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**ANDERS
ORIGINAL**

VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Roger L. Couch, Circuit Court Judge

**NO DEFENDANT'S BRIEF
No Respondent's Brief Filed**

THE STATE,

RESPONDENT,

V.

DARIUS CATHCART,

APPELLANT

RECORD ON APPEAL

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SC Court of Appeals

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Robert Talanges - Direct examination
by Mr. Brown

1 Q And, again, there was no type of testing done?

2 A Not that I know of.

3 Q All right. And those were fresh items, you would agree
4 with me, from the evening in which or the morning in which
5 these events transpired?

6 A Those are items that we located that, that morning or
7 that, for this, in this incident area.

8 Q Okay. And based upon this, did you issue any search
9 warrants in terms of this information?

10 A No, I never, never had done any search warrants or
11 anything of any nature.

12 Q Did you seek any arrest warrants in this case?

13 A No, sir, did not.

14 Q Who sought the arrest warrants in this case?

15 A The arrest warrant would of been done by the lead
16 investigator.

17 Q Who was that?

18 A I believe Lorin Williams.

19 Q Okay. Investigator Williams sitting here?

20 A Yes, I believe it was.

21 MR. BROWN: Okay. Your Honor, I ask that this be
22 admitted into evidence.

23 THE COURT: Any objection?

24 SOLICITOR GRAY: No objection, Your Honor.

25 THE COURT: Mr. Poole.

Robert Talanges - Direct examination
by Mr. Brown

1 MR. POOLE: No, sir. No, sir.

2 THE COURT: Okay. It will be admitted and marked as a
3 Defense Exhibit.

4 (WHEREUPON, Defendant's Exhibit No. 5 was received into
5 evidence at this time.)

6 MR. BROWN: That's all the questions I have.

7 THE COURT: Mr. Poole, any questions of this witness?

8 MR. POOLE: Just one minute, Your Honor.

9 (Pause.)

10 THE COURT: Mr. Brown, do you wish to re-open your
11 examination?

12 MR. BROWN: Yes, sir, after conferring---

13 THE COURT: Any objection from the State to allow Mr.
14 Brown to ask additional questions?

15 SOLICITOR GRAY: No, sir.

16 THE COURT: You may proceed.

17 Q Also, because you were, from the outset, involved in
18 the case---

19 A (Witness nods affirmatively.)

20 Q ---you went and photographed various items associated
21 with this case?

22 A At the Sims or the Mt. Pleasant area, yes, I took
23 photographs.

24 Q Okay. Any other place that you responded to in the
25 course of this investigation

Robert Talanges - Direct examination
by Mr. Brown

1 A Been to Mary Black, excuse me, went to Spartanburg
2 Regional first of all.

3 Q Okay. Well, let me ask you about Regional
4 specifically.

5 Who was located at Spartanburg Regional when you went
6 there?

7 A When I first responded, we had Mr. Reeder and
8 Mr., the---

9 Q Cathcart.

10 A Cathcart, yes.

11 Q Would you agree or disagree with me that Mr. Reeder had
12 a gunshot wound to his wrist?

13 A Yeah, I know he had a gunshot wound to his left, left
14 arm area.

15 Q Okay. Would you agree or disagree that it was to his
16 wrist area?

17 A I'd have to look at the photographs, but I know he did
18 have a gunshot wound.

19 Q All right. On his left.

20 Would you agree or disagree that Mr. Cathcart was also
21 shot?

22 A Per the photos, it probably showed a graze.

23 Q Okay. And the graze, do you know if it produced any
24 biological blood at the hospital?

25 A Not that I know of.

Robert Talanges - Direct examination
by Mr. Brown

1 Q Well, in particular, can you say if Mr. Reeder touched
2 his wound with his right-hand---

3 A Can not.

4 Q ---or not?

5 A No.

6 Q And can you say if Mr. Cathcart also touched his grazed
7 or wound about his body?

8 A Can not say that.

9 Q From a, from a gunshot?

10 A I can not say.

11 Q You can't say that, can you?

12 A No, sir.

13 MR. BROWN: All right. No further questions, Your
14 Honor.

15 THE COURT: Yes, sir, Mr. Gray. Your witness.

16 SOLICITOR GRAY: Yes, sir, just briefly.

17 CROSS-EXAMINATION

18 BY SOLICITOR GRAY:

19 Q What was the condition in that area that day?

20 What was, what was the weather like?

21 A We had a lot of rain. It pretty much was a rainy rainy
22 early morning.

23 Q Downpour that day?

24 A Yes, sir.

25 Q Difficult to collect the blood or anything else?

Robert Talanges - Cross-examination
by Solicitor Gray

1 A The weather conditions would damage a lot of any other
2 evidence that was there if it was blood, stuff of that
3 nature, or---

4 Q Well, do you, do you know -- was a presumptive test
5 done on that?

6 A On the blood?

7 Q Yes, sir.

8 A I don't know if Deputy Davis did it or not because he
9 was the first at that location and he physically marked
10 that.

11 Q So, you don't know if there was blood?

12 A Do not.

13 Q It could of been something else?

14 A That's correct.

15 Q Along with the unknown biological material?

16 A Correct.

17 Q Thank you, sir.

18 Oh, and your -- that diagram is not to scale, correct?

19 A No diagram, no diagram is ever to scale.

20 Q Thank you, sir.

21 No further questions, Your Honor.

22 THE COURT: Anything further from the defense from this
23 witness?

24 MR. POOLE: No, sir.

25 MR. BROWN: None, Your Honor.

1 THE COURT: You may step down.

2 Does the defense wish to call any other witnesses?

3 MR. BROWN: No, Your Honor.

4 THE COURT: All right. Any witnesses in reply or
5 rebuttal from the State?

6 SOLICITOR GRAY: No, sir, Your Honor.

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, that concludes the presentation of evidence by both
9 sides in the case. Again, I have to discuss some matters
10 with the attorneys before we go to the next step of the
11 trial. It shouldn't be a very long break, but I'm gonna ask
12 you to step back to the jury room. And, again, don't begin
13 any discussions until I've advise you to do so.

14 You may retire to the jury room.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 THE COURT: All right. Anything further from the State
18 at this point in time?

19 SOLICITOR GRAY: No, sir, Your Honor.

20 THE COURT: Defense?

21 MR. POOLE: No, sir.

22 THE COURT: All right. Let's talk about your charge
23 request.

24 Again, Mr. Poole.

25 MR. POOLE: Yes, sir, Your Honor.

1 As I previously informed the Court, I would ask, on
2 behalf of Darius Cathcart, to charge mere presence,
3 self-defense, and mutual combat. The Court indicated
4 that---

5 THE COURT: Now, mutual combat and self-defense -- they
6 exclude each other.

7 You understand that?

8 MR. POOLE: Yes, sir.

9 THE COURT: In other words, if someone engages
10 voluntarily in mutual combat, they can't claim self-defense.

11 MR. POOLE: Yes, sir.

12 THE COURT: So, I'm gonna ask you which one do you want
13 me to charge.

14 MR. POOLE: Okay.

15 THE COURT: Because I can't charge them both.

16 MR. POOLE: Okay. Well, I think, I think I was asking
17 for both of them because this case is just, just so, from my
18 prospective, so wierd. And, so---

19 THE COURT: Well, I got---

20 MR. POOLE: It could be, it could be viewed under a
21 myriad of circumstances.

22 THE COURT: Yes, sir.

23 MR. POOLE: So, I'm aware of that, Your Honor, and I
24 wasn't going to ask for both of them. But now that you've
25 told me that you're not going to do that, I would ask that

1 you, at least, charge mutual combat.

2 THE COURT: All right. Mr. Brown, your request for
3 charge?

4 MR. BROWN: Your Honor.

5 THE COURT: On what point -- do you wish to be heard on
6 that point?

7 MR. BROWN: Again, I would reiterate my request for,
8 for mere, mere presence, and, I'm sorry, I was talking.

9 THE COURT: Well, we were discussing -- Mr. Poole had
10 asked me to charge mutual combat and self-defense, and I was
11 explaining that they exclude each other because self-defense
12 presupposes someone who had no, no role in the bringing on
13 of the difficulties, did not want to engage in fight, a
14 fight or combat, and only used violence to defend
15 themselves. Whereas mutual combat indicates that there's
16 some willingness on both sides to, to fight. And, so,
17 mutual combat is different and it excludes self-defense. I
18 can't charge both is what I'm saying.

19 MR. BROWN: Well, Your Honor, I guess the only problem
20 that I would have with either one of those is there would be
21 a presumption one way or the other involved. But if we were
22 to pursue any grounds, it would be under the one of
23 self-defense.

24 THE COURT: So, you wish to charge self-defense?
25 All right. State want to be heard on that one?

1 SOLICITOR GRAY: Yes, sir, Your Honor.

2 I don't think self-defense applies in this case cause
3 obviously they had that duty to retreat, and, and one
4 element of not bringing on the difficulty itself. Went in
5 the car, the lights off, following these guys from say
6 approximately 585 Pine Street down to Hearon Circle, then
7 they went to the Waffle House, then they went back up
8 Business 85, 221, to near Lakeview Manor, turned off their
9 lights in the proximity of the business that recorded the
10 shooting, turned the lights on, went up -- they got close
11 enough to start shooting. I don't see how any of that
12 qualifies under self-defense, Your Honor.

13 MR. BROWN: And, again, Your Honor, Mr., Mr. Gray would
14 allege, if their version of the facts were, were to be
15 believed---

16 THE COURT: Well, I just have to go by what's in the
17 record.

18 MR. BROWN: Well---

19 THE COURT: And I think that the record is that there
20 was an altercation that occurred at a, at a night spot, and
21 then some miles away a shooting occurred. That's what's in
22 the record.

23 MR. BROWN: And based on what we heard that's in the
24 record, Mr. Reeder was never named as being involved in the
25 altercation, number one, Your Honor. Number two, Mr. Reeder

1 never had been alleged to have been in control or have the
2 ability to operate any vehicle on that evening. So, the
3 ability, duty to retreat, the opportunity to control what
4 was going on in that situation could be compromised if it is
5 to be believed, based upon what's in the record, that a
6 person that's a passenger can control what another person is
7 doing in terms of operating of the vehicle.

8 In addition, based upon whatever occurred in that club,
9 because it's not been attributed to Mr. Reeder, there was a
10 break in time, at the Waffle House, Mr. Reeder could of got
11 in the car. I don't know. He would have to have the intent
12 or the prior knowledge of what was occurring in that club to
13 continue on any type of aggravated behavior. That is not
14 been presented to this Court.

15 So, I would say self-defense could definitely apply
16 because Mr. Reeder wasn't in control of the vehicle and
17 didn't have any prior dealings with this situation and no
18 one is claiming---

19 THE COURT: Well, he makes a point, Mr. Gray,
20 concerning Mr. Reeder.

21 SOLICITOR GRAY: Yes, sir.

22 THE COURT: When you try two defendants together, well,
23 that's the kind of issues that come up.

24 SOLICITOR GRAY: Yes, sir, Mr. Cathcart said Mr. Reeder
25 was in the car. Mr.---

1 THE COURT: Well, I understand that, but then -- let me
2 finish, let me finish.

3 SOLICITOR GRAY: Yes, sir.

4 THE COURT: What he's saying is that there's no
5 evidence though that Mr. Reeder was engaged in the prior
6 difficulties that went on between the parties. I didn't
7 hear that.

8 SOLICITOR GRAY: That's correct, Your Honor. But Mr.
9 Cathcart places Mr. Reeder at the shooting himself.

10 THE COURT: No doubt about that.

11 SOLICITOR GRAY: The substance---

12 THE COURT: And, of course, mere presence doesn't make
13 someone guilty.

14 SOLICITOR GRAY: I understand, Your Honor, but he could
15 of gotten out of the car at the Waffle House. He could of
16 gotten out the car---

17 THE COURT: I don't -- he's pointed out there was no
18 proof that he was in the car before that.

19 SOLICITOR GRAY: He could of gotten out of the car when
20 they stopped, before they turned their lights off and
21 followed them again. Mr. Cathcart places him there at the
22 shooting. The only way he gets to the shooting is with
23 Mr. Cathcart, and if he didn't want to engage in the
24 shoot-out, don't shoot. Get out of the car at 4:00 in the
25 morning or 5:00 in the morning or wherever they were on the

1 road. If he's saying that he had no, no knowledge of that
2 intent---

3 THE COURT: Well, you're making a jury argument to me
4 now, which is fine. But I'm not the jury.

5 SOLICITOR GRAY: Yes, sir, I understand that.

6 THE COURT: What I'm looking what, at is, is issues are
7 in the case and what should be charged.

8 SOLICITOR GRAY: Yes, sir.

9 THE COURT: And as to Mr. Reeder, I don't have any
10 evidence that he was involved in the prior difficulties.

11 SOLICITOR GRAY: No, sir.

12 THE COURT: And that he had any duty to retreat from
13 anybody. There's no -- none of the people put him in that
14 altercation that occurred at the bar. I haven't heard that
15 testimony.

16 SOLICITOR GRAY: No, sir, Your Honor. But that
17 altercation is not the issue. The issue---

18 THE COURT: Well, it is an issue as far as self-defense
19 is concerned because if there's a fight---

20 SOLICITOR GRAY: Yes, sir.

21 THE COURT: ---and it went on, and then somebody leaves
22 that place and follows one of the combatants---

23 SOLICITOR GRAY: Yes, sir.

24 THE COURT: ---then they're, they're participating in
25 bringing on the difficulty, and it makes it difficult to get

1 a self-defense charge if you participate in bringing on the
2 difficulties. You got a duty to retreat. At that point in
3 time, the people that participated in that fight had
4 separated, could of gone their separate ways. But I don't
5 know that Mr. Reeder was involved in that fight or had any
6 knowledge of what went on at the bar.

7 SOLICITOR GRAY: That's true, Your Honor.

8 THE COURT: Nothing in regard to that point.

9 SOLICITOR GRAY: I, I understand that.

10 THE COURT: When you try them together, again, you got
11 to try them for both and I got to charge for both.

12 SOLICITOR GRAY: Well, we're not talking about the
13 difficulty at the club. We're talking about this shooting.
14 He's arguing that self-defense applies because of the
15 shooting. Not because of the fight at the club. At the
16 shooting, he had a duty to retreat---

17 THE COURT: Well---

18 SOLICITOR GRAY: ---get out of the car. Not shoot the
19 weapon in that situation, Your Honor.

20 THE COURT: Those are all questions for a jury to
21 decide I believe.

22 SOLICITOR GRAY: Yes, sir.

23 THE COURT: All right. Anything further as far as the
24 charge is concerned?

25 MR. BROWN: No, Your Honor.

1 MR. POOLE: No, sir.

2 THE COURT: All right. It's gonna take me a few
3 minutes to work that out. So, we're gonna take a recess.
4 Court will be in recess for about 15 minutes.

