of
10 course, they had just taken it to Tennessee, seemed
11 fine then. And then they also took it to Wal-Mart.
12 Seemed fine then. But she tosses him the keys and
13 said, Now, you can go do what you need to do.

14 Anthony told us she was waiting in the Camry with
15 the kids so they could immediately go to Wal-Mart. Off
16 they go in her car to Wal-Mart, which brings me to
17 another point. Does that sound familiar? Where else
18 did we hear that she wanted to be on camera at a
19 certain time? Oh, the nail salon when she was with Ana
20 Harley.

21 Remember Ana Harley's testimony about, Well,
22 Jasmine said she wanted us to be on camera together at
23 the nail salon. And then Anthony stopped by driving
24 some gray truck, something different than her Camry.
25 Was that just another failed attempt at murdering Nick?

CLOSING ARGUMENT BY THE STATE

1 Why would Anthony plan this murder on his own just
2 to immediately confess to it and spend most of his
3 natural life right back in prison? Does that make any
4 sense? No. He was protecting Jasmine.

5 Why did their testimony make sense? Well, it's
6 because of corroboration. We have a number of things
7 that corroborate their testimony, beginning with the
8 Family Court records. There are a few things that are
9 very telling. Of course, you know, we have this murder
10 that occurs merely days before she's due in court. But
11 you're going to have these Family Court records back in
12 the jury with you as well -- jury room with you as
13 well. And I'm going to turn your attention to the
14 Defendant's answer to complaint for visitation rights.

15 This is Jasmine's statement. Okay. She
16 complained about Nicholas disagreeing with her about
17 choices in Braden's care and living, yet she is the one
18 that invites the convicted felon to come live in her
19 home. She's the one that has the close relationship
20 with the molester uncle.

21 She complains about Nick allowing Braden around a
22 dog of Nick's aunt, yet obviously has her children
23 around people that just got out of prison, including
24 one that is a sex offender. She complains that Nick
25 doesn't contact her on a regular basis. He has moved

CLOSING ARGUMENT BY THE STATE

1 on and she's angry about it. She complains that he
2 doesn't join in on play dates with her. I've set up
3 times for Nicholas to come by, I've invited Nicholas to
4 go to the park with Braden and me. This is evidence of
5 where her anger lies, and it always was with Nick. It
6 is the basis for her hate.

7 Let's look at the phone records that show the
8 calls between Jasmine and Anthony right before the
9 murder. It also shows the call from Anthony to Nick,
10 and then when Nick calls him back. And then there's
11 another call to Jasmine right after the murder, Hey,
12 I'm on my way, get the kids in the car because we're
13 going to Wal-Mart.

14 This is a marked-up version of the phone records.
15 Charles Raley verified Anthony's number as -7447.
16 Jasmine also has a number. That's -4943. Ana
17 also testified that they both had the numbers,
18 and Amanda Allen confirmed Nick's phone number, the
19 -4061 number. There are four calls between
20 Anthony and Jasmine just before the murder and just
21 after the murder. We've got Anthony to Jasmine at
22 7:38; Jasmine to Anthony at 7:42; Anthony to Nick,
23 7:43; Jasmine to Anthony, 7:44; Nick to Anthony, 7:44;
24 and then finally, Anthony to Jasmine, 7:53, right when
25 officers are responding to the shots fired.

CLOSING ARGUMENT BY THE STATE

1 David Jenkins corroborates Anthony's testimony
2 about the rental car, the getaway car. He describes to
3 police a silver Hyundai with a rhino horn looking
4 thing, shark fin on the top. This is the car that
5 Jasmine rented. This is the car that Anthony took over
6 to Washington Street to murder Nick. This is the car
7 that all of the blood was found in the floorboard of
8 the driver's side. Does that make sense? Absolutely,
9 it does.

10 You heard EMS and the responding officer testify
11 that this was a bloody scene. There were pools of
12 blood on the sidewalk coming from Nick's head.
13 David Jenkins doesn't know any of these people, he has
14 no reason to lie.

15 Let's talk about the Enterprise receipt. You're
16 also going to have this in the jury room. A couple of
17 things I want to point out on here, obviously we've
18 talked about it, car was rented on January 9th of 2015
19 at 5:42 p.m., shortly before closing time, and two
20 hours before Nick's death. Rented by Jasmine Femia.

21 What number does she list? -7447. Huh.
22 Anthony's number. Hmmm. Why would she do that?
23 That's strange.

24 Maybe because it would be incriminating for her to
25 have her number. The car is due back by 3:30 p.m. on

CLOSING ARGUMENT BY THE STATE

1 January 10th of 2015. She has paid \$199.39 to rent a
2 car for less than 24 hours because her car needed an
3 oil change. Does that make sense?

4 The mileage going out was 10,651, the mileage
5 coming back in was 10,675. The car was driven less
6 than 24 miles -- or 24 miles. It sounded like she
7 really needed that rental car -- for a murder.

8 Let's look at the Wal-Mart surveillance. I want
9 you to pay close attention to who seems to be in charge
10 here. Who comes charging through the door, leading the
11 pack? And then they stand in the entrance for a good
12 long while, making sure they get on film for their
13 alibi. Get the time and date stamp. It was about 40
14 minutes after Nick's murder. Oop. Got to stand here
15 again. She might need to fix her hair for the camera.
16 Make sure we all get situated.

17 This is Jasmine with Anthony right after she had
18 him execute the father of her child, walking around
19 Wal-Mart like any other day. Like nothing happened.

20 And Tuffy's receipt. The Tuffy's receipt, you'll
21 also have in the jury room. And it shows that Jasmine
22 got a simple oil change on her Toyota Camry. One other
23 thing you might want to note about this receipt is that
24 there is a cell phone listed on it.

25 What is the cell phone number listed on it?

CLOSING ARGUMENT BY THE STATE

1 -4943, Jasmine's. Well, that's weird. She
2 just listed Anthony's number as a contact number on the
3 Enterprise rental agreement. Why on earth would she
4 now list hers? Well, maybe because an oil change isn't
5 as incriminating. But also, remember what Anthony
6 said, Jasmine told him to cut off his phone, destroy
7 his phone, get rid of his phone. That phone number no
8 longer worked. This is the day after the murder.

9 Finally we heard from the pathologist, it's very
10 clear that Nick died from gunshot wounds. Two gunshot
11 wounds to the head. There was a superficial wound
12 through his nose. This was an execution. He was not
13 meant to live. Anthony went there on a mission, a
14 mission set up by Jasmine.

15 Now, as Judge Nettles told you about in the
16 beginning of the case, he is the judge on the law, you
17 guys are the judge of the facts. He's going to charge
18 you on the law, which means that he's going to instruct
19 you as to what South Carolina law is.

20 Murder is the unlawful killing of another with
21 malice aforethought. He will explain that to you.
22 Anthony Ellison has confessed to murder. There's no
23 question about that.

24 The question is, what was Jasmine's involvement?
25 And her involvement is that she helped plan this

CLOSING ARGUMENT BY THE STATE

1 murder. She did everything but pull the trigger, and
2 she is responsible, under South Carolina law, which is
3 the hand of one is the hand of all. And Judge Nettles
4 will go into great detail about what that means. So
5 pay very, very close attention. But essentially it
6 means that when two people set out to commit a crime
7 and they have different -- they're responsible for
8 different things, both are equally responsible for the
9 end result.

10 Conspiracy is much the same. Two people combining
11 to accomplish an illegal act.

12 If there are things that you need to see again or
13 hear again, I want you to ask for them. This case is
14 extremely important. You can re-listen to testimony,
15 you can watch the video again, you can examine the
16 receipts and the pictures and the Family Court filings
17 back in your jury room.

18 I ask that you uphold your oath as jurors and
19 follow the law of this state, that you apply the truth
20 to that law. Jasmine is a cold blooded murderer. She
21 is the woman that takes Braden's father's killer to
22 Wal-Mart so that she can establish an alibi, walks
23 around like nothing ever happened, fixes her hair in
24 the camera, you know, stands at the front to make sure
25 she gets on film. She thinks nothing of having her

CLOSING ARGUMENT BY THE STATE

1 kids with her as they drive to Hilton Head to dump the
2 murder weapon.

3 She doesn't care about those kids, she cares about
4 herself. The only way she could have control of her
5 life was to get rid of Nick. If you believe Ana, and
6 if you believe Anthony, if you believe the timeline of
7 events that corroborate their testimony, you are
8 convinced beyond a reasonable doubt.

9 I am asking you to find this woman guilty of
10 murder and conspiracy. It's time for her to be held
11 responsible for Nick's death. It's time for justice
12 for Nick. Thank you.

13 THE COURT: Thank you, Ms. Swanson.

14 Mr. Bannon, you're recognized.

15 MR. BANNON: Thank you, Your Honor.

16 CLOSING ARGUMENT BY DEFENDANT

17 MR. BANNON: The government has done an excellent
18 job of proving to you that Mr. Ellison murdered
19 Mr. Degros. That, they absolutely did.

20 The rest of what the government is asking for you
21 to do is to use your imagination to fill in the blanks
22 and the holes in their case. They want you to believe
23 that because somebody writes a phone number down, one
24 over the other, that that means that they murdered
25 somebody. They want you to use your imagination.

CLOSING ARGUMENT BY DEFENDANT

1 That's it.

2 They haven't put on any credible evidence, just
3 like I told you right at the beginning. Not a single
4 bit of credible evidence that proves beyond a
5 reasonable doubt that Jasmine had anything to do with
6 Anthony's plan to have Mr. Degros murdered.

7 The prosecution wants you to believe that evidence
8 of Mr. Ellison's guilt is equivalent to Jasmine's
9 guilt. They can prove that he's guilty, he admits that
10 he's guilty, that means she's guilty. That's not the
11 way it works. They have to provide you credible
12 evidence, believable evidence, that Jasmine had
13 something to do with the murder of Mr. Degros.

14 So let's talk about some of the things that
15 they've put on the witness stand. Let's start with
16 their star witness, Anthony Ellison, the convicted
17 felon, convicted of a prior armed robbery, and just
18 released from prison. After he's arrested for the
19 murder of Mr. Degros, the first thing that he says to
20 police is, I just want you to know that Jasmine didn't
21 have anything to do with this.

22 He had been read his Miranda warnings, he didn't
23 have an offer on the table, he didn't have any promises
24 or hope of reward. And yet the first thing out of his
25 mouth is, I just want you to know that Jasmine didn't

CLOSING ARGUMENT BY DEFENDANT

1 have anything to do with this.

2 So the police officers follow up with more
3 questions. He tells them exactly how he committed the
4 crime. He tells them that when Jasmine was gone, he
5 looked in her phone, saw text messages that made him
6 angry, text messages from Mr. Degros, that he had
7 bought a gun two days before. When she returns, they
8 get into an argument over the text messages from
9 Mr. Degros. Anthony gets even more upset.

10 He storms out, grabs the keys to the rental car,
11 and leaves. He has the perfect opportunity to commit
12 the crime. He's out to get rid of Mr. Degros for
13 himself because he doesn't like what he sees on the
14 phone. He doesn't like the relationship that's going
15 on between Jasmine and Mr. Degros -- which is,
16 admittedly, a complicated relationship. Any
17 relationship is, when you have children, complicated.

18 He goes out and he murders Mr. Degros. But the
19 first statement he ever makes, without hope of reward,
20 the very first thing he tells them is, I just want you
21 to know Jasmine didn't have anything to do with this.

22 Now, six days go by, Mr. Ellison has some time to
23 sit in prison, and it must have dawned on him, Gosh, I
24 just admitted to murder. I need to figure out a way to
25 fix this.

CLOSING ARGUMENT BY DEFENDANT

1 So he contacts Officer Raley, says, I have some
2 more information for you. But this time he's looking
3 to save himself.

4 He tells Officer Raley, It really wasn't me who
5 committed this murder, it was -- we got the rental car,
6 I got the rental car in the quarters of someone from
7 MS 13, and he's the one who took the car and committed
8 the murder. I didn't have anything to do with it.

9 He told you from the witness stand that that was
10 to try to make Jasmine look less guilty. The only
11 person that he makes look less guilty in that second
12 story is himself.

13 Right there in those six days is where he realized
14 that he's admitted the truth, that he murdered
15 Nicholas Degros, and that Jasmine didn't have anything
16 to do with it.

17 Now, he switches modes to try to save himself.
18 And the government goes right along with that. They
19 make him an offer. He takes it. He's looking at life
20 in prison without possibility of parole. Life in
21 prison without possibility of parole, to get him to
22 tell a third story, a story that they want him to tell,
23 a story where he accuses Jasmine for being involved in
24 the case.

25 All of a sudden, when there's an offer on the

CLOSING ARGUMENT BY DEFENDANT

1 table, Mr. Degros' (sic) tune changes. And now they
2 want you to believe this isn't that great of an offer,
3 he's going to be spending a lot of time in prison.

4 Well, let's talk about how good an offer
5 Mr. Ellison thinks it is, because he sat right up here
6 on this witness stand when I was asking him questions,
7 and he admitted that he lied to this Court and he lied
8 to this jury, and he was lying to me.

9 Why do you think he did that? He was lying to the
10 Court to try to make himself look better, to try to
11 make his story look more believable because of the
12 offer, because of the hope of reward that he had. He
13 still has something to gain. He admitted that. He
14 hasn't been sentenced yet. He still hasn't been
15 sentenced, and he proved to you that by lying to the
16 Court today that his testimony can't be trusted
17 whatsoever, and that he will do whatever it takes to
18 try to save himself -- including perjury. He admitted
19 it on the witness stand.

20 MS. SWANSON: I would object, Your Honor.

21 THE COURT: Overruled. Overruled.

22 MR. BANNON: See? He admitted it to you on the
23 witness stand. But they want you to believe his story.
24 They want you to believe the lies he tells.

25 Also, Mr. Ellison did admit on cross examination

CLOSING ARGUMENT BY DEFENDANT

1 that he was speaking with Anastasia Harley about
2 getting together to sell some drugs. Now, when I
3 talked with her on the witness stand, she admits that
4 she and Mr. Ellison were talking about selling drugs
5 together. And in the story, the first story that he
6 tells the police, his initial response to their
7 questions about how he planned the murder before he had
8 any offer, he said, Well, I got in touch with a friend
9 and they put me in touch with someone who I could get a
10 gun from.

11 Who do you think that person was? Maybe the
12 person that he was getting in the drug business with.
13 Hmmm. Maybe the kind of person that you would get into
14 the drug business with might be able to put you
15 together with someone who can get you a gun.

16 Ladies and gentlemen, Mr. Ellison tells you the
17 truth the first time he talks to police. He has no
18 hope of reward, he has no promise. He admits to doing
19 what he did, committing a terrible crime. He admits to
20 killing Mr. Degros. But he tells the police that
21 Jasmine didn't have anything to do with it.

22 Now, Bluffton Police Department doesn't follow up.
23 They don't follow through. Mr. Ellison testified, when
24 he spoke with police officers, that he got this
25 information off of Jasmine's cell phone. Well, they

CLOSING ARGUMENT BY DEFENDANT

1 don't bother looking at Jasmine's cell phone. They
2 haven't shown you evidence of what's on Jasmine's cell
3 phone. They don't intend to discredit him. I wonder
4 why. Maybe that's because they want you to believe the
5 lies he tells you now.

6 Anastasia Harley they put on the witness stand.
7 Anastasia Harley's testimony makes no sense at all.
8 Not a bit. She says that she's at a nail salon with
9 Jasmine and that Mr. Ellison comes in, and that at that
10 point she and Jasmine been in a three-year long
11 romantic relationship. Mr. Ellison kisses Jasmine on
12 the way out the door and Anastasia Harley flips out.
13 They have to leave right now. The rest of the plans
14 canceled, take me home now. I'm that upset about
15 what's going on here because you're running around with
16 another person. That's how upset she was.

17 But then the rest of her story is that after she
18 gets so upset, demands to be taken home, that Jasmine
19 shows up and says, Gosh, I know you're really upset
20 about the fact that I'm with somebody else, but I'm
21 actually using him to commit a murder. That doesn't
22 make any sense at all.

23 Why do you go to a person that you just made
24 incredibly angry, would you then go and confess a crime
25 to? That doesn't make any sense at all.

CLOSING ARGUMENT BY DEFENDANT

1 Anastasia Harley also testified to you that they
2 were there at the nail salon to get an alibi. She then
3 testified that after that, over Christmas, there were
4 conversations about getting a gun.