5 (WHEREUPON, a short recess was taken at this time.)

6 THE COURT: All right. For counsel's information, I
7 will be charging self-defense, and I will be charging mere
8 presence both of which were requested by the defense. The
9 question of mutual combat is an argument the State can make,
10 which would negate the self-defense defense, but there is
11 sufficient evidence to, at least, allow the question to go
12 to the jury.

13 On the question of order of final arguments, State
14 versus Crowe, a case I just, just looked up, indicates that
15 where one of a jointly tried defendant introduces evidence,
16 that affects your closing argument as well, Mr., Mr. Poole.
17 So, the State will be going last in this case.

18 Now, I don't know, as far as you two, if there's any
19 particular order you'd like to go in. I'll let you discuss
20 that among yourselves. But the State will have the final
21 argument.

22 MR. POOLE: Your Honor, I will go first.

23 THE COURT: Okay. That will be fine.

24 Are you ready to proceed?

25 MR. POOLE: Yes, sir.

1 THE COURT: State ready to proceed with closing
2 argument?

3 SOLICITOR GRAY: Yes, sir, Your Honor. I just need---

4 THE COURT: All right. Get together whatever you need
5 before the jury gets in here.

6 SOLICITOR GRAY: Yes, sir.

7 MR. BROWN: Your Honor, can we approach?

8 THE COURT: You may.

9 (WHEREUPON, a bench conference was held out of the
10 hearing of the jury at this time.)

11 SOLICITOR GRAY: Apologize for the delay.

12 THE COURT: Are you, are you ready now?

13 SOLICITOR GRAY: Yes, sir, Your Honor.

14 THE COURT: Defense ready?

15 MR. POOLE: Yes, sir.

16 MR. BROWN: Yes, sir.

17 THE COURT: Let's bring the jury in.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: All right. The record will reflect that
21 the jury has returned to the courtroom.

22 And as I indicated to you earlier, we had completed the
23 presentation of evidence in this case, and, at this time,
24 we'll allow the attorneys to make a closing statement or
25 argument to, to you. I believe Mr. Poole will be going

1 first for the defense.

2 MR. POOLE: That's correct.

3 THE COURT: You may proceed.

4 MR. POOLE: Thank you, Your Honor.

5 May it please the Court?

6 THE COURT: Yes, sir.

7 MR. POOLE: Good afternoon.

8 There are a lot of things I want to say, but if I, if I
9 were to say everything I wanted to say I think we'll be here
10 too long and probably lose interest. They're going to be
11 two other closing arguments. One made by Mr. Brown on
12 behalf of his client, Mr. Reeder. Of course, I am here for
13 Darius Cathcart, and then the State through Mr. Gray or Ms.
14 Tailor will make their argument to you.

15 But I want to thank you all for your attention that
16 you've given to every aspect of this trial. Every one of
17 you have listened to the witnesses. You've shown interest
18 and that is what part of jury duty is. And the end of your
19 duty will come when you end up with a collective unanimous
20 decision as to the guilt or innocence, and I'm speaking now
21 only for my client, Darius Cathcart.

22 First of all, I think it has to be said that this is a
23 tragic case. This is a terrible case. A young life was
24 taken and there was no sense in it.

25 Now, that can only be compounded if there is not a

1 measure of justice to be handed out today, and that measure
2 of justice is going to be handed out by you, and you will
3 have to take the issue of whether or not Darius Cathcart is
4 guilty or innocent into your own hands, and you will have to
5 do that by applying your common sense, by going over the
6 evidence that is been presented, and finding out, to your
7 own satisfaction in your search for truth, whether or not
8 the State has proved its case, its cases against Darius
9 Cathcart beyond a reasonable doubt.

10 They haven't. They have not.

11 Mr. Cathcart is not charged with arson. He's not
12 charged with burning a car. He's not charged with anything
13 other than what you know he's charged with, murder, assault
14 and battery with intent to kill, and assault with intent to
15 kill.

16 Now, let's see what the State has brought to you. Its,
17 their, burden, their burden of proof, and what they have
18 brought to you are basically two witnesses and that were
19 allegedly bare and some circumstantial evidence regarding
20 firearms, et cetera, gunshot residue, and all that business.

21 Now, let's start -- and I'm not gonna go through the
22 whole trial. But let me, let me -- I'll have to refer to my
23 notes. So, I'll be looking down at them. But let me, let
24 me go over the, some of the notes that I made when Bryant
25 Miller, he was the very first witness, when he was on the

1 witness stand, what he said, and some of the
2 inconsistencies. Now, when I say inconsistencies, I think
3 I'm saying lies and -- but you can use any characterization
4 that you want to characterize it. But, you know, we're
5 dealing in truth. We're dealing in trying to get to the
6 truth.

7 But Mr. Miller, he stated that he was hanging out at
8 Club Dreams and there was a fight, and that he was there
9 with Dwight Duncan and Marty, and there was a fight with
10 Darius Cathcart alone or with others. And then he testified
11 the only way he knew that was cause somebody told him that.
12 So, you've got him starting out with this testimony like
13 that.

14 He then goes on to testify that, that Dwight Duncan and
15 Mark were thrown out of the club, they went to Waffle House,
16 sat in the parking lot. When the police come up, you know,
17 they scattered, for whatever reason, they scattered. Then
18 there was some driving around, went to Lakeview Manor,
19 pulled up to four way, car pulled up beside them, and there
20 was a shoot-out. There was some shooting between the two
21 cars. Passengers were in the back seat, Bryant Miller and,
22 and Duncan Geter. In the front passenger seat was Marty.

23 Now, this Marty, we haven't seen him. We haven't heard
24 from him. We don't even know what happened to him. We know
25 that, that Mr. Miller said that before they went to the

1 hospital they took him to, somewhere to his house was his
2 testimony, and he further stated that he had a .40 caliber
3 Taurus handgun with him and he kept it with him all that
4 night, and that he carried it with him before.

5 But upon me asking him some further questions, he
6 stated that he had to reach over from the back seat to get
7 to the glove compartment, which is in the front, in front of
8 the passenger side where Marty was allegedly riding, pull it
9 out, and then shot at the other car.

10 All right. That's his testimony.

11 Now, that doesn't square at all with the testimony and
12 the inconsistencies that line up with the next witness that
13 was allegedly there and that was Mr. Dwight Geter.

14 Now, remember also that Bryant Miller stated that they
15 threw, he threw the gun out of the window too. All right.
16 That he threw the gun out. Dwight Geter, his testimony, he
17 gets up, and this is the very first words out of his mouth,
18 he says go out to go clubbing with Marty, his brother, and
19 Bryant Miller. He was the driver, went to, to Dreams, got
20 into an altercation with Darius Cathcart, the people that
21 involved was, were him, his brother, and Marty, and Darius
22 Cathcart. They went on to the Waffle House, had some
23 overlapping, you know, consistencies.

24 But do you remember when we started asking him about
25 the, what were the inconsistencies that he stated in his

1 conversation with the lead investigator in this case,
2 Detective Lorin Williams?

3 Now, I started asking him about that. That was
4 yesterday morning. And I, I want you to remember all those.
5 Because he basically gave me or told us that we believed
6 just about whatever we wanted to believe because he didn't
7 know what he was saying was a truth or a lie it seemed to
8 me. And he said, at one point in time, that he was trying
9 to cover-up for somebody.

10 Well, he's still covering up for somebody. We don't
11 have the whole picture here, and I'll tell you the reason
12 for that, why I say that in just a moment. But he stated to
13 the lead investigator that his brother, A.J. had gotten into
14 an altercation with some guys he didn't know. But he
15 testified under direct examination it was Darius Cathcart.

16 If you look at State's Exhibit, oh, No. 30, you'll see
17 a photographic lineup, and you will see, on the front of it,
18 the affidavit, and he said I think this person on the back
19 was Darius Cathcart, a photograph of Darius Cathcart. I
20 think this was the one that was at the club.

21 Well, he knew yesterday that it was Darius Cathcart. A
22 few minutes or a short time afterwards, he gave this State's
23 Exhibit No. 30, and he says I think it was Darius Cathcart.
24 But -- and then, in the very beginning, he said he did not
25 know who was involved.

1 So, when you start getting witnesses to start telling
2 inconsistencies and lies, where can you find the truth?

3 Where do you know what really happened?

4 He goes on and he testified that he told Lorin Williams
5 other inconsistent statements, which were he stated that he
6 laid over in the seat and removed a gun from the console and
7 returned fire.

8 Now we got him taking the gun out of the console.

9 How many guns in the console?

10 I don't know.

11 But they got, got a lot of leaning over and getting
12 guns out of the console by two different people.

13 And he also stated that he threw the gun out, he threw
14 the gun out on Floyd Road. That's what he told Detective
15 Williams. But yesterday he stated on the witness stand that
16 he had no weapon.

17 Where are we?

18 Where's the State's case at this point?

19 We just don't know.

20 There, there's something more that's, that's not in
21 front of you and has not been brought to your attention and
22 that's somebody's covering for somebody and whoever were the
23 occupants in that car they knew what was going on. But the
24 truth is not out for you to consider. And because of that,
25 I'm submitting to you you can not find Darius Cathcart

1 guilty.

2 Now, Mr. Geter, Dwight Geter, stated also that they
3 dropped Marty off before the shooting. Mr. Bryant said,
4 said after the shooting. I'm very interested in This Marty.
5 But we don't have anything about him.

6 Let's move on to what the physical evidence is. In the
7 crown Victoria we have -- by now I think everybody has a
8 little bit of knowledge about shell casings, calibers, and
9 gauges of firearms, and they found, in the Crown Victoria,
10 four spent .40 caliber cartridges, and in the right rear
11 seat was a 9-millimeter Luger unfired bullet.

12 What was found at the scene?

13 .40 caliber shell casings and one 9-millimeter Luger
14 spent casing.

15 So, we have, in the right rear seat of the Crown
16 Victoria and on the scene, we have a 9-millimeter fired from
17 a 9-millimeter gun, two. One, one fired and one not fired.
18 So, there were at least two guns.

19 Now, today, we heard the evidence from the SLED man,
20 Mr. Whitler. He stated that, and let me make sure that I
21 say this right, correctly, that there were, there was one
22 .40 caliber gun, another .40 caliber gun, and there was a
23 9-millimeter Luger, and there were at least three guns
24 involved.

25 As far as other scientific evidence is concerned, we

1 have some residue on the palms, lead particles on the palms
2 of Darius Cathcart's hands. Okay. The testimony from the
3 experts was you can get that from being in close proximity
4 to a gun being discharged. You can get that indicator if
5 you rub something that has those particulates on it within a
6 five or a 6-foot radius or you can get it from rubbing a
7 wound.

8 We don't have a gun in Darius Cathcart's hands. Okay.
9 We don't have it. The State has not shown it to you. At
10 most, what you have is a statement by Darius Cathcart
11 himself stating that he was a driver, and they were shot at
12 at a particular time.

13 Judge Couch will instruct you on mere presence and he
14 will explain what that means. If you're present when a
15 crime happens, that doesn't automatically make you guilty.

16 I want you to take all of these factors into
17 consideration, ladies and gentlemen, because if the State
18 has not provided to you a clear, clean case, then justice
19 demands that you have to conclude they have not proved it
20 beyond a reasonable doubt, and what that translates to is
21 Darius Cathcart is innocent.

22 And when you consider all of the evidence in its
23 entirety, I ask that you come back and render a verdict that
24 speaks the truth, and that is Darius Cathcart is innocent
25 and not guilty.

1 Thank you for your time. Thank you for your attention.

2 THE COURT: Mr. Brown.

3 MR. BROWN: May it please, please the Court, Your
4 Honor?

5 THE COURT: Yes, sir.

6 MR. BROWN: Veredicto. We talked about that at the
7 very beginning of my conversation with you, and, in
8 particular, in our search for the truth. We're at that
9 point now where you have the opportunity to speak, to speak
10 the truth, to give the verdict, and you are empowered with
11 the most important job in this Court.

12 You've heard from the State, Mr. Gray, Ms. Taylor.
13 You've heard from Mr. Poole and myself. And you've heard
14 the judge guide us throughout this case, and he's the person
15 that ultimately will give you the law, and you must apply
16 what you know to be the facts in this case.

17 And how do you ascertain that?

18 From what you've heard right here, and what you've seen
19 presented right here.

20 The most important duties that you have at citizens,
21 one is to vote, and one is to serve on the jury. Most
22 powerful ones obviously, the decisions that you can make as
23 impacts lives involved on both sides of this case.

24 You've had a chance to hear the evidence in this case.
25 You've also had a chance to know what has been presented.

1 Now, if there's a question in your mind of what has not been
2 presented, that that notion, as I submit to you on behalf of
3 Mr. Rashawn Reeder, is what will give you an opportunity to
4 say is there reasonable doubt or not as it relates to any
5 presumption against Mr. Reeder, as it relates to the charges
6 that you have before you, and the reasonable doubt is a type
7 of doubt that would make a reasonable person hesitate or
8 pause to act.

9 Let me think about it.

10 Could it have happened or did it?

11 If there's a question in your mind, then I say to you
12 you are empowered and have no other duty but to find Mr.
13 Rashawn Reeder not guilty.

14 You've heard Mr. Poole give you a rendition of some of
15 the elements involved in this case. But I submit to you
16 something that would help us clear up this case, and I feel
17 without question, and that would be two people and
18 potentially three. But two people in particular.

19 The individual by the name of Marty. The prosecution
20 is empowered with the ability, because it's their case that
21 they bring this information to you, they're empowered with
22 the ability to issue what's known as a subpoena, which they
23 did, for a number of individuals on their side. But we
24 didn't hear from the Marty person that also was in the car
25 on that day, a neutral person that wasn't a member of the

1 family.

2 We do grieve their loss. But Marty was not related to
3 anyone and it wasn't said that Marty was the best friend
4 either like Mr. Miller.

5 why haven't we heard from Marty?

6 The second person, indeed the person that brings this
7 case to this very courtroom that we have not heard from, but
8 they're here, they been here everyday, is this man right
9 here. Investigator Lorin Williams.