5 Well, why on earth would you need an alibi when
6 you don't even don't have a gun yet? It doesn't make
7 any sense.

8 Anastasia Harley, I don't know where this story
9 comes from, but she's a jilted lover. She's involved
10 with Mr. Ellison selling drugs, and she's having
11 conversations with him about it. She's the kind of
12 person who could get a gun for him to murder
13 Mr. Degros. Anastasia Harley's testimony doesn't make
14 any sense at all.

15 Anastasia Harley's story only makes sense in that,
16 having just been jilted by her lover, her long time
17 lover, and having -- being able to get -- to not only
18 punish Jasmine for that, and her new love, Mr. Ellison,
19 the person who she's seeing now. Her testimony gets to
20 do both those things. That's what she wants you to
21 believe, when in fact her real motivation is to punish
22 Jasmine and to take her down with Mr. Ellison.

23 Beaufort P.D. doesn't investigate Anastasia
24 Harley's story. They don't seize her cell phone, get a
25 search warrant, they don't take a look at it. They

CLOSING ARGUMENT BY DEFENDANT

1 don't see if there's text messages between the group to
2 see what's going on because they don't want the story
3 that she's spun for them to come unraveled in their
4 lap.

5 Ms. Swanson is absolutely right, Anastasia Harley
6 fell from the sky, like she was too good to be true,
7 for Bluffton Police Department's case. And they might
8 be the one to take her down anyway.

9 They have two interviews with her, that's it. We
10 don't want to take a look at your phone, we don't want
11 to see what's going on, we don't go to the nail salon,
12 we don't try to get video from the nail salon, we don't
13 try to get receipts from the nail salon. None of it.
14 None of it. They don't want to look any further. They
15 want to believe it and they want you to believe it.

16 It's not to be believed. Their actions, by not
17 following up on any of it, prove that it's not to be
18 believed because it can become unraveled with a mere
19 tug on the string.

20 Ms. Swanson has paraded around these family court
21 documents. There was a visitation hearing for
22 visitation over the child. That's it. Not a custody
23 dispute. They had a custody arrangement, they just
24 needed to work out the visitation portion of it.

25 Mr. Degros was paying child support to Jasmine for

CLOSING ARGUMENT BY DEFENDANT

1 his child, but the government didn't offer that
2 evidence for you, did they? They had it a couple
3 months. We are the one who talked to family court to
4 learn exactly what was going on when it came to child
5 support.

6 It doesn't make any sense. You have a dispute
7 over visitation, but otherwise everything is going
8 fine, and child support is being paid. This doesn't
9 rise to the motive to murder someone. It just doesn't.

10 Now, what the government's job was, was to prove
11 to you people, prove to you 12, that Jasmine Femia
12 committed murder, that she participated in the murder
13 beyond a reasonable doubt. And in lieu of evidence,
14 they want you to use conjecture, speculation, and your
15 imagination. Because one telephone number is written
16 down and not another, that means that she's guilty of
17 murder. That's not. There's been no credible evidence
18 put forward that Jasmine participated in the murder in
19 any way.

20 There are telephone records between the two. Do
21 you think that might be from Jasmine to Ellison because
22 he'd just stolen the rental car and took off into the
23 night, and she doesn't know where?

24 But they want you to believe that the only
25 possible explanation is because of this theory, when,

CLOSING ARGUMENT BY DEFENDANT

1 in fact, there's no believable evidence that there was
2 ever a scheme at all. The only believable evidence is
3 that Mr. Ellison is the one who committed the murder,
4 but there's no believable evidence whatsoever that
5 Jasmine was involved.

6 Now, reasonable doubt is the kind of doubt that
7 makes a person hesitate to act on an important decision
8 in their everyday life. So would a smart business
9 person rely on the word of Mr. Ellison for what's going
10 on, to make a decision in his business? Would a smart
11 business person rely on what Anastasia Harley has to
12 say?

13 I mean, Mr. Ellison admitted to lying to everybody
14 here on the stand. I got to tell you, if he said that
15 the sky was blue, I would object. That's not the kind
16 of evidence that can lead you to beyond a reasonable
17 doubt. That would lead any reasonable person to the
18 point of hesitation.

19 Now, how the government wants you to get past
20 hesitation is to use your imagination. Just skip this
21 part where there's no evidence that she committed the
22 crime. Skip the part that there's probable blood in
23 the car, because if you listen to credible witnesses,
24 nobody can tell you who actually participated in the
25 crime.

CLOSING ARGUMENT BY DEFENDANT

1 The credible witnesses, like the blood
2 technicians, they said, We found something that
3 luminesced, likely could be blood, it could be
4 something else, we can't tell you. You haven't heard
5 any DNA experts tell you whose blood it is or even if
6 it's blood at all.

7 It's also a rental car. They can't tell you when
8 whatever it is in the car got there. Was it from a
9 year before? Was it from a day before? Was it put
10 there after everything took place? Nobody knows. The
11 credible evidence doesn't tell us anything.

12 The medical examiner got up on the stand, very
13 credible. A doctor of medicine, an expert witness.
14 She can tell us that Mr. Degros was murdered, and we
15 know that Mr. Ellison murdered him, but they can't tell
16 us who participated in the crime. None of the credible
17 witnesses that have been brought before you can testify
18 or prove to you that Jasmine Femia had anything to do
19 with it.

20 The government's relying on proving Mr. Ellison
21 did it and then asking you to use your imagination to
22 fill in the blanks. And you can't use your imagination
23 to fill in the blanks. You have to rely on what's been
24 proven to you, what's been proven to you beyond a
25 reasonable doubt. That's been proven to you to the

CLOSING ARGUMENT BY DEFENDANT

1 point that you wouldn't even hesitate to act. The
2 government hasn't given you that kind of proof.

3 I want to leave you with one last thing. This
4 document was written by Mr. Ellison when he was first
5 interviewed by investigators. And you're not going to
6 get a chance to take this back in the jury room, it's
7 not evidence before you. But take a look. What he
8 wrote was, I just want you to know that Jasmine didn't
9 have anything to do with this.

10 On the other hand, I hold the offer that he got
11 when they gave it to Mr. Ellison to buy his testimony,
12 from life without parole to 30 years, which he was
13 working hard for. He was working hard. He goes so far
14 as to lie. But they still are asking you to believe
15 it.

16 Ladies and gentlemen, you can't believe it. It's
17 not believable.

18 Ladies and gentlemen, I told you at the beginning
19 of the case, this was a case about motivations, and
20 that's more clear now than it ever was before. I ask
21 you to go back in your jury room after listening to the
22 law which the Judge has charged you with, I ask you to
23 apply the facts -- not conjecture -- the facts which
24 there are none of them to prove that Jasmine had
25 anything to do with this crime, that she had anything

CLOSING ARGUMENT BY DEFENDANT

1 to do with it.

2 Apply the facts that you have, leave your
3 conjecture out of it, leave your imagination out of it.
4 I ask you to return a verdict of not guilty, which is
5 supported by the evidence before you. Thank you.

6 THE COURT: Thank you, Mr. Bannon.

7 Mr. Foreman, ladies and gentlemen of the jury,
8 you've heard all of the evidence. You've heard the
9 closing arguments. We're going to take a brief recess,
10 we're going to come back and I'm going to charge you
11 the law. And after all that, I will give you
12 instructions as to when to begin deliberations. But
13 now is not the time.

14 Mr. Foreman, I'm going to ask you to enforce the
15 rule. There will be no discussion about the case
16 whatsoever. And I'm going to ask you to retire to the
17 jury room. But once again, do not discuss the case.

18 (Jury exits the courtroom at 11:18 a.m.)

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

20 THE COURT: Be at ease for five minutes.

21 MR. BANNON: Thank you, Your Honor.

22 (Whereupon, a brief recess was taken.)

23 THE COURT: Anything from the State before we
24 bring the jury out for the charge?

25 MS. SWANSON: No, sir.

CLOSING ARGUMENT BY DEFENDANT

1 THE COURT: Anything from Defense?

2 MR. BANNON: No, Your Honor.

3 THE COURT: We're ready for the jury.

4 (The Jury enters the courtroom at 11:34 a.m.)

5 THE BAILIFF: The Jury is entering the courtroom,
6 Your Honor.

7 THE COURT: Mr. Foreman, ladies and gentlemen of
8 the jury, you've heard all of the evidence in this
9 case, and now it's my responsibility to charge you the
10 law.