10 You've heard me talk to Investigator Talanges who came
11 out, took pictures, ascertained the physical evidence
12 involved in this case. But the person that put the whole
13 case together, the person that talked to all the parties
14 involved, the person that talked to Bryant Miller in terms
15 of what information he gave, what he didn't give, the
16 inconsistencies, in fact, the untruths that was presented in
17 this courtroom, I submit not from this side without. Lorin
18 Williams could of cleared this up for us.

19 But you have to ask yourself why didn't we hear from
20 Investigator Williams?

21 He, in fact, went out and got the warrants for the
22 arrest involved in this case against both of these
23 gentleman. He sits here, but he utters nothing. We can't
24 hear from him.

25 why?

1 He's on the side of the State. He's the person that
2 brought the charges. It's important that we should of heard
3 from him.

4 You're empowered with what we hope all of us have, but
5 by your very presence here, in terms of listening to what
6 has occurred in this case, we know that you're empowered
7 with what God hopefully is given each and every one of us
8 and that's common sense. Don't sit to the side when you
9 have a chance to go back and talk about what's in this case
10 or what's not in this case. And one of the most important
11 factors you need to consider again is why didn't Lorin
12 williams take the stand.

13 why?

14 Because he talked to people associated with this case,
15 people involved in terms of the charges being brought. He
16 knows the elements to this case. We didn't hear from him.

17 Does that cause a reasonable person to pause or
18 hesitate to act in terms of the charges involved?

19 I submit to you that it should. But we've not heard
20 from him.

21 Now, they're gonna show you a video of what they allege
22 to be the vehicle involved, but I submit to you, on behalf
23 of my client, Mr. Rashawn Reeder, you've never heard anyone
24 say that Mr. Reeder was in control or operating the vehicle,
25 was driving the car, determine which way the car could go if

1 you are to believe what's being submitted so far.

2 More importantly, as relates Mr. Rashawn Reeder, did
3 you ever hear anyone say he's at the club?

4 No.

5 Did you ever hear anyone come and take this stand and
6 say Rashawn Reeder was involved in the fight at Club Dreams?

7 No.

8 Did you ever hear anyone say Rashawn Reeder had my
9 back, had this person's back, or fighting?

10 Did you hear Mr. Geter come and say Mr. Rashawn Reeder
11 was fighting?

12 No. No. Obviously not Marty and hadn't come to this
13 courtroom.

14 No one has identified Rashawn Reeder as being in that
15 club, and supposedly, whatever transpired on this evening,
16 the events stemmed from whatever occurred at that club. A
17 fight supposedly happened. Someone was mad and whatever
18 else happened after that brings us to this point. But you
19 never heard from this stand the name of Rashawn Reeder.

20 Was he at the Waffle House?

21 Did he have the ability to get in the car after
22 whatever happened in the club and not knowing what was going
23 on?

24 I submit to you that's possible.

25 Does that cause you to potentially pause, to hesitate

1 to think, hum, could it have happened?

2 I submit to you that it should potentially.

3 But more telling, no other testimony puts Mr. Reeder in
4 this case with any type of malice aforethought. Those words
5 are very important because the judge will instruct you, at
6 the conclusion of this case.

7 You've also heard, in the course of this trial, some
8 ballistics information as it relates to -- and I simply show
9 it to you. You've seen it on the screen. Gunshot residue.
10 You've heard directly from the expert from SLED, the chief
11 analyst, and she took the stand. You've heard what was
12 posed by the prosecution, which was only to present certain
13 amount of evidence as related to two individuals.

14 But in terms of being completely open, I requested that
15 we talk about all of the evidence. Not just some of the
16 evidence they wanted to present. So, we also included
17 gunshot residue kits that were taken from Mr. Miller and
18 both of the Geter brothers.

19 As it relates to Mr. Miller, the concentration levels
20 were extremely high and was, without question, that as she
21 described to us, and, once again, employing your common
22 sense, to know if you have a gun in your hand, you're gonna
23 cover the main portion of the gun. If there's a blast, it's
24 gonna come out -- naturally it's gonna come out and occur on
25 the backs of your hand as she told you will be a clear

1 indication.

2 Mr. Miller, definitely on his right back and left back,
3 gunshot residue. Mr. Dwight Geter, gunshot residue on the
4 left back. Two other areas where gunshot residue was
5 located.

6 Duncan Geter, and I can't say what, again, what
7 occurred on that evening, but Duncan Geter had gunshot
8 residue associated on his left back as well as his right
9 back. And, of course, ballistics shows 9-millimeter rounds
10 were found within that car, and, in particular, 9-millimeter
11 round was found on the side of the car that's alleged to
12 have been occupied by Mr. Duncan Geter also known as A.J.

13 As relates to Mr. Reeder, right palm, gunshot residue
14 in amounts that are much lower than the amounts for Mr.
15 Miller. Much lower. Right back, no residue whatsoever.
16 Left palm, gunshot residue, again, in lower amounts. And,
17 of course, left back. Round lead, again, low.

18 I believe you also heard testimony from Investigator
19 Talanges to where my client was shot. Left arm. Use your
20 common sense. A bullets hit you -- remember the question I
21 placed directly to the analyst, outside of the factors that
22 the prosecution wanted to present, is it possible, indeed it
23 is, and I submit to you this is the situation in this case.
24 If an actual particle, meaning the bullet itself, travels in
25 your body, is embedded there, you're gonna have the three

1 components and you're also gonna have the presence of a
2 bullet itself because it's there. The question I placed
3 directly to the analyst. The facts that were before you in
4 his left, not his right, and, again, with your common sense.

5 I'm a tall guy, I don't, know if you would say I'm a
6 big guy, look at Mr. Reeder. You've had a chance to observe
7 him. Look, look at what size he is. Look, look at his
8 height.

9 I'm not asking you to put your hands up, sir.

10 Just look at the height of the young man. Look at the
11 weight. We not talking about a 9-millimeter which you've
12 heard information from that portion of this case, which is
13 supposedly a smaller caliber, maybe a less powerful handgun.
14 We're not talking about a 9-millimeter or any evidence
15 thereof associated with anything with Mr. Reeder.

16 If they are trying to point any type of information
17 towards Mr. Reeder, that involves a very powerful weapon, a
18 .40 caliber. Again, no gunshot residue on the one hand.
19 Obviously shot in the other hand where the residue was
20 found.

21 Use your common sense. If a person who has nothing to
22 do with any type of argument is present, it's not their
23 fault in terms of what may occur. Again, that's the
24 information that they want to present to you. Not us. He's
25 guilty by association. Not in this case, ladies and

1 gentlemen, because, again, you have not heard anyone come
2 into this courtroom and say that Mr. Reeder had something
3 against this side and Mr. Reeder was involved in the
4 altercation. Mr. Reeder knew any of these people.

5 Mr. Reeder had a reason to be upset and wanted to fight.

6 Thank about that. The judge will also give you
7 additional instructions about other possibilities that are
8 related to this case for a man that is seated where
9 Mr. Reeder is.

10 Lastly, you saw me speak with the Investigator
11 Talanges, and I asked him to go over a diagram that was
12 presented as I look for it. I'll get a copy of it.

13 I want you to pay attention to the video cause, again,
14 no one is alleging Mr. Reeder was even driving the car, was
15 in control of the car. But they're gonna show you the video
16 where, from what you've heard in the courtroom, is that a
17 vehicle operated by Mr. Geter and the people that were in
18 that car drove into Lakeview Manor and came to a four way
19 stop.

20 Well, automatically what you see on the video, that's
21 not the case. You'll see the vehicle operated by the
22 Geter's proceed down the road, and then watch the video
23 again. Two cars proceed down this way. Then you see two
24 cars come back.

25 Now, I can't say what cars or a car that they're trying

1 to identify. I didn't hear anyone take the stand and saying
2 this car is being operated by anyone in this case. Haven't
3 heard that. But that's what they're gonna try to make you
4 think. But, once again, use your common sense. Coming up
5 into the neighborhood was a one way situation. A car went
6 down, a car comes up. Cars go down, cars come up.

7 And, in particular, as I asked Investigator Talanges,
8 and you'll have the actual document before you, about Items
9 Six and Seven. Biological material and blood in the roadway
10 far from the scene of Mt. Pleasant and Burns. Over 250 feet
11 away. As you heard, he said a greater distance than from
12 where I was standing here asking him questions beyond this
13 courtroom.

14 Think about it.

15 What could have occurred?

16 Think about the angles of the cars.

17 Did we hear anyone say that hey, there's no way in the
18 world something could have occurred inside that vehicle
19 meaning someone could of shot and hit someone inside the
20 vehicle?

21 We don't know that, do we?

22 That's something to think about.

23 Could anyone be upset on this side?

24 Something accidentally could of happened in order to
25 shoot a car that they felt was following them?

1 I don't know. I wasn't there. You don't know. You
2 were not there. But think about it. But we have blood on a
3 rainy day in the middle of a road.

4 Your common sense, again, will tell you, on a rainy
5 day, would the blood be there for a long period of time?

6 Long enough for Investigator Talanges, and, in
7 particular, Lorin Williams, to make their way and know about
8 it. Use your common sense. It's an element that we don't
9 know, as Mr. Poole told you, involved in this case.
10 Reasonable doubt.

11 Is a question involved?

12 What transpired after they came up the road?

13 Once again, we don't know.

14 No one has ever come in this courtroom and said, at
15 that stop sign, it was this person or that person. But we
16 did hear about friends that could come to the courtroom.
17 Could come, or as I questioned him directly from Mr. Geter,
18 was rolled deep. Rolled deep means you come in one car, you
19 come in more than one car. Don't know the situation. But
20 you've heard directly in terms of the elements that are
21 involved in this case, and as relates to your common sense.

22 What has not been presented here?

23 I submit to you that my client maintains and is cloaked
24 in the veil of innocence, and it's not our burden to prove
25 that he's innocent. It's their burden to prove, beyond a

1 reasonable doubt, that this young man, who no one has ever
2 said had anything to do with anything that occurred on this
3 evening, is involved in this matter.

4 So, I'll ask you to listen very closely to what the
5 judge is gonna say to you at the conclusion of this case.
6 The prosecution will tell you and present to you what's
7 known as circumstantial evidence involved in this case.
8 It's a guessing game for you, and this would of been cleared
9 up, as I close, if more search warrants, indeed if a true
10 investigation had been done by Lorin Williams cause the onl
11 people that got charged, even though there's allegations of
12 people getting shot on both sides, they got charged in this
13 case are those two gentleman.

14 But clearly there's evidence that there was gun play
15 from somewhere over here and those people aren't here.
16 There's allegations involved, presumptions of guilt and
17 innocence made automatically without true investigation
18 involved.

19 You heard from the SLED analyst when she talked about
20 other factors that could be analyzed, clothes, fabrics,
21 whatever.

22 Did you hear GSR taken from any clothes or anyone
23 wearing?

24 I don't think a gun blast evidence would have help
25 this case out?

1 If you have it on your clothes, that would be much more
2 clear cut than what's being presented here today, and you
3 have the video and you have the other people that were
4 talked to, none of that has been presented.

5 Ladies and gentlemen, I ask that you consider, during
6 your deliberations, everything you've heard today, and know
7 that the State has not met its burden, and know that
8 Mr. Rashawn Reeder is not guilty of what they have brought
9 charges for him.

10 I thank you for your time, and I thank you for your
11 service.

12 THE COURT: Mr. Gray.

13 SOLICITOR GRAY: Thank you, Your Honor.

14 THE COURT: Yes, sir.

15 SOLICITOR GRAY: Mr. Brown, Mr. Poole.

16 I've known Mr. Brown and Mr. Poole a long time. I
17 respect both of them.

18 I've known Detective Williams a while too. But this
19 isn't about them. It's not about him. It's about Duncan.

20 And you know who can clear this whole situation up?
21 Duncan.

22 But he, he's dead. He was assassinated by these two.

23 It's a crazy crazy time we live in. This, this is how
24 these two and others like them handle their problems these
25 days. They didn't want a fight. That's why they had guns.

1 This is not a self-defense situation. This is not
2 mutual combat, some mutual shoot-out, some rain slick
3 highway where it was just back 1930's, Chicago, or
4 something. It was an assassination plain and simple.

5 It started on March 14th, 2009. There was a fight at
6 the club, Club Dreams. Duncan was there with his older
7 brother, following him around, got into a fight. They got
8 thrown out of the club. Mr. Miller told you that. Mr.
9 Geter told you that.

10 Went down to the Waffle House. Everybody was there.
11 No falling out. No fight. Nothing. Because officers
12 showed up. They left there.

13 Now, Mr. Dwight Geter's statement to Detective Williams
14 says and to Mr., to Leslie Harrell says they got shot at
15 somewhere between the Waffle House and 85 ramp. Officer
16 William says cops sent to investigate. No crime scene.
17 Nothing happened there.

18 What happened was that they followed the red Crown Vic
19 all the way up to 221, Chesnee area almost, and you saw on
20 the video, cars following cars. You saw the red Crown Vic
21 come back past the camera, another car comes back.

22 You'll have it in the back. Now, I want you to slow it
23 down cause Mr. Brown tells you I want to show you the video.
24 I want you to watch the video. Slow it down frame by frame
25 once you see the car come back. The front lights of the

1 second car they were driving don't come on. They're laying
2 in wait for them to come back.

3 Mr. Miller told you, five, ten minutes. It's almost
4 exactly ten minutes on the video. It's the time they come
5 down and come back. Watch it frame by frame. You'll see
6 the red Crown Vic, this dark gray Nissan they were driving.

7 Well, actually, use to be green. But, mysteriously,
8 the car they were driving burned up. But Mr. Williams there
9 still did his job and found, with the help of ID, three .40
10 caliber shell casings. They tried their best to get rid of
11 evidence and they didn't.

12 SLED told you two .40 caliber handguns at a minimum.
13 Mr. Miller told you I had a .40 caliber handgun. The other
14 .40 caliber handgun, obviously in the car they were driving,
15 riding.

16 Why is this the hand of one, hand of all?

17 Cause it was a plan. Mr. Cathcart was the driver.

18 Mr. Reeder was the shooter.

19 Mr. Miller has some numbers. 46, 840, and 957.

20 Mr. Reeder has some numbers. 18, 308 and 650.

21 It's two men with two highest numbers are the shooters.

22 It's plain and simple. They are the ones who are the
23 shooters. Mr. Reeder stuck his left arm out the window.

24 When he pulled up, started shooting.

25 How else does his left arm get injured?

1 He's in the passenger side of the car.

2 The driver, Mr. Cathcart, got grazed under his right
3 arm. He is in the car on the correct side not putting his
4 arm out the window shooting across. He's driving. He did
5 get shot. Mr. Miller may of been the one to do it, but
6 after their lives were in danger.