11 In the beginning of the case, I told you that you
12 had -- you'd taken a sworn oath that you would listen
13 to the evidence, in your collective wisdom, determine
14 what the true facts are and apply it to the law. I've
15 watched you as the witnesses have testified and y'all
16 have been paying very close attention. When the
17 witness would speak, you would look at them, look at
18 the lawyers when they asked questions. So you've paid
19 attention to the evidence as it's come from the witness
20 stand. And now, it's going to -- you're going to be
21 called upon to pay attention to the law because you got
22 to determine what the facts are and apply it to the
23 law.

24 There's not a real easy way to do it and not a
25 real entertaining way to do it, and I know it's getting

JURY CHARGE

1 close to lunch. You might be getting a little bit
2 tired. I'm going to ask you to perk up a little bit
3 and pay very close attention.

4 These are important matters, and you have to
5 listen to the testimony and you have to understand the
6 law. Pay very close attention as I charge you the law.

7 Mr. Foreman, ladies and gentlemen of the jury, the
8 indictment charges the Defendant with murder and
9 conspiracy. I'll remind you that the fact the
10 Defendant was arrested, charged, and indicted is not
11 evidence and cannot be considered by you as evidence of
12 guilt, nor does it create any presumption or inference
13 of guilt.

14 This document is simply the formal written
15 instrument which contains the charges made against the
16 Defendant. It is the formal document by which this
17 case is brought into this court.

18 Mr. Foreman, ladies and gentlemen of the jury,
19 I'll remind you that during this trial, you and I have
20 certain duties to perform. As the trial judge, it is
21 my responsibility to preside over the trial of this
22 case, and I also have the duty to rule on the
23 admissibility of evidence offered during this trial.

24 You are to consider only the competent evidence
25 before you. You are to consider only the testimony

JURY CHARGE

1 which has been presented from this witness stand and
2 exhibits which have been made a part of the record, and
3 any stipulations of counsel. I have the additional
4 duty to charge the law applicable to this case.

5 As the presiding judge, I am the sole judge of the
6 law of this case, and it is your duty as jurors to
7 accept and apply the law as I now state it to you. If
8 you already have an idea as to what the law is or what
9 the law ought to be and it does not agree with what I
10 now tell you the law is, you must abandon this idea,
11 because you are sworn to accept the law and apply the
12 law exactly as I state it to you.

13 In every case tried in this court before a jury,
14 the jury becomes the sole and exclusive judge of the
15 facts in the case. A trial judge can't intimate,
16 state, comment on, or make any statement to a trial
17 jury about the facts in a case.

18 Since you, the jury, are the sole judges of the
19 facts in this case, you are not to infer from what I
20 have said during the progress of this trial and ruling
21 upon the admissibility of evidence or otherwise, or
22 anything that I say now during the course of this
23 instruction to you, that I have an opinion about the
24 facts. The law simply does not allow me to have an
25 opinion about the facts in any given case.

JURY CHARGE

1 This is a matter solely for you, the jury, to
2 determine. As jurors, it is your duty to determine the
3 effect, value, weight, and truth of the evidence
4 presented during this trial.

5 Mr. Foreman, ladies and gentlemen of the jury, the
6 Defendant has pled not guilty to this indictment. That
7 plea puts the burden on the State to prove the
8 Defendant guilty. A person charged with committing a
9 criminal offense in South Carolina is never required to
10 prove herself innocent.

11 I charge you that it is an important rule of law
12 that the defendant in a criminal trial, no matter what
13 decisions of the charge may be will always be presumed
14 to be innocent of the crime for which the indictment is
15 issued unless guilt has been proven by evidence
16 satisfying you of that guilt beyond a reasonable doubt.

17 This presumption of innocence does not end when
18 you begin your deliberation, but it accompanies the
19 Defendant throughout the trial until you reach a
20 verdict of guilt based on the evidence satisfying you
21 of that guilt beyond a reasonable doubt.

22 The presumption of innocence is like a robe of
23 righteousness placed about the shoulders of the
24 Defendant, which remains with the Defendant until it
25 has been stripped from the Defendant by evidence

JURY CHARGE

1 satisfying you of the Defendant's guilt beyond a
2 reasonable doubt.

3 The presumption of innocence is not a mere legal
4 theory. It's not just a legal phrase. It is a
5 substantial right which every defendant is entitled
6 unless you, the jury, are satisfied from the evidence
7 of the Defendant's guilt beyond a reasonable doubt.

8 What is reasonable doubt in the law? A reasonable
9 doubt is the kind of doubt that would cause a
10 reasonable person to hesitate to act. The State has
11 the burden of proving the Defendant guilty beyond a
12 reasonable doubt. Some of you may have served as
13 jurors in civil cases, where you were told that it's
14 only necessary to prove that a fact is more likely true
15 than not true, such as by a greater weight of
16 preponderance of the evidence.

17 In criminal cases, the State's proof must be more
18 powerful than that. It must be beyond a reasonable
19 doubt. Proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of the Defendant's guilt.

21 There are very few things in this world that we
22 know with absolute certainty, and in criminal cases,
23 the law does not require proof that overcomes every
24 possible doubt. If, based on your consideration of the
25 evidence, you are firmly convinced that the Defendant

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1 is guilty of the crime charged, you must find the
2 Defendant guilty.

3 If, on the other hand, you think there's a real
4 possibility the Defendant is not guilty, you must give
5 the Defendant the benefit of the doubt and find her not
6 guilty.

7 Mr. Foreman, ladies and gentlemen of the jury,
8 there are two types of evidence which are generally
9 presented during a trial, direct evidence and
10 circumstantial evidence.

11 Direct evidence directly proves the existence of a
12 fact, does not require deduction. Circumstantial
13 evidence is proof of a chain of facts and circumstances
14 indicating the existence of a fact. Crimes may be
15 proven by circumstantial evidence. The law makes no
16 distinction between the weight or value to be given to
17 either direct or circumstantial evidence.

18 However, to the extent the State relies on
19 circumstantial evidence, all of the circumstances must
20 be consistent with each other, and when taken together,
21 point conclusively to the guilt of the accused beyond a
22 reasonable doubt.

23 These circumstances merely portray the Defendant's
24 behavior as suspicious if the proof has failed.

25 The State has the burden of proving the Defendant

JURY CHARGE

1 guilty beyond a reasonable doubt. This burden rests
2 with the State regardless of whether the State relies
3 on the direct evidence, circumstantial evidence, or
4 some combination of the two.

5 Mr. Foreman, ladies and gentlemen of the jury,
6 necessarily, you must determine the credibility of
7 witnesses who have testified. Credibility simply means
8 believability. It becomes your duty as jurors to
9 analyze and evaluate the evidence and determine which
10 evidence convinces you of its truth.

11 In determining the believability of witnesses who
12 have testified, you may believe one witness over
13 several witnesses or several witnesses over one
14 witness. You may believe a part of the testimony of a
15 witness and reject the remaining part of the testimony
16 of that same witness. You may believe the testimony of
17 a witness in its entirety or reject the testimony of a
18 witness in its entirety.

19 You may consider whether any witness has exhibited
20 to you any interest, bias, prejudice, or other motive.
21 You may also consider the appearance and manner of a
22 witness while on the witness stand.

23 Mr. Foreman, ladies and gentlemen of the jury, the
24 Rules of Evidence ordinarily do not permit witnesses to
25 testify to opinions or conclusions. Exception of this

JURY CHARGE

1 rule exists for witnesses we call expert witnesses, a
2 witness who by education and experience has become
3 expert in some art, science, professional, or calling
4 may state an opinion as to the relevant and material
5 matter in which the witness claims to be an expert and
6 may also state the reasons for the opinion.

7 You should consider any expert opinion received
8 into evidence in this case, and like any other
9 evidence, and give it the weight you think it deserves.
10 If you decide that an opinion of an expert witness is
11 not based on sufficient education and experience, and
12 you conclude that the reasons given in support of the
13 opinion are not sound, or that the opinion is
14 outweighed by other evidence, you may disregard their
15 opinion entirely.

16 An expert witness' testimony is to be given no
17 greater weight than that of other witnesses simply
18 because the witness is an expert.

19 Further, you are not required to accept an
20 expert's opinion even though it is not contradicted.

21 Mr. Foreman, ladies and gentlemen of the jury, I
22 will instruct you and emphasize the fact the Defendant
23 did not testify is not a factor to be considered by you
24 in any manner in your deliberations and in your
25 consideration on the question of the guilt or innocence

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1 of the Defendant. It must not be considered by you in
2 any manner whatsoever.