7 They were sitting at the four way stop, car pulls up
8 and starts blasting. They lay down. Mr. Miller gets the
9 gun and starts shooting back. Almost instantaneously
10 Duncan, through the neck, doesn't exit right area. You
11 heard Doctor Wren say six minutes.

12 Now, I, I understand Mr. Brown's enthusiasm, and I
13 appreciate it, the fact he thinks I do a pretty good job and
14 Detective Williams controls everything. But, for quality
15 sake, Mr. Brown, Mr. Poole, they have subpoena powers also
16 as you saw today when Investigator Talanges took the stand.

17 I did not call him to the stand. They subpoenaed him.
18 If Mr. Brown is so worried about Detective Williams clearing
19 up this case, issue a subpoena.

20 But he didn't do that, did he?

21 Why would he do that?

22 My job here today is not to prosecute these two men.
23 It's to let you know the evidence, to lay out the evidence,
24 the puzzle, put it together. Circumstantial evidence
25 carries the same weight as direct evidence.

1 There's no eye witness to the shooting, and there's a
2 bullet wound on Mr. Reeder..

3 There's no eye witness to the shooting?

4 There's GSR residue on Mr. Cathcart from the shooting
5 of the gun by Mr. Reeder.

6 There's no eye witness to the shooting?

7 There's Duncan Geter.

8 There's no eye witness to the shooting?

9 There's this red Crown Vic. Over ten bullet strikes.

10 There's no eye witness to the shooting?

11 There's this blown up burned car that still had three
12 .40 caliber shells in it.

13 There's no eye witness to the shooting?

14 That's what they want you to believe.

15 All of this says there is.

16 Well, unfortunately, one of those eye witnesses isn't
17 here anymore. Don't let -- don't give them credit for ~~the~~ir
18 careful planning, for following up there, doing this in ~~the~~
19 middle of the night. And thank God for this video
20 surveillance camera. Otherwise we wouldn't even be here.

21 Don't give them the benefit of the doubt. Don't ~~give~~
22 them that reasonable doubt cause we know, this evidence
23 shows, beyond a reasonable doubt, through their ~~statemen~~ts,
24 through their injuries, through the GSR and the video, ~~what~~
25 happened.

1 They tried to kill him. They tried to kill Mr. Miller,
2 and they did kill his brother.

3 This is the eye witness to the shooting.

4 THE COURT: All right. Ladies and gentlemen, that
5 completes the argument by counsel, and I told you that when
6 we reached this stage of the trial, it would be my
7 responsibility to charge you concerning the law in the case.

8 Before I get into the law in the case, I do want to go
9 over the charges with you again. When we started this
10 trial, I went over the indictments with you. Those are the
11 documents that bring this case into the Court. I'm going to
12 go over those indictments with you again.

13 In this case, there are two separate defendants. Each
14 of whom is charged with three different offenses, and I'm
15 going to go over those with you. I'm gonna read the
16 indictments to you so you'll understand exactly what's
17 alleged in the indictments, and then I'll discuss those with
18 you.

19 I'm gonna start off with the indictments that apply to
20 Mr. Cathcart. The first indictment is in Case Number
21 2010-GS-42-2874. Excuse me. That indictment is for assault
22 with intent to kill.

23 The indictment states in the body that Darius Tavarious
24 Cathcart did, in Spartanburg County, on or about
25 March 14th of 2009 unlawfully attempt to commit a violent

1 injury to the person of another with malice aforethought
2 accompanied by a present ability to complete the act. To
3 wit, by shooting into the victim, Dwight Jamar Geter's
4 vehicle, with a gun. All in violation of the common law of
5 the State of South Carolina and Code Section 17-25-30, of
6 the Code of Laws of South Carolina, 1976, as amended,
7 against the peace and dignity of the State and contrary to
8 the statute in such case made and provided, and as we go
9 through these, I'll point to you that the victims in these
10 cases are all different victims depending on what the State
11 alleges occurred in the different charges.

12 The next charges that involves Mr. Cathcart is in Case
13 Number 2010-GS-42-2876. That is for assault and battery
14 with the intent to kill.

15 That indictment states that Darius Tavarious Cathcart
16 did, in Spartanburg County, on or about March 14, 2009, with
17 malice aforethought, commit an unlawful act of violent
18 injury upon the victim, Bryant Miller, by shooting the
19 victim in the neck causing the victim to require medical
20 attention all in violation of the laws of the State of South
21 Carolina and Section 16-3-620 of the Code of Laws of South
22 Carolina, 1976, as amended, again, against the peace and
23 dignity of the State and contrary to the statute in such
24 case made and provided. That's the second charge against
25 Mr. Cathcart.

1 The third charge that Mr. Cathcart faces is in Case
2 Number 2010-GS-42-2875. That is for the offense of murder.

3 The indictment states that Darius Tavarious Cathcart
4 did, in Spartanburg County, on or about March 14th, 2009,
5 feloniously, willfully, and with malice aforethought kill
6 Duncan Geter by shooting him with a gun, and he died as a
7 proximate result thereof all in violation of Section 16-3-10
8 and 20 of the South Carolina Code of Laws, 1976, as amended,
9 against the peace and dignity of the State and contrary to
10 the statute in such case made and provided.

11 Those are the three charges that apply to Mr. Cathcart
12 in the case.

13 Now, as to the other defendants in this case,
14 Mr. Rashawn Lamar Reeder, there are the same three charges
15 made against him. I'm gonna go over them, them with you,
16 and I know I'm being repetitive, but I'm gonna go over those
17 charges with you again. So, again, I'll point out to you
18 that each involves a different victim and each involves a
19 separate allegation of what occurred.

20 The first indictment is Case Number 2010-GS-42-2926.
21 This is for assault with intent to kill, and it states that
22 Rashawn Lamar Reeder did, in Spartanburg County, on about
23 March 14th of 2009, unlawfully attempt to commit a violent
24 injury to the person of another with malice aforethought
25 accompanied by a present ability to complete the act. To

1 wit, by shooting into the victim, Dwight Jamar Geter's
2 vehicle, with a gun all in violation of the common law of
3 the State of South Carolina in Section 17-25-30 of the Code
4 of laws of South Carolina, 1976, as amended. All
5 indictments end with the wording against the peace and
6 dignity of the state and contrary to the statute in such
7 case made and provided.

8 That's the first indictment against Mr. Reeder.

9 The second indictment is in Case Number
10 2010-GS-42-2928. It's for assault and battery with the
11 intent to kill.

12 That indictment states that, that Rashawn Lamar Reeder
13 did, in Spartanburg County, on or about March 14th, 2009,
14 with malice aforethought, commit an unlawful act of violent
15 injury upon the, the victim, Bryant Miller, by shooting the
16 victim in the neck causing the victim to require medical
17 attention. All in violation of the, of the laws of the
18 State of South Carolina and Section 16-3-620 of the Code of
19 laws of South Carolina, 1976 as amended, and, again, the
20 standard language.

21 The final indictment is in Case Number 2010-GS-42-2927.
22 Again, it's for murder.

23 This indictment against Mr. Reeder states that Rashawn
24 Lamar Reeder did, in Spartanburg County, on or about March
25 14, 2009, felonious, willfully, and with malice aforethought

1 kill Duncan Geter by shooting him with a gun and he died as
2 a proximate result thereof. All in violation of Section
3 16-3-10 and 20 of the South Carolina Code of Laws, 1976, as
4 amended. Again, against the peace and dignity of the State
5 and contrary to the statute in such case made and provided.

6 Those are all the indictments in this case, and, again,
7 each defendant is charged with three separate offenses.

8 Now, I'm going to remind you that the fact that a
9 defendant has been arrested, charged, and even indicted in
10 this case can not be considered by you as evidence of guilt
11 in this case nor does it create any presumption of guilt.
12 The documents I just read to you are simply the documents
13 that bring the case before this Court. They contain the
14 charges that have been levied against the defendants. It
15 informs the Court of the charge to be tried. It informs the
16 defendant of the charge that's been brought against the
17 defendant.

18 Now, the indictments in this case, again, charge,
19 charge separate offenses, and each indictment is a separate
20 and distinct offense. You must, as a jury, decide each
21 indictment separately on the evidence and the law applicable
22 to that particular indictment without being concerned with
23 the result or the verdict found in any of the other cases.
24 A defendant can be convicted or acquitted on any of the
25 offenses that have been charged, and, again, you're going to

1 be asked to write a separate verdict as to each indictment
2 and each defendant in the case.

3 Now, there are two different defendants in this case,
4 each charged with three different crimes, and in the case of
5 each defendant, the evidence and the law concerning that
6 defendant should be considered separately and individually.
7 Your verdict does not have to be the same for both
8 defendants.

9 The fact that you may find one defendant guilty or not
10 guilty should not control your verdict as to the other
11 defendant, and where there's more than one person charged
12 with a crime, if the evidence warrants it, you can convict
13 one, and acquit other. You can acquit both or you can
14 convict both. It will depend on your view of the testimony
15 and the evidence as it relates to each separate charge, and
16 to the separate defendants that are involved in this case.
17 And, again, you'll be required to act, write a separate
18 verdict as to guilt or not guilty on each indictment for
19 each defendant.

20 Now, the defendants have pled not guilty to all of the
21 indictments, and that plea, under the law and the
22 Constitution of this state, places the burden upon the State
23 to prove the defendant guilty. A person charged with the
24 commission of a crime is never required to prove himself
25 innocent of that charge. It's an important rule of law that

1 a defendant in a criminal trial, no matter what the
2 seriousness of the crime might be, will always be presumed
3 to be innocent of the crime for which the indictment has
4 been issued unless guilt has been proven to you, the jury,
5 by evidence satisfying you of that guilt beyond a reasonable
6 doubt.

7 The presumption of innocence does not end when you
8 begin your deliberations. It accompanies the defendant
9 throughout the proceedings and into your deliberations until
10 such time as you might reach a verdict of guilt, again,
11 based on evidence that satisfies you of that guilt beyond a
12 reasonable doubt.

13 Now, many people describe the presumption of innocence
14 that defendants have in this courtroom somewhat like a robe
15 that I wear into the courtroom. That presumption of
16 innocence remains about the shoulder of the defendant
17 throughout the trial and accompanies him into your
18 deliberations. That robe of innocence remains about the
19 defendant's shoulders until it has been stripped from him by
20 evidence that satisfies you of that defendant's guilt beyond
21 a reasonable doubt.

22 The presumption of innocence that a defendant has is
23 not a mere legal theory, and it's not just a legal phrase.
24 It's a substantial right that every defendant is entitled to
25 unless you, the jury, are satisfied, from the evidence, of

1 the defendant's guilt beyond a reasonable doubt.

2 Now, you've heard me refer to that standard of proof
3 already about three or four times in my charge, proof beyond
4 a reasonable doubt. You may be asking yourself well, just
5 what is meant legally by a reasonable doubt.

6 A reasonable doubt is that kind of doubt which would
7 cause a reasonable person to hesitate to act, and the State
8 has burden of proving the defendant's guilty beyond a
9 reasonable doubt.

10 Now, some of you may of been involved in or served in
11 juries that were involved in civil matters, and let me
12 explain to you the difference so you won't be confused. A
13 civil trial is where someone is seeking mandatory damages
14 either for a breach of contract, a failure to pay a debt,
15 someone may of been injured in some type of accident or
16 something of that nature. That's what is meant by a civil
17 trial and that's where someone seeks monetary damages.

18 Now, the standard of proof in those cases is by the
19 greater weight or the preponderance of the evidence. That
20 means the scales of justice tilting ever so slightly one way
21 or the other. That's not the standard of proof in this
22 case. The standard of proof in this case is more powerful
23 than, than the great weight of, the preponderance of the
24 evidence. It's proof beyond a reasonable doubt.

25 Now, proof beyond a reasonable doubt is that kind of

1 proof that would leave you firmly convinced of the
2 defendant's guilt. Now, there's very few things that go on
3 in anybody's life that can be proven in a Court beyond any
4 doubt whatsoever. That's not the standard of proof to which
5 the State is placed in this case. They are not required to
6 prove the case beyond any doubt whatsoever.

7 I will tell you that if, based on your consideration of
8 the evidence, if you're firmly convinced that the defendant
9 is guilty of the crime charged, you must find the defendant
10 guilty. However, on the other hand, if you think there's a
11 real possibility that the defendant is not guilty, then you
12 must give the defendant the benefit of the doubt and find
13 him not guilty.

14 I'm going to remind you that, during this trial, you
15 and I have had different duties to perform. As the trial
16 judge, it's been my duty and responsibility to preside over
17 the case and to rule on admissibility of evidence and
18 appropriateness of questions that have been presented, and
19 you are to consider only the competent evidence that I
20 admitted into the evidence during, into the record of the
21 trial into evidence during the trial of the case.

22 If there's anything that I excluded or any question
23 that I disallowed, you should disregard those matters in
24 their entirety. They should not even be considered by you
25 in reaching a verdict in this case. You are to consider

1 only the testimony that's been presented from this witness
2 stand and any exhibits which have been made a part of the
3 record in this case or any stipulations or agreements by
4 counsel for evidence to come into the, this case.

5 I have the additional duty now of charging you
6 concerning the law to be applied in this case, and I told
7 you, at the beginning of the trial, the law and Constitution
8 of this State, that makes you the sole judges of the facts
9 makes me the sole judge of the law in this case. The law,
10 as I state it to you now, is the law, only law that you
11 should apply in this case. And if you came into this
12 courtroom with any idea as to what the law is or what it
13 ought to be, you should leave that notion outside of the
14 jury room. You should take the law as I now state it to
15 you. Then apply it to the facts as you find them to be.
16 That should put you in a position then to reach a just and a
17 true verdict under the law and the Constitution of our
18 state.

19 Now, every case that's tried before a jury in this
20 courtroom, the jury is the sole and exclusive judges of the
21 facts in this case. You should not take from anything that
22 I say or do in the discharge of my duties to indicate to you
23 one way or the other as to how you determine the facts in
24 this case. Cause, you see, the law doesn't allow me an
25 opinion on the subject. I don't have an opinion as to how

1 you determine the facts in this case. Excuse me.

2 Now, it's your duty, as jurors, to determine the
3 effect, the value, the weight, and the truth of the evidence
4 that's been presented to you during this trial. Now, in
5 doing so, there's two types of evidence that you have the
6 right to consider. Let me explain to you what I mean by two
7 types of evidence.

8 The first type of evidence we describe as direct
9 evidence. Now, that's testimony from a witness who claims
10 to have direct knowledge of the facts about which that
11 person is testified. Someone who actually experienced the
12 event, who saw it, felt it, smelled it, heard it. In other
13 words, claims to have direct knowledge of the facts about
14 which that person testified. That's what we mean by direct
15 evidence.

16 Now, there's another type of evidence that juries have
17 the right to consider, and that type of evidence is what is
18 called circumstantial evidence.

19 Now, circumstantial evidence is proof of a chain of
20 facts or circumstances which indicate the existence of
21 another fact. Sometimes it's described as proof of
22 collateral facts from which a main fact can be reasonably
23 entered. I use a very simple example of what might be meant
24 by proof of a fact by circumstantial evidence, and I think
25 it will give you some idea of what I'm talking about.

1 Let's say last night, before you went to bed, you
2 decided to look outside your window, and the stars were
3 shining. It was a pretty, pretty night. You went to bed.
4 You slept well all night. Didn't wake up at all, and the
5 next morning you woke up, and you walked to the same window
6 and looked outside, and the sun was shining. But when you
7 looked outside, there's water dripping from all the trees.
8 There's puddles in the driveway. The road in front of the
9 house might be wet.

10 Now, you didn't -- you slept well all night. So, you
11 didn't directly hear it rain or see it rain or experience
12 the fact that it did rain. But from those collateral facts
13 that you know to be true, you could reasonably, reasonably
14 infer that, at some time during the night, it, in fact, did
15 rain. So, that's what is meant by proof of collateral facts
16 from which a main fact could be reasonably referred.

17 For that reason, circumstantial evidence is, is based
18 on the facts and circumstances that you find or know to have
19 existed at anytime during an event. Circumstantial evidence
20 is based on inference and not on personal knowledge or
21 observation.

22 Now, the law makes no distinction between the weight or
23 value that you, the jury, can give to either direct or
24 circumstantial evidence nor is there a greater degree of
25 circumstantial evidence required than that of direct. You

1 should, as a jury, weigh all of the evidence. Give it the
2 weight you choose to give it after weighing the evidence.
3 And after weighing all of the evidence, if you are not
4 convinced of the defendant's guilt beyond a reasonable
5 doubt, then you must find the defendant not guilty.
6 However, on the other hand if you are firmly convinced of
7 the defendant's guilt beyond a reasonable doubt, then you
8 must find the defendant guilty.

9 Now, in doing your job as the finders of the facts, I
10 told you, at the beginning of the trial, it's gonna be
11 necessary for you to determine the credibility or
12 believability of the testimony and evidence that you heard
13 during the trial. Credibility means simply that,
14 believability. It's your duty, as jurors, to analyze the
15 evidence, to determine which evidence convinces you of its
16 truth.

17 In determining the believability of the witnesses who
18 testify during the case, you, the jury, can believe one
19 witness against all the others. You can believe all the
20 others against one. You have the right to believe all of,
21 part of, or none of what a witness has told you in the case.
22 You can believe -- you may consider whether a witness has
23 exhibited to you an interest, a bias, or a prejudice or
24 other motive in testifying. You also have the right to
25 consider the appearance and the manner in which the witness

1 has testified during the trial as that -- the way they acted
2 on the witness stand. Again, as I told you at the beginning
3 of the case, use your own good common sense in determining
4 credibility, credibility or believability of the evidence
5 that you've heard during the trial.

6 Now, I told you, during the case, that we had a couple
7 of witnesses who were, maybe three or four, who were
8 qualified as experts in this case, and I told you I'd talk
9 to you a little bit more about that. And as I told you at
10 the time that that evidence came into the case, generally
11 witnesses are not allowed to give their opinions concerning
12 matters in controversy in a case. But an exception to that
13 rule is made for those witnesses that we declare to be
14 experts in some science, field, or profession, or art.
15 Those witnesses are allowed to state opinions about the
16 matters that they're testifying about within their field of
17 expertise, and can state the reasons for giving those
18 opinions.

19 I'll tell you to consider the opinions or testimony of
20 experts like any other witnesses you heard during the trial
21 of this case. You give the weight you think it deserves.
22 If you decide that the opinion of an expert is not based on
23 sufficient evidence or education or experience or you
24 conclude that the reasons given by an expert for their
25 opinions are not valid or sound, you have the right to

1 disregard an expert's opinion in its entirety if you choose
2 to. Just like the other witnesses. You can believe all of,
3 part of, or none of what any witness has said during the
4 trial of this case.

5 So, an expert's testimony not to be given greater
6 weight just because the person's been declared to be an
7 expert. You're not required to accept an expert's opinion
8 even though it might be not contradicted by other testimony.
9 In other words, weigh all of the evidence including the
10 evidence given by experts. Give it the weight you think it
11 deserves in reaching your decision in this case.

12 Now, I'm going to instruct you and I'm going to
13 emphasize to you that the fact that the defendants did not
14 testify in this case is not a factor to be considered by you
15 in your deliberations and in your consideration of the
16 question of guilt or innocence in this case. It must not be
17 considered by you in any manner whatsoever.

18 A defendant has a constitutional right, under the
19 Constitution of this state and the United States, to remain
20 silent, and the assertion of that right by a defendant must
21 not be considered by you in your deliberations at all. I
22 repeat to you that, under your oath as jurors, you are to
23 draw no conclusions whatsoever from the fact that the
24 defendants in this case did not testify. The fact that the
25 defendants did not testify should not even be discussed by

1 you in your deliberations.

2 As I've stated to you, the burden of proof in this case
3 is upon the State and upon the State alone. The defendant
4 is not required to prove their, their innocence. The burden
5 of proof remains upon the State to prove the case beyond a
6 reasonable doubt throughout the trial.

7 Now, there's another theory in the law that I want to
8 go over with you, and that is, is called the hand of one is
9 the hand of all, and let me explain to you what that phrase
10 means under the law. If a crime is committed by two or more
11 people who are acting together in the commission of a crime,
12 the act of one of them becomes the act of all of them. A
13 person who joins with another to commit an unlawful act is
14 criminally responsible for everything done by the other
15 person which happens as a probable and a natural consequence
16 of the acts done in carrying out the common plan and or
17 purpose.

18 For example, two people can be guilty of killing
19 another person when only one of the two had a gun, and there
20 was only one bullet fired, and only one of the two fired the
21 shot that caused the death. If the two or more persons are
22 together, acting together, assist each other in committing
23 the offense, the act of one is the act of all, or as it
24 sometimes is said, the hand of one becomes the hand of all.

25 Prior knowledge that a crime is going to be committed

1 without more is not sufficient to make a person guilty of
2 that crime. Mere knowledge that another person is going to
3 commit a crime, even if the defendant is present when the
4 crime is committed, is not sufficient to convict the
5 defendant as a principal of that, in that crime. Guilt, as
6 a principal in a crime, is shown by actual or constructive
7 presence at a scene as a result of a prior arrangement.

8 Therefore, a finding of a prior arrangement or a common
9 plan or scheme is necessary in order to find guilt as a
10 principal. The State must prove, beyond a reasonable doubt
11 by competent evidence, the therapy of the hand of one being
12 the hand of all.

13 A principal in a crime is one who either actually
14 commits the crime or is present assisting, aiding, abetting
15 in the commission of the crime. When a person does an act
16 in the presence of and with the assistance of another, the
17 act is done by both. Where two or more are acting as part
18 of a common plan or intent are present at the commission of
19 the crime, it does not matter who actually commits the
20 crime. All are guilty. Again, the hand of one is the hand
21 of all.

22 Present at the commission of a crime means to be
23 sufficiently near so as to aid, abet, assist in the
24 commission of the crime. However, mere presence at the
25 scene of a crime, in and of itself, is not sufficient to

1 convict one as a principal on the theory of aiding and
2 abetting.

3 Intent is also a necessary element for there must have
4 been a common design or intent to commit the crime, and the
5 crime must have been committed pursuant thereto with the
6 person, again, aiding, abetting by some overt act. Intent
7 means intending the result which actually occurs. Not done
8 accidentally or involuntarily. Intent may be shown by acts
9 and conduct of the defendant and other circumstances from
10 which you might naturally and reasonably infer their intent.
11 The State must prove these elements beyond a reasonable
12 doubt.

13 Now, as I've told you though, mere presence at the
14 scene of a crime is not sufficient to prove someone guilty
15 of the crime. A defendant's presence where a crime is being
16 committed or mere association with the person who does
17 commit a crime does not make the person an accomplice, an
18 aider or abettor of the person committing a crime, and,
19 again, the burden is upon, is upon the State to prove the
20 elements of the crime charged. And if, after reviewing all
21 of the evidence you find that the State has proved that the
22 defendant was only present at the scene of a crime, and that
23 they have not proved, beyond a reasonable doubt, any other
24 participation in the crime, then you must find the defendant
25 not guilty. The law is that the proof, being proof of

1 someone being at a crime, in and of itself, is not
2 sufficient to find someone guilty of that crime.

3 Now, I've talked a little bit about intent, and let me
4 explain to you what is legally meant by intent. Because,
5 later on, when I talk to you about the offenses, I'm gonna
6 talk to you about intent.

7 In order to establish criminal liability, criminal
8 intent is required. That's the mental state that's required
9 to be proven by the State for a particular crime, and that
10 might be intent, knowledge, recklessness, criminal
11 negligence. Criminal intent must be proven by the State,
12 beyond a reasonable doubt, and criminal intent is always a
13 matter to be determined by the jury from the circumstances
14 surrounding the situation.

15 Now, there's no way to prove intent, what someone
16 intended to do by direct evidence. It always has to be
17 proven from the facts and circumstances that surround the
18 crime because there's no medical way, at the time that an
19 act is, is happening, that we can open up somebody's brain
20 and look and scientifically and mathematically determine
21 what they're intending to do at that time.

22 So, intent is always shown by the facts and
23 circumstances that you find to have existed at the time that
24 the act occurred. Therefore, it's not necessary to
25 establish the intent portion of these crimes by direct

1 evidence. It may be established by inference like any other
2 fact, again, from the facts and circumstances that exist.

3 Now, criminal intent means a mental state. It's a
4 conscious wrong doing. It will be up to you to determine
5 what the defendants intended to do based on the
6 circumstances that have been shown to have existed at the
7 time of the alleged event.

8 Now, there has also been evidence presented that
9 witnesses may have made prior inconsistent statements. That
10 is statements that weren't consistent with their current
11 trial testimony. Contradictory statements, you may use the,
12 the earlier contradictory statements to determine the truth
13 of those statements as well as the truth of the present
14 testimony made during the trial. It's up to you to decide
15 whether to believe the earlier statements or the testimony
16 given at trial.

17 If a witness has been shown to knowingly have testified
18 untruthfully concerning any matter, you may consider this in
19 determining whether to trust the witness' testimony as to
20 other matters. You as the jury, as I've told you, have the
21 right to believe all, part of, or none of what a witness
22 tells you. You also have the right to give the testimony of
23 a witness the weight that you think it deserves.

24 Now, I'm going to go over the alleged offenses as a
25 group because each defendant is charged with the same

1 offenses, and alleged the same victims on the same
2 occurrence. So, I'm not gonna charge you separately as to
3 each defendant, but I'm gonna charge each offense
4 separately.

5 The first offense I'm going to charge you concerning is
6 assault with intent to kill. The defendants are charged
7 with assault with intent to kill, and in order to prove
8 assault with intent to kill, the state must prove, beyond a
9 reasonable doubt, that the defendant, with malice
10 aforethought, unlawfully attempted or offered to commit a
11 violent injury upon another person, and had the present
12 ability to complete the attempted injury.

13 An assault is the intentional creation of a reasonable
14 fear of immediate bodily harm. It's not necessary that the
15 attempted injury or harm actually take place for assault to
16 occur.

17 I'll give you an example of what I mean by that. If I
18 were to walk up to any of you out in the hallway outside the
19 courtroom, and I walked up close enough to you so that I
20 could reach out and touch you, and I drew back my fist as if
21 to hit you, that would constitute an assault because I'm
22 threatening to commit a bodily injury, and I'm close enough
23 to you that if I were to bring my fist forward I could hit
24 you. So, I have the present ability to, to strike the blow.
25 Had I been standing at the other end of the building and

1 drew back my fist, that's not an assault cause I can't reach
2 you with my fist from that location.

3 So, again, an assault takes place when you put somebody
4 in fear of bodily injury and you have the present ability to
5 carry out that particular assault.

6 Now, it talks about malice aforethought. Malice is
7 defined as hatred or ill will or hostility toward another
8 person. It is the intentional doing of a wrongful act
9 without just cause of excuse. Again, with the intent,
10 there's that thing about intent, to inflict an injury or
11 under circumstances that the law would infer an evil intent.

12 Malice aforethought is another legal phrase, and what
13 malice aforethought -- and it comes up in these other
14 charges too. So, I'm gonna go over this with you now, and
15 we'll talk about it in a little bit when we get to those
16 other charges. But malice aforethought does not require
17 that malice exist for any particular length of time before
18 the act is committed, but the malice must exist in the mind
19 of the defendant just before and at the time that the act is
20 committed. Therefore, the law requires that there must be a
21 combination between the evil intent and the act that occurs.

22 Malice aforethought can be expressed or inferred. Now,
23 the words expressed or inferred simply means -- there's not
24 too different kinds of malice. It's the manner in which,
25 which they can be shown to have existed. That is either by

1 direct evidence, where it's expressed, or by inference from
2 the facts and circumstances that were shown to have existed.
3 Express malice is shown when a person speaks words which
4 express hatred or ill will to another person or when the
5 persons prepares beforehand to do the act that they later do
6 such as lying in wait for a person or any other act showing
7 preparation going to show that the deed was within the
8 defendant's mind would be express malice.

9 Malice may be inferred from conduct showing a total
10 disregard for human life. Inferred malice may arise when a
11 deed is done by a person using a deadly weapon. A deadly
12 weapon is any article or instruments or substance which is
13 likely to cause death or great bodily harm. Now, whether an
14 instrument is used as a deadly weapon is a question of fact
15 for a jury to decide.