3 A Defendant has the constitutional right to remain
4 silent, and the assertion of this right must not be
5 considered by you in your deliberations. I repeat,
6 under your oath, you are to draw no conclusion
7 whatsoever from the fact that the Defendant in this
8 case did not testify. The fact that this Defendant did
9 not testify should not even be discussed in the jury
10 room.

11 Mr. Foreman, I'm going to ask that you enforce
12 that rule.

13 The burden of proof, as I've stated to you, is on
14 the State. The Defendant is not required to prove her
15 innocence. The burden of proof remains on the State to
16 prove guilt beyond a reasonable doubt.

17 Mr. Foreman, you're to enforce the rule. There
18 will be no discussion about the fact the Defendant did
19 not testify in this case.

20 Mr. Foreman, ladies and gentlemen of the jury, I'm
21 going to explain to you the concept in the law known as
22 the hand of one is the hand of all. Pay very close
23 attention.

24 If a crime is committed by two or more people who
25 are acting together in committing a crime, the act of

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1 one is the act of all. A person who joins with another
2 to commit an unlawful act that's criminal is
3 responsible for everything done by the other person,
4 which happens as a probable or natural consequence of
5 the acts done in carrying out the common plan and
6 purpose.

7 For example, two people can be guilty of killing
8 another person when only one of the two had a gun.
9 There was only one bullet and the only one -- and only
10 one of the two fired the shot that caused the death.
11 If two or more people are together, acting together,
12 assisting each other and committing the attempt, the
13 act of one is the act of all, or as is said, The hand
14 of one is the hand of all.

15 Prior knowledge that a crime is going to be
16 committed without more is not sufficient to make a
17 person guilty of that crime.

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

22 Guilt as a principal is shown by actual or
23 constructive presence at the scene as a result of prior
24 arrangement. Therefore, a finding of a prior arranged
25 plan or common scheme is necessary for a finding of

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1 guilt as a principal.

2 The State must prove beyond a reasonable doubt by,
3 competent evidence that the theory of the hand of one
4 is the hand of all.

5 A principal in a crime is one who either actually
6 commits the crime or who is present, aiding and
7 abetting or assisting in committing the crime. When a
8 person does an act in the presence of and with the
9 assistance with another, the act is done by both.

10 Where two or more acting with a common plan or
11 intent are present at the commission of a crime, it
12 does not matter who actually commits the crime. All
13 are guilty. The hand of one is the hand of all.

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

19 Intent is also a necessary element for there must
20 have been a common desire or intent to commit the
21 crime. The crime must have been committed pursuant
22 thereto, with the person aiding and abetting by some
23 overt act.

24 Intent means intending the result which actually
25 occurs, not accidentally or involuntarily. Intent may

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1 be shown by acts and conduct of the Defendant in other
2 circumstances from which you may naturally and
3 reasonably infer intent. The State must prove these
4 elements beyond a reasonable doubt.

5 A person who has a past criminal record is
6 competent to testify during a trial. A past record
7 does not affect the ability of that person to testify.
8 A past record may only be considered by you, if at all,
9 in determining the witness' believability. Remember,
10 you are the sole judge of the facts in the case and the
11 believability of any and all of the witnesses.

12 I'm going to charge you the substantive law with
13 regard to murder.

14 The defendant is charged with murder. The State
15 must prove beyond a reasonable doubt the Defendant
16 killed another person with malice aforethought.

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

22 Malice aforethought does not require that malice
23 exists for any particular time before the act is
24 committed. But malice must exist in the mind of the
25 Defendant just before and at the time of the act -- at

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1 the time the act was committed. Therefore, there must
2 be a combination of previous evil intent and the act.

3 Malice aforethought may be expressed or inferred.
4 These terms, express and infer, do not mean different
5 kinds of malice, but really the manner in which the
6 malice may be shown to exist. That is, either by
7 direct or by inference from the facts and circumstances
8 which are proved.

9 Expressed malice is shown when a person speaks
10 words which express hatred or ill will for another, or
11 when the person prepared beforehand to do the act which
12 was later accomplished. For example, lying in wait for
13 a person or any other acts of preparation going to show
14 that the deed was within the Defendant's mind would be
15 expressed malice.

16 Malice may be inferred conduct showing a total
17 disregard for human life. Inferred malice may also
18 rise when the deed is done with a deadly weapon.

19 A deadly weapon is an article or instrument of
20 substance which is likely to cause death or great
21 bodily harm. Whether an instrument has been used as a
22 deadly weapon depends upon the facts and circumstances
23 of each case.

24 The following are examples of instruments which
25 may be deadly weapons: A pistol, a shotgun, a rifle, a

JURY CHARGE

1 dagger, a knife, a slingshot, metal knuckles, razor,
2 gasoline, firebomb, Molotov cocktail, lighter fluid.

3 The facts that are proved beyond a reasonable
4 doubt sufficient to raise an inference of malice to
5 your satisfaction, this inference would be simply an
6 evidentiary fact to be considered by you along with
7 other evidence in this case. You may give it the
8 weight you decide it should receive.

9 I'm going to charge you the substantive law with
10 regard to conspiracy. The Defendant is charged with
11 conspiracy. The State must prove beyond a reasonable
12 doubt the Defendant combined with one or more persons
13 for the purpose of committing an unlawful act or
14 permitting a lawful act by unlawful means.

15 There must be a mutual understanding, agreement, a
16 common intent and plan. Mere passive knowledge of or
17 consent to the criminal conduct of another is not
18 enough to make a person a conspirator. There must be
19 guilty knowledge and participation.

20 Similarly, the mere fact the Defendant may have
21 associated with another person or met with another
22 person to discuss common aims and interests does not
23 necessarily establish proof of existence of a
24 conspiracy, or that the Defendant was involved in the
25 conspiracy.

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1 On the other hand, it is not necessary that the
2 agreement be a formal one; that it be in writing; that
3 the person hold a meeting and express and state the
4 terms of the common plan, or that the agreement be
5 stated by words between them.

6 The agreement of a criminal conspiracy may come
7 into being through an implied mutual understanding.
8 Willful, intentional, and knowing adoption by two or
9 more persons of a common plan is sufficient. No overt
10 act may be shown to establish conspiracy. Conspiracy
11 may be shown by circumstantial evidence and the conduct
12 of the parties.

13 In order to convict the Defendant of conspiracy,
14 the State must prove beyond a reasonable doubt not only
15 that the Defendant knew of the unlawful conduct, but
16 that the Defendant agreed to combine with the other
17 persons for -- person or persons for the purpose of
18 accomplishing the unlawful conduct.

19 I'm going to come forward and share with you the
20 verdict form, Mr. Foreman.

21 Mr. Foreman, I'm going to ask you if you could
22 stand. I'm going to go over this verdict form with
23 you. It's a one page document. It's the verdict form
24 as to Jasmine Nicole Femia, the State of South Carolina
25 versus Jasmine Nicole Femia. It's got that we're here

JURY CHARGE

1 in the general sessions in the 14th Circuit.

2 There are two different offenses that we discussed
3 in great detail, murder and conspiracy.

4 Roman numeral one, We, the jury, by unanimous
5 consent, find the Defendant not guilty or guilty.

6 Number two, conspiracy, We, the jury, by unanimous
7 consent, find the Defendant, not guilty or guilty. The
8 verdict must be unanimous. It can't be eight to four,
9 six to six, 11 to one. Everyone has to agree. It has
10 to be unanimous.

11 And when you have reached the verdict, notify the
12 bailiff. There's a place for you to sign and a place
13 for you to date. I'm going to ask if you can have a
14 seat.

15 Mr. Foreman, you are going to have, obviously, one
16 vote with regard to deliberations. You are going to
17 have additional responsibilities that I discussed with
18 you earlier. You are to preside over the deliberation
19 process. That essentially means to ensure that
20 everybody's voice is heard.

21 If there are questions that develop throughout the
22 deliberations, I'm going to ask that you reduce the
23 question to writing, the question or concern, sign it,
24 date it, and give it to the bailiff. And if it's
25 something I can help you with, I will.

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1 I'll tell you from the very outset, the difficult
2 question in this case, y'all are going to have to
3 answer the facts. I can't help you in that regard.
4 The law doesn't allow me to do that. If you have a
5 question with regards to the law, that's something I
6 can help you with.

7 In the event you can't determine in your mind
8 whether or not it's a question of fact or law, write it
9 down, if it's something I can help you with, I will.

10 But I don't anticipate there are going to be any
11 questions because you paid attention to the evidence,
12 you listened to the law. You're going to have this
13 documentary evidence back there with you. Y'all have
14 all the tools necessary to resolve this case.

15 I'm going to ask the alternates not to leave the
16 courtroom. If you'll stay in here when the jury exits.

17 And Mr. Foreman, I'm going to ask that if anyone
18 gets up during the deliberation process, stop the
19 deliberations, because everyone has to participate in
20 all the deliberations.

21 I'm going to release you to go back to your jury
22 room, minus the alternates, and I'm going to ask that
23 you once again not begin deliberations, because I'm
24 going to have to ask these very fine lawyers if they
25 have an objection as to the manner in which I've

JURY CHARGE

1 charged the law. If I've inadvertently stated
2 something wrong or if I've left something out or did
3 not charge something I should have charged, we'll have
4 an opportunity to address that issue with these
5 lawyers. If there's no need for me to give additional
6 charges or any clarifications, then we're going to
7 gather up the documentary evidence, the bailiff will
8 bring it to you, along with some pencils and paper and
9 we'll tell you to begin deliberations. But do not
10 begin deliberations until such time as you receive
11 instructions to do so.

12 I'm going to ask that everyone remain seated as
13 the jury exits the courtroom. And I'm going to ask the
14 alternates to remain with us.

15 (The Jury exits the courtroom at 11:57 a.m.)

16 THE BAILIFF: The jury's clear and the door's
17 closed, Your Honor.

18 THE COURT: I want to thank each of you for being
19 here. Have y'all ever participated on a jury before?

20 (Nods in the negative.)

21 THE COURT: Well, hopefully, it's been a learning
22 experience. You know, I've been -- I've practiced law
23 for 20 years, been on the Bench for over ten years now.
24 There's not any time I participated in a trial I don't
25 learn something new. So hopefully it's been a learning

ALTERNATES RELEASED

1 experience for you, and hopefully it has not been that
2 difficult on you.

3 Now, I have some good news for you. You will earn
4 a three-year exemption by your participation here this
5 week. You will be paid handsomely for your service, I
6 think, \$25 a day, and 50 cent a mile, something like
7 that. If called upon to serve in this court within the
8 next three years, you will have earned an exemption.

9 I'm going to ask the State, is there -- do you
10 anticipate another trial this week?

11 MS. SWANSON: I do believe Judge Mullen was
12 picking a jury this morning.

13 THE BAILIFF: She released the jury pool, Judge.

14 THE COURT: Very good. Well, that's additional
15 good news. That -- your duty has been discharged this
16 week, and you're free to leave at this time.

17 I told you from the beginning that if you have any
18 questions, I'll be happy to answer them. Do you have
19 any questions?

20 JUROR: Can I stay for the rest of the trial?

21 THE COURT: You sure can. This is a public forum.
22 And I know y'all get the sensation, y'all been invited
23 to a dance and you don't get to dance. I understand
24 that. But you are an insurance policy for us. If
25 someone had gotten sick, gotten in a wreck, or if there

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1 were a conflict that developed, you are our insurance
2 policy. Thank you so much for that, and it's not
3 uncommon for us to have to activate alternates.

4 Y'all are welcome to stay. And if for whatever
5 reason you have to get up and leave, and you're
6 interested in the outcome of the case, you can call the
7 clerk and they would be happy to share the verdict with
8 you. But y'all are welcome to be here, it's a public
9 forum. Thank you very much, and I will release you
10 from the order not to discuss the case. You can talk
11 to anybody you want to about it.

12 If someone insists on talking to you about it and
13 you don't want to talk about it, tell them that. If
14 they persist, tell them that you don't want to discuss
15 it. Notify me, and I will deal with them accordingly.
16 I don't anticipate that's going to happen.

17 So, you're free to leave at this time. Thank you.
18 And you're free to stay as well. Thank you.

19 THE BAILIFF: Come with me.

20 (Alternates dismissed at 12:02 p.m.)

21 THE COURT: All right. Any objections to the jury
22 charge from the State?

23 MS. SWANSON: None from the State, Your Honor.

24 THE COURT: Any from Defense?

25 MR. BANNON: Your Honor, I would just renew my

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1 request that the mere association language from the
2 accomplice liability charge be added. I understand
3 that the Court declined to do so the first time, but I
4 just wanted to preserve it in the record.

5 THE COURT: I specifically charged that, however,
6 mere presence at the scene of a crime is not sufficient
7 to convict one as a principal in the theory of aiding
8 and abetting.

9 It's mere presence. That's kind of what you
10 wanted, wasn't it?

11 MR. BANNON: Well, it -- it specifically, it said
12 mere association by a defendant with people who have
13 committed a crime is insufficient proof the defendant
14 has committed a crime, is sort of the specific language
15 that I think should be -- I mean, much was made about
16 the association both between my client and Mr. Ellison
17 before the crime was committed, as well as after the
18 crime was committed. And so I think the jury should be
19 instructed that the mere association between the two is
20 not enough.

21 THE COURT: And it goes on to say, Prior knowledge
22 that a crime was going to be committed without more is
23 not sufficient to make a person guilty of that crime.
24 Mere knowledge that another person is going to commit a
25 crime, even if the Defendant is present when the crime

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1 is committed, is not sufficient to convict a Defendant
2 as a principal. I think that covers it. You might be
3 correct. You're protected on the record. I think it
4 covers it.

5 Anything else from anybody?

6 MR. BANNON: No, Your Honor.

7 THE COURT: I'm going to ask each of you if you
8 could come forward in front of the court reporter and
9 all of the documentary evidence has been placed in one
10 pile.

11 Ms. Swanson, I'm going to ask that you review that
12 pile and confirm that everything that's in that pile is
13 in evidence, and there's not anything in the pile
14 that's not in evidence.

15 MS. SWANSON: We actually did that prior to the
16 jury charge.

17 THE COURT: And do you confirm that everything in
18 that pile is in evidence?

19 MS. SWANSON: Yes, sir.

20 THE COURT: Is there anything in the pile that's
21 not in evidence?

22 MS. SWANSON: No, sir.

23 THE COURT: Mr. Bannon, do you agree that
24 everything in that pile is in evidence?

25 MR. BANNON: I agree, Your Honor.

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1 THE COURT: And there's not anything in the pile
2 that's not in evidence?

3 MR. BANNON: That's correct.

4 THE COURT: I'm going to ask you if you can take
5 the documentary evidence to them, give them some paper
6 and pencils and tell them to begin deliberations. And
7 it is 12:05.

8 THE BAILIFF: Yes, Your Honor.

9 THE COURT: And tell -- let them know that food is
10 on the way.

11 THE BAILIFF: Yes, Your Honor. I'll do that.

12 THE COURT: And let me know when you get it. I'm
13 hungry, too.

14 THE BAILIFF: Yes, sir. Don't worry, we'll take
15 care of you.

16 THE COURT: We'll stand at ease. I'm going to
17 ask that y'all kind of stay very close because I
18 anticipate there's probably going to be questions, and
19 I don't want to hunt y'all down.

20 (Whereupon, a brief recess was taken.)

21 (Jury begins deliberations.)

22 THE COURT: There has been a question. It says,
23 Jurors request clarification on the South Carolina law
24 on murder and conspiracy to commit murder with specific
25 reference to the hand of one is the hand of all and the

JURY QUESTION

1 weight of circumstantial evidence.

2 That is about all of the charge. But we will give
3 it to them. I will just recharge them the law with
4 regard to each of those. And I will make this note a
5 part of the record.

6 *(Whereupon, Court's Exhibit No(s). 2 marked for*
7 *identification and received in evidence.)*

8 THE BAILIFF: The jury is entering the courtroom,
9 Your Honor.

10 (Jury enters the courtroom at 2:20 p.m.)

11 THE COURT: Mr. Foreman, ladies and gentlemen of
12 the jury, we have received your request. Pay very
13 close attention.

14 There are two types of the evidence which are
15 generally presented during a trial. Direct evidence
16 and circumstantial evidence.

17 Direct evidence directly proves the existence of a
18 fact, does not require deduction. Circumstantial
19 evidence is proof of a chain of facts and circumstances
20 indicating the existence of a fact. Crimes may be
21 proven by circumstantial evidence. The law makes no
22 distinction between the weight or value to be given to
23 either direct or circumstantial evidence.