16 The following are examples which, under the law, have
17 been determined to be deadly weapons. Those include a
18 pistol, a shotgun, a rifle, a dirk, a dagger, a knife, a
19 slingshot, metal knuckles, razors, gasoline, fire bombs.
20 All of those things are, have been shown in cases to have
21 been used as deadly weapons, but the question of whether it
22 is a deadly weapon is a question of fact for the jury to
23 decide.

24 Now, assault and battery with intent to kill is the
25 second charge that has been brought. And, again, the

1 assault with intent to kill talks about firing into the
2 vehicle of Dwight Jamar Geter. That, that's the, the victim
3 in that case.

4 The assault and battery in both cases alleges the
5 injury to Bryant Miller, and assault, assault and battery
6 with intent to kill, the State has to prove, beyond a
7 reasonable doubt, that the defendant committed an unlawful
8 act in a violent nature to the person of another, again,
9 with malice aforethought.

10 An assault, I've already described to you, occurs when
11 someone offers to commit an injury and has the present
12 ability to carry out that threat. An assault is the
13 intentional creation of a reasonable fear of harm.

14 Now, the additional element in this charge has to do
15 with a battery. Under the law, a battery is the unlawful
16 touching of another person by a person who is committed an
17 assault. An unlawful touching can be done by a part of the
18 accused body or by any object that was put into motion by
19 the accused. A battery is the completion of the assault by
20 applying force to another person in a slight, rude, angry,
21 or, however slight, in a rude, angry, resentful manner
22 without legal justification for doing so.

23 If I use my earlier example of me walking up to you out
24 in the hallway and I got close enough to, to, to reach out
25 and touch you and I drew back my fist, that would be the

1 assault. Now, if I brought my fist forward in a rude, angry
2 or resentful manner and touched you ever how slightly,
3 that's the completion of the assault and battery. So,
4 that's what is meant by an assault and battery.

5 I've already defined to you what is meant by malice and
6 malice aforethought. That same definition applies to this
7 charge as well.

8 The final charge that's been placed against both
9 defendants is that of murder, and the defendants have been
10 charged with that offense, and that is murder.

11 In murder, the State must prove, beyond a reasonable
12 doubt, that the defendant killed another person with malice
13 aforethought. Again, malice is defined as hatred or ill
14 will or hostility towards another person. It's the
15 intentional doing of a wrongful act without just cause or
16 excuse with an intent to inflict injury or under
17 circumstances that the law would infer an intent, and I've
18 already talked to you about malice aforethought does not
19 require that the malice exist for any particular length of
20 time, but there must be a combination between the ill will
21 or the hatred in the mind of the actor and the time, at the
22 time that the act occurred. So, malice aforethought, there
23 must be a combination between the evil intent and the act.

24 Now, the defendants have raised the defense of
25 self-defense, and I'm going to talk to you a little bit

1 about the defense of self-defense. Self-defense would
2 constitute a complete defense, and if it is established, you
3 must find the defendants not guilty.

4 Now, the State has the burden, burden of disproving
5 self-defense beyond a reasonable doubt. If you have a
6 reasonable doubt of the defendant's guilt, after considering
7 all of the evidence including the evidence of self-defense,
8 then you would find the defendant not guilty. However, on
9 the other hand, if you have no reasonable doubt of the
10 defendant's guilt, after considering all of the evidence and
11 any evidence of self-defense, you must find the defendants
12 guilty.

13 Now, there's three elements that are required in order
14 to establish a defense of self-defense. First, the
15 defendant must be without any fault in bringing about the
16 difficulty which occurs between the parties involved. If
17 the defendant's conduct was of a type which would reasonably
18 calculate being, reasonably calculated to and did provoke a
19 deadly assault, the defendant would not, would be at fault
20 in bringing on the difficulty and would not be entitled to
21 an acquittal based on self-defense.

22 If the defendant voluntarily participated in mutual
23 combat for the purpose of other than self-protection, the
24 killing of the victim would not be self-defense. This is
25 true even if, during the combat, the defendant feared death

1 or bodily injury. However, if, before the killing is
2 committed, the defendant withdraws and tries, in good faith,
3 to avoid further conflict either in words or acts that make
4 known the fact of the victim, the defendant would be without
5 fault in bringing on the difficulty.

6 For mutual combat, there must be a mutual intent and a
7 willingness to fight. The intent must be, may be shown by
8 acts and conduct and the, of the parties and circumstances
9 surrounding the conduct. In addition, it must be shown that
10 both parties were armed with deadly weapons.

11 The second element is imminent danger. The second
12 element of self-defense is that a defendant was actually in
13 imminent danger of death or serious bodily injury or that
14 the defendant actually believed that he was in imminent
15 danger of death or serious bodily injury. If the defendant
16 was actually in imminent danger, it must be shown that the
17 circumstances would of warranted a person of ordinary
18 firmness or courage to strike the fatal blow to prevent
19 death or serious bodily injury to himself.

20 If the defendant believed that he was in imminent
21 danger of death or serious body injury, it must be shown
22 that a reasonably prudent person of ordinary firmness and
23 courage would of had the same belief. In deciding whether
24 the defendant was actually or believed that he was in
25 imminent danger of death or bodily injury, you should

1 consider all the facts and circumstances surrounding the
2 crime including the physical condition and characteristics
3 of both the defendant and the victim.

4 Evidence of prior difficulties between a defendant and
5 a victim may be considered in deciding whether a threat
6 existed and whether the defendant had a reason to believe
7 that a threat existed and how serious that threat was.

8 The third element is that there's no other way to avoid
9 danger. The final element of a defense of self-defense is
10 that the defendant had no probable way to avoid danger or
11 death of bodily injury other than to act as the defendant
12 acted in this particular instance.

13 There is a duty to retreat under the law in South
14 Carolina. However, the defendant has no duty to retreat if,
15 by doing so, the danger of being killed or injured seriously
16 would increase.

17 Under the law of self-defense, a defendant may also --
18 the defendant may take another's life in defense of others.
19 That right to intervene and protect others is subject to the
20 same rights and limitations as the general right of
21 self-defense. The defendant may take the life of a person
22 who assaults a friend or relative or a bystander if that
23 friend, relative, or bystander would of had the right of
24 self-defense.

25 To show that the person being defended had the right of

1 self-defense, it must be shown, be shown that the person
2 being defended and the defendant were both without fault in
3 bringing on the difficulty. If the conduct of the person
4 defended or the defendant was of the type which was
5 reasonably calculated to and did provoke a deadly assault,
6 then the person would be at fault in bringing on the
7 difficulty and would not of had the right of self-defense.
8 Therefore, the defendant would not have had the right to use
9 deadly force in defending that person.

10 Now, ladies and gentlemen of the jury, as I told you at
11 the beginning of the trial, your verdict must be unanimous
12 in this case.

13 Sir, I'm gonna ask you your name?

14 (Juror points.)

15 THE COURT: Yes, sir.

16 JUROR: Nathan.

17 THE COURT: Last name?

18 JUROR: Mims.

19 THE COURT: All right. Sir, I'm gonna appoint you as
20 the foreperson of this jury. I've been watching you.
21 You've paid very close attention throughout the trial, and
22 I'm going to appoint you as the foreperson.

23 That doesn't give you a greater say in the outcome of
24 the case than anyone else. But you will be the person who
25 will be presiding over the jury, conducting the

1 deliberations of the jury. You will also be the person, if
2 the jury has a question of the Court, to submit that
3 question in writing back to the Court. I'll decide what
4 answers I can give, and I've told you already, I can't
5 become involved in your decisions concerning the facts. I
6 can answer questions the law that I've charged you on, the
7 procedures that we followed, and some things about the
8 evidence.

9 Don't edit the questions. Submit them to me. I'll
10 decide what the appropriate answer is once I receive the
11 questions.

12 Once a verdict has been reached, it will be necessary
13 for you to record the verdict on the verdict form and submit
14 it, through the bailiff, back to the Court. You'll be
15 brought back into the Court to submit that verdict to us.

16 I've gone over a lot of things with you, and I'm going
17 to allow the attorneys to, to go over those things with me
18 to see if I've left something out or misspoken. Also, I'm
19 gonna gather the evidence together. You'll have that in the
20 jury room with you during your deliberations. I have to be
21 sure that only proper evidence goes back to your jury room.
22 So, we'll be doing that as well.

23 So, for a few minutes here, I'm going to ask you to
24 step back to the jury room one more time.

25 Mr. Foreman, don't allow any deliberations or

1 discussion to begin until I bring you back for your final
2 charge.

3 You may retire.

4 (WHEREUPON, the following takes place outside the
5 presence of the jury.)

6 THE COURT: Any objections to the charge from the
7 state?

8 SOLICITOR GRAY: No, sir, Your Honor.

9 THE COURT: Defense, Mr. Poole?

10 MR. POOLE: No, sir.

11 THE COURT: Mr. Brown.

12 MR. BROWN: No, Your Honor.

13 THE COURT: I'd ask you attorneys to step up and go
14 over the exhibits. Let's be sure that only the properly
15 admitted exhibits go back to the jury. And once you've
16 completed that, I have the verdict forms. You're welcome to
17 take a look at those.

18 (Pause.)

19 THE COURT: All right. We got an agreement on the
20 evidence, ladies and gentlemen?

21 (All parties nod affirmatively.)

22 THE COURT: All right. Come up and take a look at the
23 verdict form.

24 (Pause.)

25 THE COURT: All right. Any objections, ladies,

1 gentlemen?

2 SOLICITOR GRAY: No, sir.

3 MR. POOLE: No, sir.

4 MR. BROWN: No, sir.

5 THE COURT: All right. Bring them in.

6 (WHEREUPON, the following takes place within the
7 presence of the jury.)

8 THE COURT: All right. The jury has returned to the
9 courtroom.

10 Mr. Foreman -- Mr. Bailiff, if I could get you to pass
11 this over to the foreman for me.

12 BAILIFF: Yes, sir.

13 THE COURT: Thank you.

14 Mr. Foreman, I'm handing you the verdict form that can
15 be used in this case. I'll go over those with you so that
16 we have an understanding.

17 THE COURT: There's two different forms. One for each
18 defendant. Other than the case numbers and the names,
19 they'll read basically the same.

20 The top of the form indicates the State and county that
21 we're in, the Court that we're in. Below that the caption
22 of the case, The State versus whichever defendant it is.
23 Over to the right it's a verdict form for three different
24 case numbers. Below that, under the verdict, there are
25 three different verdicts to be rendered since they're three

1 different indictments, and for each the choice is guilty,
2 not guilty or guilty.

3 Now, I'll tell the jury, don't take from the fact that
4 I've put those choices on any order on this form to indicate
5 that I have a preference. That's the way it is on my
6 computer. Everytime I do a verdict form they're in that
7 order. So, it has nothing to do with this particular case.

8 I'll ask you to check the appropriate verdict for each
9 charge. Once you've completed the form for each defendant,
10 you'll sign it and date it. Once all verdicts have been
11 rendered, knock on the door, inform the bailiff, we'll bring
12 the jury back into the courtroom to receive the verdict at
13 that time.

14 Now, the evidence is here. It's going to be presented
15 to you. There is a laptop available. It's a clean laptop.
16 It should go directly to a program to play the DVD. The DVD
17 I believe is Exhibit 28 if you want to play that.

18 If you have any difficulty in playing that, just let us
19 know. We'll bring it out and get it set up so it will run
20 for you. But you should be able to -- it's a laptop. It
21 should be able to -- most people know how to run that. So,
22 if you have a problem with that, let us know. It's
23 available to you. You have a right to view it if you'd like
24 to.

25 All right. At this time, I'm going to ask that the

1 jury -- ma'am, you're the alternate. I'm gonna ask you to
2 remain seated, but that the jury retire to the jury room to
3 begin your deliberations.

4 Now, lunch is going to be served. If someone has to
5 come into the jury room to do that or have to do with that,
6 don't discuss the case until those people have left the
7 room. Then begin your deliberations. Don't be discussing
8 the case with people who are not on the jury in the court,
9 in the jury room.

10 You understand?

11 (Jurors nod affirmatively.)

12 THE COURT: You may retire and begin your
13 deliberations.

14 (WHEREUPON, the following takes place outside the
15 presence of the jury and the alternate juror was dismissed
16 from the courtroom.)

17 THE COURT: Any objection to final instruction from the
18 State?

19 SOLICITOR GRAY: No, sir, Your Honor.

20 THE COURT: Any from the defense?

21 MR. POOLE: No, sir.

22 MR. BROWN: None, Your Honor.

23 THE COURT: All right. Court's in recess until such
24 time as a verdict has been reached.

25 (WHEREUPON, the jury began deliberations at 1:46 and

1 returned with a question at 2:51.)

2 THE COURT: Ask the attorneys to approach.

3 (WHEREUPON, a bench conference was held at this time.)

4 THE COURT: All right. Let's bring the jury in.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE COURT: All right. The record will reflect the
8 jury has returned to the courtroom.

9 I've received a question from the jury. The question
10 is is the defense pleading not guilty because of
11 self-defense. We are unclear.

12 It's a little bit of a confusing situation, but I'll
13 try to clear it up as best I can.

14 As I indicated to you, the defendant is always presumed
15 to be innocent in the case until such time as that
16 presumption has been removed from the defendant by evidence
17 that satisfies you of the defendant's guilt beyond a
18 reasonable doubt. So, when you say the defendant's pleading
19 not guilty, the defendant has pled not guilty to the
20 indictments. But that -- there, there is no burden of proof
21 that goes with that plea. Defendants are presumed, under
22 the law, to be not guilty. So, that's -- it's just simply
23 that is a presumption under the law.

24 Now, when I charged you concerning self-defense, I'll
25 go back over the beginning of the charge, and if you'll

1 listen carefully maybe you'll understand the distinction
2 here.

3 The defendant has raised the defense of self-defense.
4 Self-defense is a complete defense if it is established.
5 You must -- if it, if it is established, you must find the
6 defendant not guilty. But now, the burden of proof in the
7 criminal case is always upon the State. So, the State has
8 the burden of disproving self-defense by proof beyond a
9 reasonable doubt.

10 So, when you start talking about burden of proofs, the
11 burden of proof is always upon the State at all times and in
12 the case of self-defense, the burden is upon the State to
13 prove that, that the defense of self-defense does not exist.
14 So, that's -- does that answer the question as to the
15 relative burden of proof, Mr. Foreman?

16 FOREMAN: I believe so. I believe what we were unclear
17 as to is that, whether or not the defense was raising the
18 defense of self-defense.