24 However, to the extent the State relies on
25 circumstantial evidence, all of the circumstances must

ANSWER BY THE COURT

1 be consistent with each other, and when taken together,
2 point conclusively to the guilt of the accused beyond a
3 reasonable doubt.

4 These circumstances merely portray the Defendant's
5 behavior as suspicious if the proof has failed.

6 The State has the burden of proving the Defendant
7 guilty beyond a reasonable doubt. This burden rests
8 with the State regardless of whether the State relies
9 on direct evidence, circumstantial evidence, or some
10 combination of the two.

11 The concept of the hand of one is the hand of all.
12 If a crime is committed by two or more people who are
13 acting together in committing a crime, the act of one
14 is the act of all. A person who joins with another to
15 commit an unlawful act is criminally responsible for
16 everything done by the other person, which happens as a
17 probable or natural consequence of the acts done in
18 carrying out the common plan and purpose.

19 For example, two people can be guilty of killing
20 another person when only one of the two had a gun.
21 There was only one bullet and only one of the two fired
22 the shot that caused the death. If two or more people
23 are together, acting together, assisting each other in
24 committing the offense, the act of one is the act of
25 all, or as it is sometimes said, The hand of one is the

ANSWER BY THE COURT

1 hand of all.

2 Prior knowledge that a crime is going to be
3 committed without more is not sufficient to make a
4 person guilty of that crime.

5 Mere knowledge that another person is going to
6 commit a crime, even if the person is present when the
7 crime is committed, is not sufficient to convict a
8 Defendant as a principal.

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

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

17 A principal in a crime is one who either actually
18 commits the crime or who is present, aiding, abetting
19 or assisting in committing the crime. When a person
20 does an act in the presence of and with the assistance
21 of another, the act is done by both.

22 Where two or more acting with a common plan or
23 intent are present at the commission of the crime, it
24 does not matter who actually commits the crime. All
25 are guilty. The hand of one is the hand of all.

ANSWER BY THE COURT

1 Present at the commission of a crime means to be
2 sufficiently near to aid and abet and assist in the
3 commission of the crime. However, mere presence at the
4 scene of the crime is not sufficient to convict one on
5 the principal of the theory of aiding and abetting.

6 Intent is also a necessary element for there must
7 have been a common desire or intent to commit the
8 crime. The crime must have been committed pursuant
9 thereto, with the person aiding and abetting by some
10 overt act.

11 Intent means intending the result which actually
12 occurs, not accidentally or involuntarily. Intent may
13 be shown by acts and conduct of the Defendant in other
14 circumstances for which you may naturally and
15 reasonably infer intent. The State must prove these
16 elements beyond a reasonable doubt.

17 The substantive law with regard to murder. The
18 Defendant is charged with murder. The State must prove
19 beyond a reasonable doubt the Defendant killed another
20 person with malice aforethought.

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

ANSWER BY THE COURT

1 Malice aforethought does not require that malice
2 exists for any particular time before the act is
3 committed. But malice must exist in the mind of the
4 Defendant just before and at the time the act is
5 committed. Therefore, there must be a combination of
6 previous evil intent and the act.

7 Malice aforethought may be expressed or inferred..
8 These terms, expressed and inferred, do not mean
9 different kinds of malice, but really the manner in
10 which the malice may be shown to exist.. This is either
11 by direct or by inference from the facts and
12 circumstances which are proved.

13 Expressed malice is shown when a person speaks
14 words which express hatred or ill will for another, or
15 when the person prepared beforehand to do the act which
16 was later accomplished. For example, lying in wait for
17 a person or any other act of preparation going to show
18 that the deed was within the Defendant's mind would be
19 expressed malice..

20 Malice may be inferred from the conduct showing a
21 total disregard for human life. Inferred malice may
22 also rise when the deed is done with a deadly weapon.

23 A deadly weapon is any article or instrument of
24 substance which is likely to cause death or great
25 bodily harm. Whether an instrument has been used as a

ANSWER BY THE COURT

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

3 The following are examples of instruments which
4 may be deadly weapons: A pistol, shotgun, rifle,
5 dagger, knives, slingshot, metal knuckles, a razor,
6 gasoline, a firebomb, or Molotov cocktail, or lighter
7 fluid.

8 If facts are proved beyond a reasonable doubt
9 sufficient to raise an inference of malice to your
10 satisfaction, this inference would be simply an
11 evidentiary fact to be considered by you along with
12 other evidence in the case. And you may give it the
13 weight you think it should receive.

14 The substantive law with regard to conspiracy.
15 The Defendant is charged with conspiracy. The State
16 must prove beyond a reasonable doubt that the Defendant
17 combined with one or more persons for the purpose of
18 committing an unlawful act or of committing a lawful
19 act by unlawful means.

20 There must be a mutual understanding, agreement,
21 or common intention plan. Mere passive knowledge of or
22 consent to criminal conduct of another is not enough to
23 make a person a conspirator. There must be guilty
24 knowledge and participation.

25 Similarly, the mere fact the Defendant may have

ANSWER BY THE COURT

1 associated with another person or met with another
2 person and discussed common aims and interests does not
3 necessarily establish proof of existence of a
4 conspiracy, or that the Defendant was involved in a
5 conspiracy.

6 On the other hand, it is not necessary that the
7 agreement be a formal one; that it be in writing; that
8 the persons hold a meeting and expressly state the
9 terms of the common plan, or that the agreement be
10 stated in words between them.

11 The agreement of a criminal conspiracy may come
12 into being through an implied mutual understanding.
13 Willful, intentional, and knowing adoption by two or
14 more persons of a common plan is sufficient. No overt
15 act need be shown to establish a conspiracy.
16 Conspiracy may be shown by circumstantial evidence and
17 the conduct of the parties.

18 In order to convict the Defendant of conspiracy,
19 the State must prove beyond a reasonable doubt not only
20 that Defendant knew of the unlawful conduct, but that
21 the Defendant agreed to combine with the other person
22 or persons for the purpose of accomplishing the
23 unlawful conduct.

24 You may return to the jury room and resume
25 deliberations.

ANSWER BY THE COURT

1 (Jury exits the courtroom at 2:28 p.m. and
2 continues deliberation.)

3 THE COURT: We will stand at ease.

4 MR. BANNON: Your Honor, I don't know if I need
5 to, but I would like to reiterate my previous request
6 to give the other language.

7 THE COURT: You know, I think that it has been
8 covered. What do you think Ms. Swanson?

9 MS. SWANSON: I would agree with Your Honor.

10 THE COURT: Very good.

11 (Court in recess during deliberations.)

12 THE COURT: Please be seated. I understand that
13 the jury has reached a verdict. Of course, my job is
14 to reside over the proceeding and to charge the law.
15 But I have an additional responsibility to maintain
16 order in the court. These are very difficult times for
17 the victim's family and for the Defendant's family.
18 And we can't allow any outburst in this courtroom. And
19 if there is, I'm going to go ahead and there's going to
20 be a standing order for security to go ahead and take
21 you into custody if you have an outburst.

22 Those of you who feel as though they cannot
23 contain themselves in any way, shape, or form, I am
24 going to give you an opportunity to leave at this time.
25 But if you are going to stay here, you are going to

JURY VERDICT

1 comport yourself with decorum. Does everybody
2 understand?

3 Very good. All right. We are ready for the jury.

4 (Jury enters the courtroom at 2:43 p.m.)

5 THE BAILIFF: The jury is seated, Your Honor.

6 THE COURT: Mr. Foreman, have you reached a
7 verdict?

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

9 THE COURT: Is it indeed unanimous?

10 THE FOREMAN: Yes, it is.

11 THE COURT: I will ask if you can give the verdict
12 form to the bailiff.

13 (Foreman complies.)

14 THE COURT: All right. The verdict form appears
15 to be in order. I'll give it to the clerk for
16 publishing. I'll ask the Defendant to stand.

17 THE CLERK: State of South Carolina, County of
18 Beaufort in the Court of General Sessions, 14th
19 Judicial Circuit. State of South Carolina versus
20 Jasmine Nicole Femia, indictment number
21 2015-GS-07-00110 and 2015-GS-07-00111. The verdict
22 form as to Jasmine Nicole Femia. Number one, murder.
23 We the jury by unanimous consent find the Defendant
24 guilty.

25 Number two, conspiracy. We the jury by unanimous

JURY VERDICT

1 consent find the Defendant guilty.

2 And it's signed by the foreman, Kenneth W. Couch,
3 the 24th day of August, 2016.

4 THE COURT: Is there any additional requests with
5 regard to polling?

6 MR. BANNON: Your Honor, we would request that you
7 poll the jury.

8 THE COURT: Madam clerk, you may proceed.

9 THE CLERK: Okay. When I call your name, please
10 stand.

11 Maria A. McIntyre. Is this your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Is it still your verdict?

14 THE JUROR: Yes.

15 THE CLERK: You may be seated.

16 Holly K Davidson. Is this your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Is it still your verdict?

19 THE JUROR: Yes.

20 THE CLERK: You may be seated.

21 Kimberly Tuten. Is this your verdict?

22 THE JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 THE JUROR: Yes.

25 THE CLERK: You may be seated.

SENTENCING

1 history before that. She is also very young, Your
2 Honor. At the time the crime was committed she was
3 21. As she stands before you now, she's just turned
4 23.

5 She graduated from high school and she was
6 studying in school to be a CAN (sic). She has two
7 young children. She grew up in Beaufort after moving
8 here when she was nine years old, Your Honor. She had
9 a very trouble childhood. She was molested by her
10 uncle repeatedly over a series of years and just faced
11 difficult circumstances at home, just to give you an
12 explanation of her background, Your Honor.

13 Your Honor, two things that I would like to make a
14 part of the record is a mental evaluation was conducted
15 at the Medical University of South Carolina which found
16 her to be competent to stand trial. I would like to
17 make that a Court's exhibit.

18 Also, Your Honor, as part of the evaluation that
19 was done it was found that she had a dependence on
20 opiates as well as alcohol, which she's completed a
21 course for during her incarceration thus far, which
22 Your Honor she's done 585 days thus far while she was
23 awaiting trial. Your Honor, we ask that those become
24 part of the record. Your Honor, I also just want you
25 to recognize that Ms. Femia's parents are here, her

SENTENCING

1 comment to the Court.

2 THE COURT: All right.

3 Ms. Femia yeah, on indictment 2015-GS-07-00111,
4 conspiracy, the sentence of the Court is that you be
5 committed to the State Department of Corrections for a
6 period of five years. The sentences run concurrent.
7 Credit for 585 days.

8 With regard to indictment 2015-GS-07-00110,
9 murder, the sentence of the Court is you be committed
10 to the State Department of Corrections for a period of
11 45 years. The sentence will run concurrent. Credit
12 for 585 days. Good luck to you.

13 MS. SWANSON: Thank you, Your Honor.

14 THE COURT: If you will approach the Bench.

15 (Off-the-record discussion held.)

16 THE COURT: Let's come back to order. We have one
17 more matter to tend to.

18 Mr. Bannon, you are recognized.

19 MR. BANNON: Thank you, Your Honor. At this point
20 the defense would like to raise all pretrial motions as
21 well as objections, our motion for a directed verdict.
22 Your Honor, we believe that some of your rulings were
23 narrow and because of that we ask that you order a new
24 trial in this case.

25 THE COURT: Very good. Ms. Swanson, you are

SENTENCING

1 recognized..

2 MS. SWANSON: Thank you, Your Honor. Just as I
3 stated during my directed verdict position, I believe
4 there was ample evidence for the jury to find this
5 verdict and just ask that it remain.

6 THE COURT: All right. Mr. Bannon, your motion is
7 noted for the record; however, it is denied. And you
8 are protected on the record. Good luck to you.

9 MR. BANNON: Thank you, Your Honor.

10 MS. SWANSON: Thank you, Your Honor.

11 THE COURT: All right, very good.

12 (Whereupon, the trial concluded.)

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WITNESSES

C. Raley- Beaufort PD

ARREST WARRANT NUMBER

2015A0720100011

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: APR 30 2015

VERDICT

Foreperson of Petit Jury

Date: 8/24/14

INDICT

DOCKET NO. 2015GS0700110

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2015

THE STATE

vs.

Jasmine Nicole Femia

Indictment for

Murder / Murder

SC Code: 16-03-0010; 16-03-0020

CDR Code:0116

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

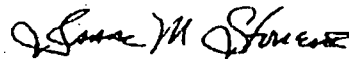
INDICTMENT
2015GS0700110

At a Court of General Sessions, convened on April 30, 2015 the Grand Jurors of Beaufort County present upon their oath:

Murder / Murder

That in Beaufort County on or about January 9, 2015, with malice aforethought, Jasmine Nicole Femia did kill and murder Nicholas Degros by means of shooting, and that Nicholas Degros did die in Beaufort County as a proximate result thereof on January 9th, 2015; in violation of Section 16-3-10 of the South Carolina 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

STATE OF SOUTH CAROLINA

COUNTY OF BeaufortSTATE VS.Jasmine Nicole Femia

AKA:

Race: CAUCASIAN Sex: F Age: 23DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS

209

INDICTMENT/CASE#: 2015GS0700110A/W#: 2015A0720100011Date of Offense: 1/9/2015S.C. Code §: 16-03-0010; 16-03-0020CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST 72935 Jasmine Femia 77414
Swanson, Hunter SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 8-24-16
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 585 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.75</u>

TOTAL

\$ 1283.75

Clerk of Court/ Deputy Clerk

Court Reporter: Monica Deaton

SCCA/217 (07/2016)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2115Sentence Date: 8/24/16

WITNESSES

C. Raley- Beaufort PD

ARREST WARRANT NUMBER

2015A0720100012

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: APR 30 2015

VERDICT

Foreperson of Petit Jury

Date: 8/24/16

INDICT

DOCKET NO. 2015GS0700111

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2015

THE STATE

vs.

Jasmine Nicole Femla

Indictment for

Conspiracy / Criminal Conspiracy

SC Code: 16-17-0410

CDR Code:0049

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

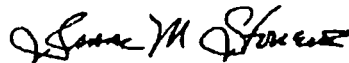
INDICTMENT
2015GS0700111

At a Court of General Sessions, convened on April 30, 2015 the Grand Jurors of Beaufort County present upon their oath:

Conspiracy / Criminal Conspiracy

That in Beaufort County, South Carolina, on or about January 9, 2015, the Defendant, Jasmine Nicole Femia, did combine, conspire, confederate, agree or have tacit understanding with another, for the purpose of committing a Murder, in violation of Section 16-17-410, Code of Laws of South Carolina, (1976, as amended).

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



Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Beaufort

VS.

Jasmine Nicole Femia

AKA:

Race: CAUCASIAN Sex: F Age: 23

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Conspiracy / Criminal Conspiracy. Common Law conspiracy defined

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

Swanson, Hunter 72935 SC Bar# Jasmine Femia Defendant Attorney for Defendant 77414 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 595 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL

\$123.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS0700111

A/W#: 2015A0720100012

Date of Offense: 1/9/2015

S.C. Code § : 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Presiding Judge

Judge Code:

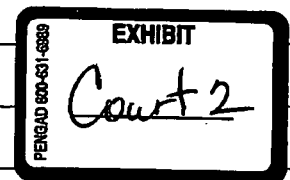
Sentence Date:

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Jurors request clarification on the
S.C. Law on Murder and Conspiracy
to commit murder.

With specific reference to "The hand
of one is the hand of all" and the
weight of circumstantial evidence.

Kenneth W. Couch
24 August 2016



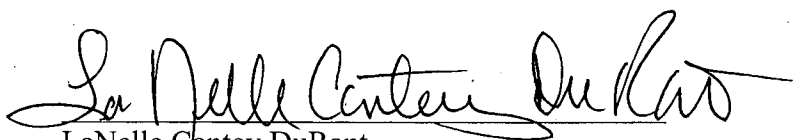
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Charleston_MTX4	7447	7447	5	1/9/2015 19:42	85	4943
Charleston_MTX4	7447	377	0	1/9/2015 19:42	84	4943
Charleston_MTX4	7447	4061	1	1/9/2015 19:43	11	7447
Charleston_MTX4	7447	7447	5	1/9/2015 19:44	40	4943
Charleston_MTX4	7447	74	0	1/9/2015 19:44	39	4943
Charleston_MTX4	7447	7447	0	1/9/2015 19:44	97	4061
Charleston_MTX4	7447	6600	1	1/9/2015 19:52	94	7447
Charleston_MTX4	7447	4943	1	1/9/2015 19:53	57	7447



CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



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ATTORNEY FOR APPELLANT

This 21st day of November, 2017.

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SC Court of Appeals