19 THE COURT: Well, through the, through the facts, and,
20 of course, in the closing argument the defense argued
21 self-defense.

22 FOREMAN: Okay.

23 THE COURT: And, of course, they've, they've raised
24 that defense. But there's -- they don't plead not guilty,
25 not the -- not guilty plea simply means they're pleading

1 what they're presumed, that they are not guilty. And, of
2 course, self-defense is a complete defense if it, if that,
3 if you find that it exist. But it's the State prove, burden
4 to disprove that defense beyond a reasonable doubt.

5 So, I hope that clears it up. It's a little bit
6 unusual. But as I told you, the defendant never has a
7 burden of proof in the case. The defendant has no burden of
8 proof at all. They're presumed to be innocent at the
9 beginning of the trial, throughout the trial, and into your
10 deliberations until you find that person not guilty, find
11 that person guilty by proof beyond a reasonable doubt should
12 you find them that way.

13 Does that answer the question?

14 FOREMAN: Yes, I believe---

15 THE COURT: It's semantics.

16 FOREMAN: Our question was not properly --

17 THE COURT: Okay.

18 FOREMAN: I didn't write it properly.

19 THE COURT: Now, if the jury would like for me to
20 recharge the defense of self-defense I can do that. But I
21 don't -- I didn't take your question as being, you being
22 confused by that, that. You simply wanted to know perhaps
23 who has the burden of proof or who is pleading what. And,
24 again, in this case, the defendant has pled not guilty.
25 They can plead not guilty because they're presumed to be not

1 guilty, and, of course, by the facts, you have the right to
2 find them either guilty or not guilty. Again, to find
3 someone guilty, it must be beyond a reasonable doubt.

4 You may retire and resume your deliberations.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury.)

7 THE COURT: Any objections to my response from the
8 inquiry from the State?

9 SOLICITOR GRAY: No, sir.

10 THE COURT: Any from defense?

11 MR. POOLE: No, sir.

12 MR. BROWN: None, Your Honor.

13 THE COURT: All right. The question from the jury will
14 be made a Court's Exhibit and part of the record.

15 (WHEREUPON, the note from the jury was marked as
16 Court's Exhibit No. 1 for identifications purposes only at
17 this time.)

18 THE COURT: We'll remain in recess until such time as a
19 verdict has been reached.

20 (WHEREUPON, the jury began deliberations again at 2:51
21 and returned with a verdict at 3:13.)

22 THE COURT: I'm informed a verdict has been reached.
23 Is the State ready to receive the verdict?

24 SOLICITOR GRAY: Yes, sir, Your Honor.

25 THE COURT: Defense ready?

1 MR. POOLE: Yes, sir.

2 MR. BROWN: Yes, sir.

3 THE COURT: Let me caution all that are present that
4 any reaction from the Court to the verdict would be
5 considered to be contempt of Court. If you have any
6 problems in controlling your emotions, leave the courtroom
7 now. They want -- you won't have to deal with that.
8 Otherwise, I will expect, expect everyone to accept the
9 verdict quietly and with proper composure.

10 Bring the jury in.

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

13 THE COURT: Mr. Foreman, I've been informed that a
14 verdict's been reached.

15 Is that true?

16 FOREMAN: Yes.

17 THE COURT: Pass the forms to the bailiff please.
18 Thank you.

19 (Foreman complies.)

20 THE COURT: All right. In the case of the State of
21 South Carolina versus Darius Tavarious Cathcart, Case
22 Numbers 2010-GS-42-2874, 75, and 76, as to Indictment
23 2010-GS-42-2874, with assault and battery, assault with
24 intent to kill, we, the jury, unanimously find the
25 defendant, Darius Tavarious Cathcart, guilty.

1 As to Indictment Number 2010-GS-42-2875 for murder, we,
2 the jury, unanimously find the defendant, Darius Tavarious
3 Cathcart, guilty.

4 As to Indictment Number 2009-GS-42-2876 for assault and
5 battery with intent to kill, we, the jury, unanimously find
6 the defendant, Darius Tavarious Cathcart, guilty.

7 Signed by the foreman, May 12th, 2011.

8 In the case of the State of South Carolina versus
9 Rashawn Lamar Reeder, Cases Number 2010-GS-42-2926, 2927,
10 and 2928, as to Indictment Number 2010-GS-42-2926 for
11 assault with intent to kill, we, the jury, unanimously find
12 the defendant, Rashawn Lamar Reeder, guilty.

13 As to Indictment Number 2010-GS-42-2927 for murder, we,
14 the jury, unanimously find the defendant, Rashawn Lamar
15 Reeder, guilty.

16 As to Indictment Number 2009-GS-42-2928, assault and
17 battery with intent to kill, we, the jury, unanimously,
18 unanimously find the defendant, Rashawn Lamar Reeder,
19 guilty.

20 Signed by the foreman, dated May 12th, 2011.

21 Madam Clerk, please inquire of the jury if this is
22 still their verdict.

23 CLERK: Ladies and gentlemen of the jury, if this is
24 your verdict and still your verdict, if so, please raise
25 your right-hand.

1 (WHEREUPON, all jurors raise their hands at this time.)

2 THE COURT: Thank you.

3 Anything further from the State before I release the
4 jury?

5 SOLICITOR GRAY: No, sir, Your Honor.

6 THE COURT: Anything further from the defense?

7 MR. POOLE: Could Your Honor poll the jury?

8 THE COURT: Is that being requested by both defendants?

9 MR. BROWN: Yes, sir, Your Honor.

10 THE COURT: Madam Clerk, if you would please, poll the,
11 the jury.

12 (WHEREUPON, the jury was polled at this and all jurors
13 responded in the affirmative that this is their verdict and
14 remains their verdict at this time.)

15 THE COURT: Thank you, Madam Clerk.

16 Anything further from the defense before I release the
17 jury?

18 MR. POOLE: No, sir.

19 THE COURT: Mr. Brown?

20 MR. BROWN: No, Your Honor.

21 THE COURT: All right.

22 (WHEREUPON, the jury was dismissed at this time.)

23 THE COURT: All right. Anything from the defense
24 before we pass sentence?

25 MR. POOLE: Your Honor, at this time I would renew our

1 previous motion for directed verdict and make, move for a
2 new trial. The -- this motion is based upon the motions
3 that were made pretrial, during the trial, and after the
4 verdict. We would move for a new trial on those grounds.

5 THE COURT: Mr. Brown, any further motions?

6 MR. BROWN: Your Honor, I would also renew my previous
7 motions and move for a directed verdict and clearly I would
8 ask for a new trial in light of what I, what was before the
9 Court in terms of any lack of, of evidence against
10 Mr. Rashawn Reeder.

11 THE COURT: All right. Motions are considered by the
12 Court. Motions will be denied.

13 Now, are you ready to proceed with sentencing?

14 MR. POOLE: Yes, sir.

15 THE COURT: Have you signed the documents?

16 MR. BROWN: Your Honor, I don't know if either one of
17 them are in the mind set to sign the documents at this time.
18 It may be at the Court's direction.

19 THE COURT: I'm directing them to sign the documents.

20 DEFENDANT REEDER: What it is I'm signing?

21 THE COURT: Beg your pardon?

22 DEFENDANT REEDER: What is it I'm signing?

23 THE COURT: Talk to your lawyer. He can give you legal
24 advice.

25 DEFENDANT REEDER: I'm not signing the papers, Your

1 Honor.

2 THE COURT: Is he refusing to sign the documents?

3 DEFENDANT REEDER: No, I ain't refusing to sign. I
4 don't know what I'm signing.

5 THE COURT: All right. I told you to talk to your
6 lawyer. Talk to your lawyer about the documents.

7 DEFENDANT REEDER: I mean I been lied to the whole
8 time.

9 How do I know what I'm signing?

10 THE COURT: well, you might try reading it.

11 (Pause.)

12 THE COURT: All right. Mr. Poole, if you'll approach
13 with Mr. Cathcart first.

14 MR. POOLE: Certainly.

15 THE COURT: Mr. Cathcart, if you'll step around right
16 here in front of the microphone please, sir.

17 (Defendant Cathcart complies.)

18 THE COURT: Thank you.

19 All right. Mr. Cathcart, you have been convicted by a
20 jury of your peers of the offense of murder, assault and
21 battery with intent to kill, and assault with intent to
22 kill. At this point in time, I'll be happy to hear from you
23 or your attorney concerning sentencing.

24 I'll begin with Mr. Poole.

25 MR. POOLE: May it please the Court, Your Honor.

1 THE COURT: Yes, sir.

2 MR. POOLE: Your Honor, Darius Cathcart, he's 25 years
3 of age. He's been a life long resident of Spartanburg
4 County. He's a graduate of Dorman High School. He -- he's
5 worked during his young life. His last employment or next
6 to his last employment was like in shipping and receiving at
7 Martex. I think that's a facility over on 295, and he's the
8 father of one child who is one year old.

9 During the course of this trial, he has had support
10 from family and friends who are behind me and to the Court's
11 right. And his mother is here. His sister is here. I've
12 known the, a sister of Darius for a few years and I got to
13 know some of the members of the family by briefly speaking
14 to them this week and before about Darius, Darius' cases.

15 They're good folks, and, and this is certainly an
16 unfortunate and awful situation where there has been loss of
17 life and some bodily injury, and I'd ask the Court to take
18 into consideration, in passing sentence, that there was an
19 element of things that should not exist but do, and that is
20 youth with guns, and who knows what else is out there in the
21 street. And that was not a point in time when Mr. Cathcart
22 felt that he was not, to a certain extent, a victim also.
23 That's the best way I can state it.

24 I would ask the Court not to penalize him for the fact
25 that he exercised his right to a jury trial. The Court has

1 the ability to give a certain lower sentences in these
2 cases, and the Court also has the ability to run them
3 concurrent. I would ask, on his behalf, that you do so.

4 THE COURT: All right. Mr. Cathcart, is there anything
5 that you'd like to say to the Court at this point in time?

6 DEFENDANT CATHCART: Yes, sir.

7 THE COURT: Yes, sir.

8 DEFENDANT CATHCART: Well, I feel like this trial, it
9 just snuck up on me because I had, I had another attorney
10 and I was assigned him, and I done spoke with this guy, and
11 the detective over my, over the whole case. And they
12 already know what happened, but they tell me we can't use
13 this. They know the person that was actually involved. But
14 since I told Turnipseed I ain't want to talk to them no more
15 cause I want to put nothing on paper, they told me they
16 gonna go ahead and charge me with murder, and they already
17 know. They done talked to the victim, but they refused. I
18 mean they wasn't being honest about the whole thing.

19 THE COURT: Any of the family members wish to speak?

20 MR. POOLE: Your Honor, I think his mother would like
21 to be heard.

22 THE COURT: Come forward please, ma'am.

23 Yes, ma'am, your name?

24 MRS. CATHCART: Patricia Cathcart.

25 THE COURT: Yes, ma'am.

1 MRS. CATHCART: I'm -- Darius is my son, and he has
2 been working with this detective doing what he could do for
3 Mr. Turnipseed, and he was dismissed. They would promise
4 him things for his cooperation, and he cooperated with them
5 the best of his ability.

6 And when they would make promises, when they came down
7 to deliver these promises to him for his cooperation, next
8 thing we know the attorney was taken off the case because I
9 simply asked the attorney why y'all making promises to my
10 son and having him to work with y'all when y'all know y'all
11 gonna use these evidence against him.

12 Later on, when I asked Mr. Turnipseed this, he was
13 taken off my son's case, and he was appointed to Mr. Poole.
14 And I just felt like that somebody cooperate and they trust
15 you to do what you say -- they ask him to take polygraph, he
16 did that. Everything they have asked him to do he have said
17 something, and he have done so, and in the midst of it, they
18 turned their backs on him and he sits there like he never
19 done anything when they know they laid this stuff down.

20 We brought witnesses that could testify for my son. He
21 would not talk to these people. Mr. Turnipseed would not
22 talk to these people. These people was willing to come and
23 talk. They said they did not need these people or they said
24 we, we couldn't get their numbers. The people actually --
25 we brought them to them. They never did this.

1 I just felt like my son, I was not there that night. I
2 don't know. But I know my son wouldn't of intentionally --
3 he wouldn't have hurt her son, and I feel bad for her family
4 cause she lost their son. And now my son get the rest of
5 his life. I done lost my son as well.

6 But my son felt like he had a fighting chance working
7 with these people that promised him and only lied to him and
8 that's not right. When you give your word, your word should
9 be your bond not he give his word and try to help himself
10 and help his case for it to be used against him later on
11 which was what---

12 THE COURT: Ma'am, ma'am, ma'am, you need to address
13 me.

14 MRS. CATHCART: Okay. Which was what happen.

15 THE COURT: And I'm here to hear about sentencing.

16 MRS. CATHCART: Okay.

17 THE COURT: And I don't know if you want to talk about
18 sentencing.

19 MRS. CATHCART: And I just---

20 THE COURT: Let me talk for a second.

21 MRS. CATHCART: Okay.

22 THE COURT: I don't know if you want to talk about that
23 or not.

24 MRS. CATHCART: Yes.

25 THE COURT: But this is your opportunity to do so.

1 MRS. CATHCART: Yes, Your Honor.

2 THE COURT: Go ahead.

3 MRS. CATHCART: Your Honor, I'm just saying -- I'm just
4 upset cause my son life is on the line. I just would like
5 for you to consider that he has a child, and this is my only
6 son. And I would like to see my son again, and I just,
7 would just ask would you have mercy on him and his life.

8 THE COURT: Thank you, ma'am. You can be seated.

9 MRS. CATHCART: And I love you, son.

10 DEFENDANT CATHCART: Love you too.

11 THE COURT: Mr. Cathcart, you indicated you wanted to
12 say something else.

13 DEFENDANT CATHCART: Yes, sir, I ask you do this. This
14 whole thing, they already knew who this third person was.
15 It was a third person in my car that already knew cause they
16 told me, since I ain't want to cooperate, I ain't want to
17 talk to them no more cause they kept making promises. Now
18 they tell me we shouldn't use the third party. It's not
19 like it just now came up. They knew that thing since 2009.

20 They already know. They know who this dude was. The
21 detective told me, he said, I'm pretty -- I know he was
22 involved. I heard and he said that I'm pretty sure this guy
23 got six unsolved homicides, and, again, I got statements.
24 The statements, people done wrote me statements that said
25 that this guy told them, but he still didn't want to use

1. them cause he say he waited, it's too -- he waited too late
2 to charge him.

3 He knew about this in 2009. Both -- I done met with
4 Mr. Gray, and I done met with Mr. Lorin Williams, and
5 Derrick Bulsa cause Derrick Bulsa was my, I mean my current
6 prosecutor and it went down to Able Gray. These guys asked
7 me where I get the other guy to incriminate himself by me
8 putting on a, a wire, but my life on the line. I'm not
9 about to sit up here and do that.

10 So, they tell me that's my problem. I mean I don't
11 think I should be wrong -- I mean, I mean I just think that
12 ain't, that ain't fair.

13 THE COURT: Mr. Gray.

14 SOLICITOR GRAY: 2003, public disorderly conduct.

15 2004, obtaining property by false pretenses, possession
16 of Scheduled II illegal substances, receiving stolen goods,
17 breaking into motor vehicles, and petty larceny.

18 2005, two counts of false info, driving under
19 suspension, failure to stop, the third property offense, FTC
20 theft, resisting arrest, habitual traffic offender.

21 2006, unlawful carrying of a weapon.

22 2008, driving under suspension and speeding.

23 THE COURT: The victims wish to be heard?

24 SOLICITOR GRAY: No, sir, Your Honor.

25 THE COURT: All right.

1 All right. Mr. Cathcart, if you'll have a seat.

2 Mr. Brown.

3 MR. BROWN: Your Honor, for the purposes of the record,
4 if I could, again, renew my previous motion to set aside
5 this verdict, ask for a new trial especially in light of
6 what I've now heard today in this courtroom. Mr. Reeder has
7 maintained his innocence from the outset, and apparently
8 there was a question of any third party involvement, and if,
9 unbeknownst to either one of us, Mr. Reeder and myself, if
10 this information was shared at different phases with other
11 elements, with either prior negotiations, or prior
12 information that was shared, that was not shared with us,
13 and I suppose the Court was not, then I think it would be an
14 unfair advantage, number one, in light of the charges that
15 have been laid out for Mr. Reeder as well as Mr. Cathcart.

16 And, of course, to have to go through a trial without
17 all the information being disclosed to us, and I understand
18 if the Court takes a certain position, and, of course, I'll
19 advise Mr. Reeder appropriately in light of that.

20 THE COURT: Well, do you wish to respond to the motion,
21 Mr. Gray?

22 SOLICITOR GRAY: I think it's a false motion. I have
23 been involved with no negotiations with Mr. Cathcart or
24 Mr. Reeder whatsoever. I'm a little disappointed right now
25 of the accusation. But be that as it may, it's a little

1 too, too little too late, Your Honor.

2 THE COURT: All right. Motion denied.

3 MR. BROWN: May it please the Court, Your Honor?

4 THE COURT: Yes, sir.

5 MR. BROWN: Mr. Reeder is 21 years old. He doesn't
6 have any children. He is maintained his high school
7 equivalency, and, in fact, he's attending Spartanburg
8 Community College pursuing a Associates in Business. His
9 mother is here today in support of him. His father has been
10 here. From what I understand he has a very serious
11 breathing situation, and, of course, in light of this
12 verdict, he can not present himself or maintain himself in
13 front of this Court.

14 THE COURT: I understand.

15 MR. BROWN: Your Honor, Mr. Reeder, from the outset,
16 has maintained his innocence. If there was information that
17 was, again, known about a third person, that was rumored to
18 have floated around. However, we never saw any concrete
19 information in that regard, and, in fact, the individual,
20 the individual that he was named, that was also floated
21 around. I think that was known in several corners in this
22 community, and this is just so unfortunate that
23 Mr., Mr. Reeder is standing before this Court facing
24 something that he will admit to the Court that he was simply
25 a victim of based upon the shooting.

1 We understand the jury's verdict, Your Honor. But we'd
2 ask the Court take this factor into consideration.

3 In talking with Mr. Reeder throughout Mr. Reeder being
4 charged, he is maintained his innocence, maintains he didn't
5 have, possess any firearm that evening, and the Court is
6 heard what has been presented in this very courtroom with
7 the lack of any direct testimony implicating Mr. Reeder.

8 In, in addition, Your Honor, understanding what
9 Mr., Mr. Reeder is facing, he would, would ask, have me ask
10 the Court if the Court would consider the minimum type of
11 sentence that could possibly be given in light of all the
12 questionable circumstances behind this. He is, throughout
13 this, stated to me that it was something that he did not
14 participate in. He has no direct knowledge of any ongoing
15 situation with anyone involved in this, and he simply was
16 shot on that evening, and, of course, there's the physical
17 evidence that he was expressing to the Court for purposes of
18 the record to show what occurred, Your Honor.

19 It is indeed a tragic loss of life because, as a young
20 black man myself, to stand here time and time again, this is
21 one of the first times I've ever had to face this during a
22 trial, and on this end of the sentence, to know that there's
23 really a loss of life all the way around. And, of course,
24 we extend our apologies to anything that's happened with the
25 family involving any issue with these young men, and we

1 extend our sincere sympathy to the Geter family.

2 Your Honor, I would ask that you can take these factors
3 into consideration, and, of course, I've advised Mr. Reeder
4 of any additional matters that he would want to take up at
5 some subsequent moment to this.

6 THE COURT: Mr. Reeder, your opportunity to speak to
7 the Court.

8 Is there anything you'd like to say to me?

9 DEFENDANT REEDER: Continue to hold, plead the Fifth,
10 exercise my Fifth Amendment.

11 THE COURT: Okay, sir. Anybody in his family wish to
12 be heard?

13 You just mentioned his mother was here.

14 MR. BROWN: Yes, sir, Your Honor.

15 THE COURT: She can come forward.

16 Ma'am, your name is?

17 MRS. REEDER: Ruth Reeder.

18 THE COURT: Yes, ma'am.

19 MRS. REEDER: This is my son, Rashawn Reeder. He's
20 my -- he's my only child, and I hope, I hope that you don't
21 hold him leaving home detention. I believe him because I
22 have -- our home was shot up twice.

23 THE COURT: Ma'am, I'm not understanding what you're
24 saying. If you'll take a moment. I'd like to hear what you
25 have to say.

1 MRS. REEDER: I said I hope that you don't hold him
2 leaving the home detention against him because our home was
3 shot up twice, and I believe that's the only reason why he
4 left. Because he was going to school and he was really
5 trying. And I'm sorry.

6 THE COURT: Ma'am, I can, I can assure you that has
7 nothing to do with this sentence.

8 MRS. REEDER: And I'm sorry that that Geter boy has
9 lost his life, but he's just my only son, and I just hope
10 you have mercy on him please. That's all I have to say.

11 THE COURT: Mr. Reeder, you indicated to me you wished
12 to exercise your Fifth Amendment rights. You have every
13 right to do so. But I do want to explain to you that the
14 issue before the Court right now is the sentencing that's
15 involved. You have every right to speak with me about that.
16 But, again, if you wish to exercise your Fifth Amendment
17 rights, you have every right to do so. But this is not
18 concerning the merits of the case necessarily. It's more
19 concerning the appropriateness of the sentence.

20 DEFENDANT REEDER: Excuse me, sir. I just wanted to
21 tell my mom to don't cry. That's it. I apologize.

22 THE COURT: Mr. Gray.

23 SOLICITOR GRAY: Thank you, Your Honor.

24 He has one violent offense from 2006, assault and
25 battery with intent to kill.

1 THE COURT: What year was that?

2 SOLICITOR GRAY: 2006.

3 THE COURT: All right. All right. Court's going to be
4 in recess for about ten to fifteen minutes. I'll consider
5 the sentence.

6 Court's in recess.

7 (WHEREUPON, a short recess was taken at this time.)

8 THE COURT: All right. I couldn't agree more with
9 Mr. Brown in that this case, I think, involves loss of life.
10 Certainly the victim's experienced loss of someone's life.
11 And, in this case, we've got two young men, both of whom are
12 in the prime of their life, and they're about to lose a good
13 portion of that life as far as their freedom is concerned.

14 However, the Court is also mindful of the fact that
15 every weekend it seems on the streets of our community these
16 types of dramas are played out for some reason. We have
17 young people with guns settling issues. Sometimes
18 apparently minor or trivial issues. Sometimes matters
19 involving other criminal activity with guns, and they solve
20 it by hurting people. They're destroying lives and
21 property.

22 So, the Court's not unmindful that that occurs in our
23 community as well. It's something that I would hope that
24 our community, at some point in time, would stop and, at
25 some point in time, people who live in the community would

1 reject that, that type of behavior.

2 I'm only dealing, however, with the cases that are in
3 front of me, and the ones that are brought before me. And
4 in this case, a review of the facts and the evidence, I have
5 sat through the trial, I've listened to the matters
6 involved.

7 Mr. Cathcart, I'm aware that you have been involved in
8 the past with criminal activity. Nothing that rose to this
9 level. But certainly involved in matters that did involve
10 the law and the laws involvement. I've tried to take that
11 into consideration as well as consideration concerning your
12 station in life.

13 It's a difficult decision, but the sentence in this
14 case, as to assault and battery with intent to kill, 20
15 years run down concurrently. As to assault with intent to
16 kill, ten years run concurrently. As to murder, the
17 sentence is 45 years run concurrently.

18 Good luck to you, sir.

19 (WHEREUPON, Defendant Cathcart and one of the victims
20 began to argue with each other.)

21 THE COURT: Mr. Gray, if you'll instruct your victim if
22 he wants to stay in the courtroom he'll keep his mouth
23 closed.

24 SOLICITOR GRAY: Yes, sir, Your Honor.

25 THE COURT: Another outburst will be considered as

1 contempt of Court and I'll sentence him as such.

2 Can he stay in the courtroom, Mr. Gray?

3 SOLICITOR GRAY: He says he can.

4 THE COURT: All right. Let's bring in Mr. Reeder.

5 (Defendant Reeder enters the courtroom at this time.)

6 THE COURT: Mr. Reeder, you weren't present for the
7 comments that I had during Mr. Cathcart's sentencing.

8 However, I do want you to know that the Court expressed deep
9 concern over the fact that situations like this seem to
10 happen on a regular basis in our community. It's
11 unfortunate that these things do occur, but it seems almost
12 on a weekly basis that these type of things are going on,
13 and, unfortunately, it appears that, for some, it's become a
14 way of life for some reason.

15 My concern concerning your case centers primarily
16 around your previous conviction for a crime not unlike what
17 you're in front of the Court again on. You're 21 years of
18 age. We're looking at two very serious situations. One
19 that resulted in a previous conviction, and, of course, this
20 is resulted in a conviction of three crimes that are
21 considered to be, at least, two of which are considered to
22 be violent, serious, and most serious offenses. The Court's
23 not unmindful of that, and, of course, has taken that into
24 consideration in your sentencing, and that's probably my
25 primary concern concerning your case.

1 In this case, the Sentence for assault and battery with
2 intent to kill is 20 years run concurrently.

3 The Sentence for assault with intent to kill is ten
4 years run concurrently.

5 The Sentence is imprisonment for murder is imprisonment
6 for your natural life.

7 Good luck to you, sir.

8 The Court is adjourned.

9

10 (WHEREUPON, Court was in recess.)

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C E R T I F I C A T E

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I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 9th, 11th, and 12th day of May, 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 1st, 2011



PAMELA E. GREEN, Court Reporter

WITNESSES

Spartanburg County Sheriff's Office

T.K. Tillotson

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE M086590

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

Computer

Computer

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: *5-6-10*

VERDICT

Guilty

Foreperson of Petit Jury
Date: *5/12/11*

DOCKET NO. -

10-GS-42-2874

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE
vs.

Darius Tavares Cathcart

Indictment for

ASSAULT W/ INTENT TO KILL

SC Code: 17-25-0030

CDR Code: 768

Class MIS-UNC

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2010 MAY 10 PM 2:14

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

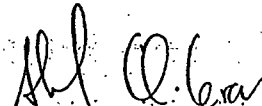
At a Court of General Sessions, convened on MAY 06 2010, the

Grand Jurors of Spartanburg County present upon their oath:

ASSAULT WITH INTENT TO KILL

That Darius Tavares Cathcart did in Spartanburg County on or about March 14, 2009, unlawfully attempt to commit a violent injury to the person of another with malice aforethought accompanied by a present ability to complete the act to wit: by shooting into the victim, Dwight Jamar Geter's vehicle, with a gun, all in violation of the common law of the State of South Carolina and §17-25-30 (CL), *THE 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.



ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Department

1. SENTENCE MADE

2. REPORT MADE

3. CARD PULLED

4. INDEXED

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE

1086591 7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

Foreperson of Grand Jury
ate:

VERDICT

Guilty

Foreperson of Petit Jury
ate:

DOCKET NO.

10-GS-42-2876

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE
VS.

Darius Tavares Cathcart

Indictment for

ASSAULT AND BATTERY
WITH INTENT TO KILL

SC Code: 16-3-620

CDR Code: 014

Class FEL-C(V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 MAY 10 PM 2:14

Computer

Computer

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 06 2010

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

ASSAULT AND BATTERY WITH INTENT TO KILL

That Darius Tavares Cathcart did in Spartanburg County on or about March 14, 2009 with malice aforethought, commit an unlawful act of violent injury upon the victim, Bryant Miller, by shooting the victim in the neck, causing the victim to require medical attention, all in violation of the laws of the State of South Carolina and Section 16-3-620 of the *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.



ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Department

*T. R. Tillotson*1. SENTENCE MADE ☒2. REPORT ENDED ☒3. CARD PULLED ☒4. INDEXED ☒

ARREST WARRANT NUMBER

5. CHECKED WARRANTS ☒V086589 6. CHECKED SIGNATURE ☒7. ASSESSMENT AND
FINE CARD MADE ☒8. TRAFFIC VIOLATION COPY ☒

ACTION OF GRAND JURY

*True Bill*Foreperson of Grand Jury
Date: *5/10/10*

VERDICT

Guilty

Foreperson of Petit Jury

Date: *5/12/11*

DOCKET NO. -

10-GS-42-2875

The State of South Carolina

County of Spartanburg

*Trey Gowdy, Solicitor***Computer**

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE

v

Darius Tavares Cathcart

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2010 MAY 10 PM 2:14

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 06 2010, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

That Darius Tavares Cathcart did in Spartanburg County on or about March 14, 2009, feloniously, willfully, and with malice aforethought, kill Duncan Geter by shooting him with a gun, and he died as a proximate result thereof, all in violation of §16-3-0010, 0020, *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.



ASSISTANT SOLICITOR

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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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

July 11th, 2012


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT