

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County
Maite Murphy, Circuit Court Judge

RECEIVED
MAR 27 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL LORENZO GREEN,

APPELLANT

APPELLATE CASE NO 2017-001240

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	1
TRIAL TRANSCRIPT DATED MAY 22-24, 2017	1
PRE-TRIAL MOTIONS	7
<u>JACKSON V. DENNO HEARING</u>	
TESTIMONY	
JOHN STOKES	13
MICHAEL GREEN	25
JURY VOIR DIRE	36
JURY SELECTION	57
RULING BY THE COURT REGARDING THE STATEMENT	65
OPENING REMARKS BY THE COURT	72
OPENING STATEMENT BY MS. CORNWELL	78
OPENING STATEMENT BY MS. WYMAN	82
TESTIMONY	
DARLENE HOLMES	84
SALLEY RIVERS	95
WILLIAM KETCHERSIDE	106
MEGHAN FLETCHER	131
JANICE ROSS	138
JOHN STOKES	149
MOTION FOR DIRECTED VERDICT	172
RULING BY THE COURT	174

RENEWAL OF MOTION FOR DIRECTED VERDICT	176
RULING BY THE COURT.....	179
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	179
CLOSING ARGUMENT BY MS. CORNWELL	184
CLOSING ARGUMENT BY MS. WYMAN	208
CHARGE ON THE LAW	216
VERDICT	235
POLLING OF THE JURY.....	236
RENEWAL OF ALL MOTIONS.....	239
RULING BY THE COURT.....	239
SENTENCING	242
STATE'S EXHIBIT #1 (WAIVER OF RIGHTS)	245
INDICTMENT	246
SENTENCE SHEET.....	248
CERTIFICATE OF COUNSEL	249

THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #2 (DVD)

State of South Carolina	)	Court of General Sessions
	)	First Judicial Circuit
County of Orangeburg	)	Case No. 2016-GS-38-00574

State of South Carolina,	)	
	)	
Plaintiff,	)	

-vs-

Transcript of Record

Michael L. Green,	)	
	)	
Defendant.	)	

May 22-24, 2017
Orangeburg, South Carolina

B E F O R E:

The Honorable Maite' Murphy, Judge; and a jury

A P P E A R A N C E S:

Ashley B. Cornwell, Esquire
Attorney for the Plaintiff

Minh Lee Wyman, Esquire
Attorney for the Defendant

Taken down by:
Bonnie Kelly
Court Reporter

Transcribed by:
Krystal J. Smith
Court Reporter

	I N D E X	
	WITNESS/DESCRIPTION	PAGE NUMBER
	(MAY 22, 2017)	
	Pre-trial Motions.....	7
	<u>Jackson v. Denno</u> Hearing.....	12
	John Stokes	
	Direct by Ms. Cornwell.....	13
	Cross by Ms. Wyman.....	21
	Michael Green	
	Direct by Ms. Wyman.....	25
	Cross by Ms. Cornwell.....	28
	(MAY 23, 2017)	
	Jury Voir Dire.....	37
	Jury Seated.....	57
	Ruling on <u>Jackson v. Denno</u>	65
	Motions.....	69
	Jury Sworn.....	72
	Opening Statements	
	Ms. Cornwell.....	78
	Ms. Wyman.....	82
	Darlene Holmes	
	Direct by Ms. Cornwell.....	84
	Cross by Ms. Wyman.....	91
	Redirect by Ms. Cornwell.....	93
	(CONTINUED ON THE NEXT PAGE)	

I N D E X

WITNESS/DESCRIPTION	PAGE NUMBER
Salley Rivers	
Direct by Ms. Cornwell.....	95
Cross by Ms. Wyman.....	100
William Ketcherside	
Direct by Ms. Cornwell.....	106
Cross by Ms. Wyman.....	127
Redirect by Ms. Cornwell.....	128
Recross by Ms. Wyman.....	130
Meghan Fletcher	
Direct by Ms. Cornwell.....	131
Dr. Janice Ross	
Direct by Ms. Cornwell.....	138
Cross by Ms. Wyman.....	147
John Stokes	
Direct by Ms. Cornwell.....	149
Cross by Ms. Wyman.....	161
Redirect by Ms. Cornwell.....	168
State Rests.....	171
Motion for Directed Verdict.....	172
(CONTINUED ON THE NEXT PAGE)	

I N D E X

WITNESS/DESCRIPTION	PAGE NUMBER
(MAY 24, 2017)	
Motions for Directed Verdict.....	176
Defendant's Rights.....	179
Defense Rests.....	183
Closing Arguments	
Ms. Cornwell.....	184
Ms. Wyman.....	208
Charge on the Law.....	216
Verdict.....	235
Motions.....	239
Sentence.....	242
Court Reporter Certification.....	244

1	<u>E X H I B I T S</u>			
2	(Jackson v. Denno Hearing)			
3	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
4	S-1	Miranda Rights Waiver Form		17
5	S-2	DVD containing video of statement		20
6		(Trial)		
7	S-1	Miranda Rights Waiver Form		155
8	S-2	DVD containing video of statement		156
9		(Not transcribed herein)		
10	S-3	Photograph		109
11	S-4	Photograph		109
12	S-5	Photograph		109
13	S-6	Photograph		109
14	S-7	Photograph		109
15	S-8	Photograph		109
16	S-9	Photograph		109
17	S-10	Photograph		109
18	S-11	Photograph		114
19	S-12	Photograph		114
20	S-13	Photograph		114
21	S-14	Photograph		114
22	S-15	Photograph		114
23	S-16	Photograph		114
24	S-17	Photograph		114
25	S-18	Photograph		114

<u>E X H I B I T S</u>				
<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>	
S-19	(withdrawn)			
S-20	Photograph		144	
S-21	Photograph		145	
S-22	Photograph		145	
S-23	Photograph		145	
S-24	(withdrawn)			
S-25	(withdrawn)			
S-26	Bullet		124	
S-27	Personal Effects		126	
S-28	Photograph		129	
S-29	Photograph		129	
C-1	Foreperson Note		234	

15

16

17

18

19

20

COURT REPORTER LEGEND

21 dashes -- intentional or purposeful interruption

22 or change in thought

23 ellipses . . . trailing off

24 [ph] phonetically written

25 [sic] written as said

1 MAY 22, 2017

2 (WHEREUPON, the proceedings began at 11:32 a.m.)

3 MS. CORNWELL: Your Honor, at this time, the State
4 would call the case of the State versus Michael Green. Mr.
5 Green is on the trial docket this week under indictment,
6 Criminal Indictment 2016-GS-38-0574. That is an indictment
7 for murder.

8 THE COURT: All right.

9 MS. CORNWELL: At this time, Your Honor, we would like
10 to go ahead and do some of the pretrial matters. I believe
11 that the first motion after speaking with Ms. Wyman -- most
12 of the motions regarding counsel have been resolved in my
13 understanding and that Ms. Wyman is going to stay on this
14 case and be representing Mr. Green throughout the duration
15 of this trial, Your Honor.

16 Mr. Green was given a plea offer regarding this case.
17 That plea offer was to allow him to plead to voluntary
18 manslaughter with the State recommendation of 20 years.
19 That offer expired last term and Mr. Green did reject that
20 offer and I believe that Ms. Wyman would like for the record
21 to reflect that she did advise him of that offer. He was
22 fully advised of the offer and it was I believe placed on
23 the record at some point in which he rejected that offer.

24 THE COURT: All right. Ms. Wyman, is that correct?

25 MS. WYMAN: Yes, ma'am.

1 THE COURT: And that was placed on the record before
2 Judge Dixon?

3 MS. CORNWELL: I'm not sure if it was placed last term.
4 I know that at some point it has been placed on the record
5 that it was an offer that was made and, again, now we are
6 placing on the record that it was made. I believe he was
7 fully advised of the offer by counsel and that offer is no
8 longer on the table.

9 MS. WYMAN: Yes, ma'am.

10 THE COURT: Thank you.

11 MS. CORNWELL: Lastly, it's my understanding defense
12 counsel had previously filed a motion under the Persons --
13 the Protection of Persons and Property Act requesting
14 immunity. Based on conversations with counsel, it's my
15 understanding the defendant now wishes to waive that hearing
16 on this record.

17 MS. WYMAN: That is correct, Your Honor.

18 THE COURT: All right. For the record, that is waived
19 and we will proceed without having that hearing.

20 MS. CORNWELL: Okay. And just for purposes of the
21 record, Your Honor, even without the defendant waiving the
22 hearing, it was going to be the State's position that under
23 Section 16-11-440(B)(1), he was not going to be entitled to
24 the hearing anyway because he was not entitled to immunity
25 under that (B)(1) statute, which basically states that the

1 presumption does not apply against whom the deadly force is
2 used and has the right to be in or is the lawful resident of
3 the dwelling or residence or occupied vehicle, including but
4 not limited to an owner, lessee or titleholder.

5 We believe that the facts of the case would show that
6 the victim in this case did reside at the home in which he
7 was killed in, which therefore by the statute and by State
8 v. Curry would mean that he is not entitled to immunity.

9 / THE COURT REPORTER: State v. Curry?

10 MS. CORNWELL: State v. Curry, yes. That he would be
11 entitled to a self-defense argument, but that would
12 obviously be an argument to a jury. That he would not be
13 entitled to immunity.

14 THE COURT: Ms. Wyman, do you agree that those are the
15 alleged facts of the case where this would not apply?

16 MS. WYMAN: No, Your Honor. Actually, we were going to
17 argue under Subsection C pursuant to State v. Jones, but he
18 does waive the hearing anyway.

19 THE COURT: Okay. And you fully have advised him on
20 what that entails?

21 MS. WYMAN: Yes, ma'am.

22 THE COURT: All right.

23 MS. CORNWELL: As far as any other motions from the
24 defense, Your Honor, I'm going off of what our conversation
25 was. I think it's best to let Ms. Wyman kind of let the

1 Court know what her motions are at this point.

2 THE COURT: All right. Ms. Wyman?

3 MS. WYMAN: Yes, ma'am. I have a couple.

4 First, we are asking for confirmation by the State that
5 they have indeed complied with turning us -- turning over
6 all the discoverable materials that they have in their
7 possession pursuant to Brady and Rule 5, and just suppress
8 any undisclosed discoverable items.

9 THE COURT: Solicitor?

10 MS. CORNWELL: Your Honor, to my knowledge, Ms. Wyman
11 has everything that's in our file. Again, we have always
12 let it be known through discovery, even in our first motion,
13 that we have an open file policy. So at any time, they are
14 allowed to come to us or to law enforcement and request to
15 see the entire file as well and have access to that. So we
16 do agree that they have everything that they should have.

17 THE COURT: Okay.

18 MS. WYMAN: As a follow-up, we are requesting the rap
19 sheet and criminal record of any and all people the State
20 intends to call as witnesses.

21 MS. CORNWELL: We don't have an objection to that, Your
22 Honor. I will get that to them. I think there are only two
23 lay witnesses that that would apply for.

24 THE COURT: Okay.

25 MS. CORNWELL: And we can have that to them before the

1 end of the day.

2 THE COURT: Okay.

3 MS. WYMAN: We also move to sequester witnesses.

4 THE COURT: Other than, of course, the police officer?

5 MS. WYMAN: Yes, ma'am.

6 THE COURT: And the victim?

7 MS. WYMAN: Okay.

8 MS. CORNWELL: I don't have an objection to that, Your
9 Honor.

10 THE COURT: And that would work for both sides.

11 MS. WYMAN: Next, Your Honor, we are -- we were going
12 to ask for a Neil v. Biggers hearing, but after discussing
13 it with the State, I don't think they plan to introduce the
14 lineup anyway. So to the extent it's necessary, we ask to
15 suppress the lineup.

16 THE COURT REPORTER: Suppress what? I'm sorry.

17 MS. WYMAN: The lineup.

18 MS. CORNWELL: There is a photo lineup, Your Honor, and
19 at this time I don't have any intention of introducing the
20 photo lineup in our case in chief. That being said, I don't
21 believe that a hearing would be necessary on that.

22 The witness that identifies him through the lineup is a
23 personal friend of the defendant, has known him for a while.
24 So even if we did have a lineup, she would be able to pick
25 him out regardless of the situation just because she knows

1 him and had a personal relationship with him. But at this
2 time, the State has no intention of introducing the lineup.

3 THE COURT: Okay.

4 MS. WYMAN: And lastly, Your Honor, we're requesting a
5 Jackson v. Denno hearing because we are opposing the
6 introduction of Mr. Green's video statement.

7 THE COURT REPORTER: I'm sorry? When you drop your
8 voice, it's real hard for me to hear.

9 MS. WYMAN: I'm sorry. I have a cold. We are opposing
10 the introduction of Mr. Green's video statement. So we're
11 requesting a Jackson v. Denno hearing.

12 THE COURT: Are y'all ready to proceed on that?

13 MS. CORNWELL: The State is, Your Honor.

14 MS. WYMAN: Yes, ma'am.

15 THE COURT: You may call your first witness.

16 MS. CORNWELL: Thank you, Your Honor. The State calls
17 Sgt. John Stokes.

18 THE CLERK: Do you hereby swear or affirm that the
19 testimony you're about to give is the truth, the whole
20 truth, and nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you. You may have a seat. Please
23 state your name for the record.

24 THE WITNESS: Sgt. John C. Stokes. I'm employed at
25 Orangeburg County Sheriff's Office.

JOHN STOKES - DIRECT BY MS. CORNWELL

1 THE CLERK: Thank you.

2 THE COURT: Your witness.

3 MS. CORNWELL: Thank you, Your Honor.

4 JOHN STOKES, being first duly
5 sworn, testifies as follows:

6 DIRECT EXAMINATION

7 BY MS. CORNWELL:

8 Q: Sgt. Stokes, were you working at the Orangeburg County
9 Sheriff's Office on November 28th of 2015?

10 A: Yes, ma'am, I was.

11 Q: And do you recall responding to [REDACTED]
12 that night?

13 A: Yes, ma'am.

14 Q: What county is that address in?

15 A: The County of Orangeburg.

16 Q: And what were you responding to?

17 A: A shooting incident.

18 Q: And once you arrived on scene, were you able to observe
19 the victim in this case?

20 A: I was.

21 Q: And tell the Court what you saw when you saw the
22 victim?

23 A: When I arrived at the residence, I saw Mr. Degree. He
24 was lying in the living room/dining room area. He was on
25 his back. He had a backpack on and also some gloves.

JOHN STOKES - DIRECT BY MS. CORNWELL

1 Q: Okay. And after walking through the crime scene, did
2 you also meet with any witnesses regarding this case?

3 A: I did.

4 Q: And who were those witnesses?

5 A: Darlene Holmes and Ms. Salley Rivers.

6 Q: Okay. And were they able to give you any information
7 that assisted you in your investigation?

8 A: They were. They stated to me that the defendant in
9 this case had shot Franklin.

10 Q: Okay.

11 THE COURT REPORTER: Shot Franklin?

12 THE WITNESS: Franklin. Yes, ma'am.

13 BY MS. CORNWELL:

14 Q: And were you able to determine what the victim was
15 doing at that house?

16 A: The victim -- he actually lived there. He had a room
17 there. He was paying Ms. Salley Rivers rent for that room.

18 Q: Okay. And did the defendant also live in that house?

19 A: No, he didn't.

20 Q: Okay. After speaking with Ms. Holmes and Ms. Rivers,
21 were you able to locate the defendant that night?

22 A: At the time of the incident on that Saturday night, I
23 wasn't.

24 Q: Okay. At some point, were you eventually able to
25 locate the defendant?

JOHN STOKES - DIRECT BY MS. CORNWELL

1 A: I was. Yes, ma'am.

2 Q: And once you located him, was he willing to speak with
3 you about what happened on the night of November 28th?

4 A: He was.

5 Q: Okay. When you met with him, did you give him his
6 Miranda rights?

7 A: I did.

8 Q: And did he appear to understand those rights?

9 A: He did.

10 Q: How do you know that he understood those rights?

11 A: He initialed beside all five and also signed -- signed
12 the signature.

13 Q: Okay. And after advising him of his rights, did you
14 also advise him of the waiver underneath those rights?

15 A: I did.

16 Q: And did he waive his rights at that time and wish to
17 speak with you?

18 A: He did.

19 Q: At this time, I am going to show you --

20 MS. CORNWELL: If I could get this marked as Court's
21 Exhibit 1?

22 THE COURT REPORTER: Just one page?

23 MS. CORNWELL: Yes, ma'am.

24 BY MS. CORNWELL:

25 Q: I'm going to show you what's been marked as Court's

JOHN STOKES - DIRECT BY MS. CORNWELL

1 Exhibit 1.

2 THE COURT REPORTER: State's 1.

3 MS. CORNWELL: State's 1. I'm sorry.

4 BY MS. CORNWELL:

5 Q: State's Exhibit 1. Do you recognize that document?

6 A: I do.

7 Q: And what is that?

8 A: It's a Miranda waiver.

9 Q: Okay. And is that a true and accurate copy of a waiver
10 that he signed?

11 A: It is.

12 Q: And are those the rights that you read to him before he
13 signed them?

14 A: They are.

15 Q: Okay. And did you also read the paragraph underneath,
16 which was the waiver of rights?

17 A: I did.

18 Q: And can you just read in for the record what those
19 rights were and what that waiver was that he signed off on?

20 A: It states:

21 I read this statement of my rights and I understand
22 what my rights are. I want to make a statement and answer
23 questions. I do not want a lawyer at this time. I
24 understand and know what I am doing. No promises or threats
25 have been made to me and no pressure or coercion of any kind

JOHN STOKES - DIRECT BY MS. CORNWELL

1 has been used against me.

2 Q: And he signed off on each of those rights acknowledging
3 that he understood those rights?

4 A: He did.

5 Q: And then did you also advise him of the waiver
6 underneath?

7 A: I did.

8 Q: And can you read into the record what that waiver is?

9 A: That was it.

10 Q: Oh, you did read it?

11 A: Yeah.

12 Q: Thank you. And he signed not only the rights, but also
13 on the waiver?

14 A: He did.

15 MS. CORNWELL: Your Honor, at this time, the State
16 would move State's 1 into evidence.

17 THE COURT: Any objection?

18 MS. WYMAN: No objection.

19 THE COURT: All right. It's in.

20 (WHEREUPON, State's Exhibit Number 1 to the Jackson v.
21 Denno hearing, waiver of rights form, was admitted into
22 evidence.)

23 BY MS. CORNWELL:

24 Q: And when you met with the defendant, where did you meet
25 with him?

JOHN STOKES - DIRECT BY MS. CORNWELL

1 A: It was at the center investigative division office.

2 It's located at 1032 Chestnut Street here in Orangeburg.

3 Q: Okay. And when you met with him and advised him of his
4 rights and took his statement, is that statement audio and
5 video recorded?

6 A: It is.

7 Q: Okay. And --

8 MS. CORNWELL: I apologize, Your Honor. I think I gave
9 you my copy of that.

10 THE COURT: Actually, it's in there.

11 MS. CORNWELL: I'll have that marked as State's 2.

12 It's going to be the video on DVD.

13 BY MS. CORNWELL:

14 Q: I'm going to show you what's been marked as State's
15 Exhibit 2. Do you recognize that?

16 A: I do.

17 Q: What is that?

18 A: It's the actual recording of the interview.

19 Q: Okay. And are you able to identify that based on the
20 case number?

21 A: Yes, sir. Yes, ma'am, and the defendant's name.

22 Q: Okay. And is that name and case number what's
23 associated with this case?

24 A: It is.

25 Q: Is this a true and accurate copy of the interview that

JOHN STOKES - DIRECT BY MS. CORNWELL

1 took place that day?

2 A: It is.

3 Q: Okay. And when you read into the record the waiver of
4 rights, did you also read in the Miranda rights that he
5 initialed off on?

6 A: Today?

7 Q: Yes.

8 A: I just read the waiver.

9 Q: Okay. If you don't mind, for the record, if you will
10 read the rights that you gave him that day as well prior to
11 giving him the waiver?

12 A: The first is you have the right to remain silent.
13 Anything you say can be used against you in court. You have
14 a right to talk to a lawyer for advice before we ask you any
15 questions and to have him or her with you during
16 questioning. If you cannot afford a lawyer, one will be
17 appointed for you before any questioning if you wish. If
18 you decide to answer questions without a lawyer present, you
19 will still have the right to stop answering at any time.
20 You also have the right to stop answering at any time until
21 you talk to a lawyer.

22 Q: And he initialed beside each one of those rights
23 indicating that he understood?

24 A: He did.

25 Q: And then he also signed underneath that he understood?

JOHN STOKES - DIRECT BY MS. CORNWELL

1 A: He did.

2 Q: All right. And the witness signature -- is that your
3 signature that you witnessed it?

4 A: Yes, ma'am, it is.

5 Q: And again, just for the record, all of that is also on
6 this video?

7 A: Correct.

8 Q: While you were speaking with Mr. Green, did he make any
9 confessions to you regarding his case?

10 A: Yes. Yes, ma'am, he did. He stated he shot the -- the
11 victim in this case, Franklin.

12 Q: Okay.

13 MS. CORNWELL: And, Your Honor, at this time, we would
14 normally move the video into evidence and request to publish
15 and play. At this time, I think we're just going to move it
16 into evidence and give you the opportunity to view it --

17 THE COURT: Okay.

18 MS. CORNWELL: -- when you have a chance.

19 THE COURT: Any objection?

20 MS. WYMAN: No objection.

21 THE COURT: All right. It's in.

22 (WHEREUPON, State's Exhibit Number 2 to the Jackson v.
23 Denno hearing, video statement on DVD, was admitted
24 into evidence.)

25 BY MS. CORNWELL:

JOHN STOKES - DIRECT BY MS. CORNWELL

1 Q: And through your investigation, were you able to
2 determine if the defendant was legally allowed to possess a
3 firearm at that time?

4 A: He wasn't.

5 Q: He was not?

6 A: No, ma'am.

7 Q: After you took his statement, did he make any other
8 statements? Have you met with him any other time?

9 A: I haven't.

10 MS. CORNWELL: That would be all the questions we have,
11 Your Honor.

12 THE COURT: Okay. Ms. Wyman?

13 MS. WYMAN: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. WYMAN:

16 Q: Investigator Stokes, you were aware that Mr. Green was
17 hurt, had an injured hand that day; right?

18 A: At the time of the interview or during the interview?

19 Q: During the interview.

20 A: Yes, ma'am.

21 Q: In fact, you knew that he went to the hospital because
22 you had a discussion about it?

23 A: Yeah. He told me that. Yes, ma'am.

24 Q: And he told you that he had to get a tube put in his
25 hand? Do you remember that?

JOHN STOKES - CROSS BY MS. WYMAN

1 A: I'm not a hundred percent sure, but he did say he went
2 to the hospital.

3 Q: Okay. And that it got infected?

4 A: I'm not a hundred percent sure, but he did tell me he
5 had some type of hand injury. Yes, ma'am.

6 Q: Okay. Would it surprise you if I told you on the video
7 y'all had a pretty extensive discussion about --

8 A: It wouldn't.

9 Q: -- how you knew he went to the hospital and that he
10 followed it up by telling you that he had an infection in
11 his hand -- in his hand and that he had to get a tube put
12 into it?

13 A: Possibly. Yes, ma'am.

14 Q: It sounds pretty serious, doesn't it?

15 A: I can't -- I'm not a medical expert. I can't speak on
16 that.

17 Q: Were you aware at the time of the interview that he was
18 on medication?

19 A: I wasn't.

20 Q: Did you ever ask him?

21 A: I don't think I did.

22 Q: So you were not aware that he was prescribed Norco?

23 THE COURT REPORTER: I'm sorry?

24 MS. WYMAN: Norco. N-o-r-c-o.

25 BY MS. WYMAN:

JOHN STOKES - CROSS BY MS. WYMAN

1 A: I'm not a hundred percent sure.

2 Q: Did you talk to him a little bit before the video
3 started?

4 A: I can't remember. If I did, it was just to advise him
5 of his rights and put him in the room.

6 Q: Okay. Why wasn't that part --

7 A: Just to put him in.

8 Q: -- taped though?

9 A: Like I said, I put him in the interview -- I didn't
10 escort him in the interview room actually.

11 Q: Who escorted him?

12 A: I'm pretty sure it was Sgt. King that he was placed in
13 the room, but --

14 THE COURT REPORTER: Sgt. King?

15 THE WITNESS: Sgt. King. Yes, ma'am.

16 BY MS. WYMAN:

17 A: I didn't have any conversations about the case, no.

18 Q: Yes, sir. To be clear, at the time of the interview,
19 he was under arrest already at that point?

20 A: That would be correct, yes.

21 Q: And in handcuffs?

22 A: That would be correct.

23 Q: He wasn't free to leave?

24 A: He wasn't free to leave, but he was given his Miranda
25 rights.

1 MS. WYMAN: No more questions, Your Honor.

2 THE COURT: Any redirect?

3 MS. CORNWELL: No, Your Honor.

4 THE COURT: You may step down, Sergeant. Thank you.

5 You may call your next witness.

6 MS. CORNWELL: That would be all the witnesses the

7 State has in regards to this hearing, Your Honor.

8 THE COURT: Anything on your end, Ms. Wyman?

9 MS. WYMAN: Yes, Your Honor. We would call Mr. Michael
10 Green.

11 THE COURT: Come on up, Mr. Green.

12 THE CLERK: Please raise your right hand. Do you
13 hereby swear or affirm that the testimony you're about to
14 give is the truth, the whole truth, and nothing but the
15 truth, so help you God?

16 THE DEFENDANT: Yes, I do.

17 THE CLERK: Thank you. You may have a seat. Please
18 state your name again for the record.

19 THE DEFENDANT: Excuse me?

20 THE CLERK: State your name again for the record.

21 THE DEFENDANT: Michael Green.

22 THE CLERK: Thank you.

23 THE COURT: Your witness.

24 MS. WYMAN: Yes, Your Honor.

25 MICHAEL GREEN, being first

MICHAEL GREEN - DIRECT BY MS. WYMAN

1 duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. WYMAN:

4 Q: Mr. Green, how old are you?

5 A: About 53.

6 Q: And how far did you go in school?

7 A: Completed 12th grade.

8 Q: Mr. Green, I only want you to talk about the statement
9 that you gave to Investigator Stokes on November 30th.

10 A: Yes, ma'am.

11 Q: And I want you to limit your testimony to that. Okay?
12 So the interview you gave on November 30th, 2015, it's my
13 understanding that you went to the hospital a few days
14 prior; right?

15 A: Yes, ma'am.

16 Q: November 25th?

17 A: Yes, ma'am.

18 Q: And it was for what?

19 A: I had a laceration to my left hand that got infected.

20 Q: And did the doctor prescribe medicine as a result of
21 that injury?

22 A: Yes, they did.

23 Q: What medicine would that be?

24 A: Norco.

25 Q: And is that a pain medicine?

MICHAEL GREEN - DIRECT BY MS. WYMAN

- 1 A: Yes, it is.
- 2 Q: On November 30th, 2015, you were taking that medication?
- 3 A: Yes, ma'am.
- 4 Q: According to a Waiver of Miranda Rights form, your
- 5 interview was at 9 a.m.; right?
- 6 A: Yes, ma'am.
- 7 Q: Did you take Norco before 9 a.m.?
- 8 A: Yes, ma'am.
- 9 Q: What time?
- 10 A: Around 7 or 8.
- 11 Q: How much did you take?
- 12 A: Two pills.
- 13 Q: And when you take Norco, what happens to you? How does
- 14 it make you feel?
- 15 A: It puts you in a daze.
- 16 Q: Okay. And how long does that effect usually last?
- 17 A: Anywhere from 3 to 4 hours.
- 18 Q: And on the morning of November 30th, 2015, that was the
- 19 way you were feeling, in a daze?
- 20 A: Yes.
- 21 Q: Did you take anything else that morning?
- 22 A: Yes, I did. \$20 worth of heroin.
- 23 Q: What did you say?
- 24 A: Heroin.
- 25 Q: \$20 worth? What time?

MICHAEL GREEN - DIRECT BY MS. WYMAN

1 A: Around 6 that morning.

2 Q: When you take heroin, how does it make you feel?

3 A: Heavy-eyed, pretty high.

4 Q: How long does that effect usually last?

5 A: Anywhere from 5 to 6 hours.

6 Q: And that morning, how much heroin did you take?

7 A: \$20 worth.

8 Q: What does that mean?

9 A: I would say about 1/2 a gram.

10 Q: And so you were under the influence during the time of

11 the interview?

12 A: Yes.

13 Q: Under the influence of Norco?

14 A: Yes.

15 Q: And of heroin?

16 A: Yes.

17 Q: Did you realize you waived your Miranda rights?

18 A: No.

19 Q: Do you even remember being given your Miranda rights?

20 A: No.

21 Q: Do you remember talking to Investigator Stokes at all?

22 A: I remember going to Popeyes, the place over there, but

23 I don't remember what actually happened.

24 Q: Did you realize what you were saying at the time of the

25 interview?

MICHAEL GREEN - DIRECT BY MS. WYMAN

1 A: No, I don't.

2 MS. WYMAN: No more questions, Your Honor.

3 THE COURT: Cross-examination?

4 MS. CORNWELL: Thank you, Your Honor.

5 THE CLERK: Your Honor, can we approach just a minute?
6 Officer?

7 THE DEFENDANT: Yeah.

8 THE CLERK: Hold on just a minute. This thing ain't
9 down. He might trip on it. Hold on a minute.

10 THE DEFENDANT: I need to put my leg out so you can put
11 it on.

12 (WHEREUPON, there was a pause in the proceedings, after
13 which the proceedings resumed as follows.)

14 THE COURT: You may proceed.

15 MS. CORNWELL: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. CORNWELL:

18 Q: Mr. Green, this was not your first interaction with law
19 enforcement, was it?

20 A: No, it's not.

21 Q: In fact, you've had at least eight other convictions
22 and interactions?

23 A: The majority of them is not convictions.

24 Q: You have a rap sheet where you have a number of
25 convictions since 1984; correct?

MICHAEL GREEN - CROSS BY MS. CORNWELL

1 A: Three convictions, yeah.

2 THE COURT REPORTER: I'm sorry. How many?

3 THE DEFENDANT: Three.

4 THE COURT: Mr. Green, if you would, wait until she
5 finishes asking the question before you start answering.

6 Okay?

7 THE DEFENDANT: All right.

8 BY MS. CORNWELL:

9 Q: And you would agree that on those convictions you knew
10 that you had rights? You've known that you have rights any
11 time you speak to law enforcement; correct?

12 A: That's to be so.

13 Q: And you know what Miranda rights are; correct?

14 A: Not really.

15 Q: That you have the right to remain silent?

16 A: Oh, yeah. That part, yeah.

17 Q: Okay. So that's not unusual for you? You know that
18 you have those rights at any time; correct?

19 A: That's true.

20 Q: Okay. And on November 30th when you came in and met
21 with Investigator Stokes, he went over each one of these
22 rights with you and you initialed beside each one that you
23 understood each of those rights? Those are your initials,
24 aren't they?

25 A: I don't remember it.

MICHAEL GREEN - CROSS BY MS. CORNWELL

- 1 Q: Okay.
- 2 A: I might have did, but I don't remember it.
- 3 Q: Are those your initials?
- 4 A: Yeah.
- 5 Q: Okay. And that's your handwriting?
- 6 A: Yes.
- 7 Q: Okay. And that's your signature right there?
- 8 A: Yes.
- 9 Q: And your signature is right underneath the part that
- 10 says I understand my rights?
- 11 A: Yes.
- 12 Q: Okay. And then underneath that, there's also a waiver,
- 13 which confirms that not only do you understand your rights,
- 14 but you are waiving those rights and willing to speak with
- 15 Investigator Stokes?
- 16 A: It's not that I don't -- I don't understand it. It's
- 17 just that I don't remember it.
- 18 Q: Did you inform Investigator Stokes --
- 19 A: Yes.
- 20 Q: -- at the time you were giving him the statement that
- 21 you were under the influence of drugs and did not feel
- 22 comfortable speaking with him?
- 23 A: Not only him, I also told US Marshal King the same
- 24 thing.
- 25 Q: So in that video, you told him that you were under the

MICHAEL GREEN - CROSS BY MS. CORNWELL

1 influence of drugs and didn't understand what you were
2 saying?

3 A: This was before he started running the video.

4 Q: Have you had an opportunity to view the video where you
5 gave an interview to Investigator Stokes?

6 A: Yes.

7 Q: So you've had an opportunity to view that video?

8 A: Yeah, I seen it.

9 Q: And you would agree in that video that not only do you
10 acknowledge your rights, sign off on them, and sign off on
11 the waiver, you also joked around with Investigator Stokes
12 and said something about why do I need all this, I'm here to
13 talk to you, and Investigator Stokes said it's just about
14 your constitutional rights?

15 A: I don't remember that.

16 Q: Okay. But you would agree in that video --

17 A: Yeah. I seen it.

18 Q: -- you told him that?

19 A: Yes.

20 Q: That you didn't need the constitutional rights, that
21 you were willing to talk --

22 THE COURT REPORTER: Talk one at a time, please.

23 BY MS. CORNWELL:

24 A: Yes.

25 Q: So it's your testimony here that in that video you

MICHAEL GREEN - CROSS BY MS. CORNWELL

1 acknowledge your rights; correct?

2 A: Yes.

3 Q: You waived those rights; correct?

4 A: Yes.

5 Q: You signed off on the Miranda rights and the waiver;
6 correct?

7 A: Yeah.

8 Q: Okay. And then you willingly and voluntarily gave a
9 statement to Investigator Stokes; correct?

10 A: That's what it say on the video.

11 Q: Okay. And in that video, you would agree that
12 Investigator Stokes really didn't even ask you a whole lot
13 of questions? Most of that video is you just telling him
14 what happened?

15 A: If you -- really, you can't understand what I'm saying
16 on the video..

17 MS. CORNWELL: Your Honor, that's all the questions
18 that I have.

19 THE COURT: Any redirect?

20 MS. WYMAN: No, Your Honor.

21 THE COURT: You may step down, Mr. Green. Thank you.
22 Any other witnesses?

23 MS. WYMAN: Your Honor, we don't have any more
24 witnesses, but I would like the Court to hear arguments at
25 the appropriate time.

1 THE COURT: Absolutely. If you want to, go ahead and
2 make your arguments. Obviously, I'm going to take the time
3 to review the video before issuing a ruling.

4 MS. WYMAN: Thank you, Your Honor. Your Honor, we're
5 relying on State v. Saxton, which holds that proof that an
6 accused was intoxicated at the time he made a confession
7 does not render the statement inadmissible as a matter of
8 law unless the accused's intoxication was such that he did
9 not realize what he was saying.

10 In our case, Your Honor, based on the drugs in Mr.
11 Green's system, he testified that he didn't know what he was
12 saying at the time of the interview because of the drugs
13 which were freshly in his system. He said that he was on
14 pain medication that he took less than two hours before
15 giving the statement. He also said he was on heroin, which
16 he took less than three hours before giving the statement.
17 He says that the drugs make him feel like he's in a daze.

18 And, Your Honor, because he was so intoxicated and he
19 did not realize what he was saying, it's our position that
20 he did not knowingly and intelligently waive his rights and,
21 therefore, we ask that the statements be suppressed at
22 trial.

23 THE COURT: Solicitor?

24 MS. CORNWELL: Your Honor, under State v. Denno, the
25 courts have been clear that the defendant must be advised of

1 his rights, must understand those rights, and willingly
2 waive those rights in order to speak to the officer.

3 In this case -- and you'll see clearly on the video and
4 through the Miranda form that the defendant signed that he
5 was advised of his rights, he was fully aware of his rights,
6 he signed off beside each individual right, and initialed
7 that he understood those rights, and then signed off
8 underneath that he understood those rights. He was also
9 read the waiver. He indicated that he understood the waiver
10 and he signed off on the waiver.

11 As far as his statement that he was under the influence
12 and was unaware of what he was stating, at no time did he
13 indicate to Investigator Stokes that he was unaware of what
14 he was doing, that he could not understand what he was
15 doing. In fact, he joked with Investigator Stokes that he
16 knew exactly what he was doing and didn't need
17 constitutional rights.

18 At no point did he give any indication to Investigator
19 Stokes that he did not understand what he was doing.
20 Investigator Stokes was simply interviewing him and going
21 off of the answers that Mr. Green was giving him, indicating
22 that he did understand his rights, that he wished to waive
23 those rights and continue to speak with Investigator Stokes.

24 The entire interview only lasts about 15 minutes.
25 There is nothing in there that would show any sort of

1 duress, coercion. There really wasn't even any time for him
2 to get water, food, anything like that.

3 As you'll see on the video, as soon as he walked in and
4 is given his rights, he pretty much confesses to what he
5 did. Investigator Stokes maybe asks five or six questions
6 as follow-ups to his statement, but there's really not a
7 whole lot to it. He's given his rights, he gives his
8 statement, and the interview is over. There's nothing to
9 indicate that he did not understand or that Investigator
10 Stokes should've had any sort of knowledge that he was not
11 aware of what he was stating at that time.

12 For those reasons, given the fact that he has waived
13 his Miranda rights, signed his waiver, and agreed to speak,
14 the State would respectfully request that you deny the
15 defense's motion and allow the statement in.

16 THE COURT: Thank you, counsel. I'll take the time
17 again to review the video before issuing a ruling. Anything
18 else at this juncture?

19 MS. WYMAN: No, Your Honor.

20 THE COURT: All right.

21 MS. CORNWELL: And the State does not have any motions,
22 Your Honor.

23 THE COURT: Any other matters before this afternoon?
24 What's the schedule?

25 MS. CORNWELL: I believe that Mr. Edwards still has a

1 few matters for this morning, Your Honor.

2 (WHEREUPON, the proceedings adjourned for the day at
3 12:02 p.m.)
4

5 MAY 23, 2017

6 (WHEREUPON, the proceedings resumed at 11:03 a.m.)

7 THE COURT: Thank you, ladies and gentlemen of the jury
8 panel. The jury panel is now qualified. Solicitor, you may
9 call your first case.

10 MS. CORNWELL: Thank you, Your Honor. May it please
11 the Court. The State calls Michael Green, Indictment
12 2016-GS-38-0574. That is a true-billed indictment for
13 murder.

14 THE COURT: Ladies and gentlemen of the jury panel, we
15 are about to begin the trial of the case of the State of
16 South Carolina versus Michael Lorenzo Green. Before we
17 select this jury, I'm going to read to you first the
18 indictment in this case and this is merely the allegations
19 of the case that we will hear this week. In no way is this
20 any evidence. I merely read it to you in case you have any
21 information about this case or know anything about this
22 case.

23 Indictment 2016-GS-8 -- GS-38-157 -- or 0574 states
24 that in Orangeburg County on or about November the 28th of
25 2015, with malice aforethought, the defendant, Michael

1 Lorenzo Green, did kill one Franklin Degree by means of
2 shooting the victim with a handgun. The victim did die as a
3 proximate result thereof. This offense is in violation of
4 the common law and the South Carolina Code of Laws.

5 Ladies and gentlemen, before we begin the selection
6 process, I'm going to ask the solicitor to please stand and
7 introduce herself and the members of her office, please.

8 MS. CORNWELL: Good morning. My name is Ashley
9 Cornwell. I'm an assistant solicitor here in Orangeburg
10 County for the First Circuit. The elected official for the
11 First Circuit is David Pascoe and the First Circuit
12 encompasses Orangeburg, Dorchester, and Calhoun Counties.

13 Seated with me is Mark Hines. Mark is an intern with
14 our office. He just finished his junior year at Clemson
15 University. Also with us is Tammy Craven. She is our
16 victim's advocate. Other attorneys in our office are Tommy
17 Scott, who is the deputy solicitor, Sarah Ford, Joshua
18 Edwards, and Phil Gize. Our juvenile prosecutor is Taylor
19 Owens.

20 THE COURT: Thank you, Solicitor. Ladies and gentlemen
21 of the jury panel, is anyone related by blood or marriage or
22 has a close personal or social relationship or has ever been
23 represented in any capacity with anyone from the Solicitor's
24 Office? If so, please stand.

25 (WHEREUPON, several people stood.)

1 THE COURT: Will you please come forward?
2 (WHEREUPON, a bench conference was held with Juror
3 Number 83 as follows.)
4 THE COURT: Good morning.
5 JUROR NUMBER 83: Good morning.
6 THE COURT: Your juror number, please?
7 JUROR NUMBER 83: 83.
8 THE COURT: 83? Ms. Harrison?
9 JUROR NUMBER 83: Yeah.
10 THE COURT: Yes, ma'am. Who do you know?
11 JUROR NUMBER 83: Ms. Tammy.
12 THE COURT: Okay. You know Ms. Craven?
13 JUROR NUMBER 83: Uh-huh.
14 THE COURT: And how do you know her?
15 JUROR NUMBER 83: She used to meet me during my
16 husband's mother's trial.
17 THE COURT: Your husband?
18 JUROR NUMBER 83: Yeah. His mother.
19 THE COURT: Okay. And when was that?
20 JUROR NUMBER 83: In 2010, but the trial was, like, in
21 2012..
22 THE COURT: Okay. Let me ask you --
23 JUROR NUMBER 83: Uh-huh.
24 THE COURT: I've got a couple different questions --
25 JUROR NUMBER 83: Okay.

1 THE COURT: -- that we have to go through now. The
2 fact that you know Ms. Craven, can you set that relationship
3 aside in this case and listen --

4 JUROR NUMBER 83: Yeah.

5 THE COURT: -- to the evidence solely as it comes from
6 the witness stand?

7 JUROR NUMBER 83: Yes, ma'am.

8 THE COURT: And can you be fair and impartial to both
9 the State and to the defense in this case?

10 JUROR NUMBER 83: Yes, ma'am.

11 THE COURT: All right. The next question -- obviously,
12 I'm sorry for your loss regarding your husband.

13 JUROR NUMBER 83: Uh-huh.

14 THE COURT: Obviously, this is a murder case as well.

15 JUROR NUMBER 83: Yes, ma'am.

16 THE COURT: Having that experience in your past, can
17 you set that aside and listen to the evidence in this case
18 as it comes from the witness stand?

19 JUROR NUMBER 83: It's a little hard right now.

20 THE COURT: I understand, and that's why we ask these
21 questions. Would you be okay on a different type of
22 criminal case that was not a murder case?

23 JUROR NUMBER 83: Uh-huh.

24 THE COURT: So it's just --

25 JUROR NUMBER 83: I guess I'll sit this one out.

1 THE COURT: So are you okay? Why don't we do this?

2 You -- are you --

3 JUROR NUMBER 83: I'm sorry.

4 THE COURT: That's okay. I understand. I'm going to
5 set you aside for the first trial. Okay? We'll keep you in
6 the -- in the panel for the second trial. Okay?

7 JUROR NUMBER 83: Okay.

8 THE COURT: Would you be okay in any other type of
9 criminal case or would you think you'd be better off in a
10 civil case?

11 JUROR NUMBER 83: Okay.

12 THE COURT: Okay. Why don't we do that? I'll transfer
13 her to a civil term.

14 THE COURT REPORTER: 83?

15 THE COURT: 83. All right. Ms. Harrison, so we'll
16 transfer you to a civil term. Okay?

17 JUROR NUMBER 83: Okay.

18 (WHEREUPON, the bench conference with Juror Number 83
19 ended and a bench conference with Juror Number 24 was
20 held as follows.)

21 THE COURT: Good morning.

22 JUROR NUMBER 24: Hi.

23 THE COURT: Your juror number, please?

24 JUROR NUMBER 24: I don't know.

25 THE COURT: Or your name?

1 JUROR NUMBER 24: It's Craven.

2 THE COURT: Okay. I guess -- are you related to Ms.
3 Craven?

4 JUROR NUMBER 24: That's right.

5 THE COURT: Okay. And how are you related to her?

6 JUROR NUMBER 24: My dad and his -- her husband are
7 brothers.

8 THE COURT: Okay. So obviously, you visit with each
9 other?

10 JUROR NUMBER 24: Uh-huh.

11 THE COURT: In each other's home?

12 JUROR NUMBER 24: Uh-huh.

13 THE COURT: The fact that --

14 THE COURT REPORTER: Is that a yes?

15 THE COURT: You need to answer yes or no because --

16 JUROR NUMBER 24: Yes, ma'am.

17 THE COURT: -- she's got to take it down. Has she told
18 you anything about this particular case?

19 JUROR NUMBER 24: No.

20 THE COURT: No? So you don't know anything about this
21 particular case?

22 JUROR NUMBER 24: I've heard of it.

23 THE COURT: Okay. And tell me what you've heard.

24 JUROR NUMBER 24: Like, the names and stuff sound
25 familiar.

1 THE COURT: They sound familiar, but you don't know any
2 personal --

3 JUROR NUMBER 24: Huh-uh.

4 THE COURT: -- facts? Is that --

5 JUROR NUMBER 24: No, ma'am.

6 THE COURT: Okay. So let's take this one at a time.

7 The fact that you're related to Ms. Craven -- she's
8 obviously a victim advocate in this case, not a witness. Do
9 you think you can set that aside in this case and listen to
10 the evidence as it comes from the witness stand?

11 JUROR NUMBER 24: Yes, ma'am.

12 THE COURT: And will you be fair and impartial to both
13 the State and to the defense?

14 JUROR NUMBER 24: Yes, ma'am.

15 THE COURT: Will you follow the law as I give it to
16 you?

17 JUROR NUMBER 24: Yes, ma'am.

18 THE COURT: Can you set anything that you may have
19 heard about this case to the side and listen to the
20 testimony solely as it comes from the witness stand?

21 JUROR NUMBER 24: Yes, ma'am.

22 THE COURT: Will you be fair and impartial to both the
23 State and to the defense?

24 JUROR NUMBER 24: Yes, ma'am.

25 THE COURT: All right. Thank you, ma'am.

1 JUROR NUMBER 24: So do I leave?

2 THE COURT: You stay.

3 JUROR NUMBER 24: Okay.

4 (WHEREUPON, the bench conference with Juror Number 24
5 ended and a bench conference was held with Juror Number
6 54 as follows:

7 THE COURT: Hello. Your name, please?

8 JUROR NUMBER 54: Jessie Funchess.

9 THE COURT: Ms. Funchess?

10 JUROR NUMBER 54: Yes.

11 THE COURT: Yes, ma'am. Who do you know?

12 JUROR NUMBER 54: Joshua Edwards.

13 THE COURT: Okay. And how do you know Mr. Edwards?

14 JUROR NUMBER 54: Just a family friend.

15 THE COURT: Okay. Do you visit in each other's homes a
16 lot or do things together or do you just know him?

17 JUROR NUMBER 54: Sometimes.

18 THE COURT: Sometimes?

19 JUROR NUMBER 54: But not all the time. No, ma'am.

20 THE COURT: Okay. Anything about that relationship
21 with him -- can you set that aside in this particular case
22 and listen to the evidence solely as it comes from the
23 witness stand?

24 JUROR NUMBER 54: Yes, ma'am.

25 THE COURT: And will you be fair and impartial to both

1 the State and to the defense?

2 JUROR NUMBER 54: Yes, ma'am.

3 THE COURT: All right. Thank you, ma'am.

4 (WHEREUPON, the bench conference with Juror Number 54
5 ended and a bench conference was held with Juror Number
6 148 as follows.)

7 THE COURT: All right. Sir, your name again?

8 JUROR NUMBER 148: Dewayne Robinson. The case that you
9 have this week, is it usually from Orangeburg County?

10 THE COURT: Yes, sir.

11 JUROR NUMBER 148: From Orangeburg County?

12 THE COURT: Pardon me, sir?

13 JUROR NUMBER 148: Yeah. The convicted people, the
14 ones that you have, all them from around this county area?
15 Because I'm just saying that because I know I'm probably
16 more of kin to them.

17 THE COURT: Well, I'm going to read you a list of
18 potential witnesses in this case here in just one second.
19 So listen very carefully and then you can let me know if you
20 do know somebody. Okay?

21 JUROR NUMBER 148: Okay.

22 THE COURT: All right. So just listen carefully to
23 those names.

24 THE COURT REPORTER: 148, Your Honor?

25 THE COURT: Right, 148.

1 (WHEREUPON, the bench conference ended and the
2 proceedings resumed as follows.)

3 THE COURT: And, Ms. Wyman, if you would please do the
4 same?

5 MS. WYMAN: Good morning, everyone. My name is Minh
6 Wyman. I work for the Public Defender's Office for the
7 First Judicial Circuit. The head public defender is Mark
8 Leiendecker. In our office is Doug Mellard, Peggy Hinds,
9 Breen Stevens, Jim Adams is in the back, Mark Wise, and our
10 staff include Deborah Martin, Glenda Easterland, Lauren
11 Kaiser, and Josh Porter.

12 THE COURT: Thank you, Ms. Wyman. Ladies and
13 gentlemen, the same question applies. Anyone related by
14 blood or marriage or has a close personal or social
15 relationship or has ever been represented in any capacity by
16 any member of the Public Defender's Office? If so, please
17 stand.

18 I find that there is no one standing.

19 Ladies and gentlemen, this is Mr. Michael Green seated
20 here at counsel table in the white shirt and the glasses.
21 Anyone related by blood or marriage or has a close personal
22 or social relationship or any acquaintance with Mr. Green?
23 If so, please stand.

24 (WHEREUPON, one person stood.)

25 THE COURT: Yes, sir?

1 JUROR NUMBER 169: I know him.

2 THE COURT: Hold on. Come forward, please.

3 (WHEREUPON, a bench conference was held with Juror
4 Number 169 as follows.)

5 THE COURT: Your name, again, sir?

6 JUROR NUMBER 169: Anthony Snell. I'm not related to
7 him, but I know him.

8 THE COURT: Okay. Tell me how you know him, Mr. Snell.

9 JUROR NUMBER 169: We grew up in the same neighborhood.

10 THE COURT: Okay. Face this way so the court reporter
11 can say what -- hear what you're saying. The fact that you
12 grew up in the same neighborhood, do you visit each other's
13 homes a lot?

14 JUROR NUMBER 169: Well, kind of. You know, I knew his
15 family.

16 THE COURT: Okay.

17 JUROR NUMBER 169: My brothers and him -- they went to
18 school together. We was kind of a close-knit neighborhood
19 type of thing.

20 THE COURT: When was the last time that you saw him?

21 JUROR NUMBER 169: If I want to guess, I'd say 2007 or
22 something like that.

23 THE COURT: Okay. So it's been a while --

24 JUROR NUMBER 169: Yes, ma'am.

25 THE COURT: -- since you had any contact with him?

1 JUROR NUMBER 169: Yes, ma'am.

2 THE COURT: And based on your knowledge of him, do you
3 think you can set that inside and listen to the evidence
4 solely as it comes from the witness stand in this case?

5 JUROR NUMBER 169: Yes.

6 THE COURT: Can you be fair and impartial to both the
7 State and to the defense?

8 JUROR NUMBER 169: I can try.

9 THE COURT: Well, I need to know if you can or if you
10 can't. Will you listen to the evidence and make an
11 impartial determination of the facts based on what you hear?

12 JUROR NUMBER 169: Yes, ma'am.

13 THE COURT: And can you be fair to both sides?

14 JUROR NUMBER 169: Yes, ma'am.

15 THE COURT: All right. Now, as far as knowing him, do
16 you know anything about this case?

17 JUROR NUMBER 169: No, ma'am.

18 THE COURT: Okay. All right, sir. Thank you.

19 THE COURT REPORTER: 169, Your Honor?

20 THE COURT: He's staying.

21 THE COURT REPORTER: Number 169?

22 THE COURT: Yes, ma'am.

23 THE COURT REPORTER: Okay.

24 (WHEREUPON, the bench conference ended and the
25 proceedings resumed as follows.)

1 THE COURT: Ladies and gentlemen of the jury panel, is
2 anyone related to or have any knowledge of or any connection
3 as far as any association with Mr. Franklin Degree? If so,
4 please stand.

5 I find that there is no one standing.

6 Ladies and gentlemen, I'm going to read to you a list
7 of potential witnesses in this case and, after I read this
8 list of potential witnesses, I'll ask you the same question,
9 if you're related by blood or marriage or have a close
10 personal or social relationship with any of these potential
11 witnesses. And if you're in the courtroom, if you would,
12 please stand so the jury can see you.

13 Cpl. McDuffie. Sgt. Stokes. The sergeant is in the
14 back there. Investigator Ketcherside. Salley Rivers.
15 Darlene Holmes. Meghan Fletcher. Dr. Janice Ross.
16 Investigator Collins. Bill Jackson. Kimberly Pugh.
17 Patricia Wanamaker. And Sgt. Terrence Smith.

18 Anyone related by blood or marriage or has a close
19 personal or social relationship with any of the potential
20 witnesses that I just listed? If so, please stand.

21 I find that there is no one standing.

22 Ladies and gentlemen of the jury panel, is there any
23 member of the jury panel who is a member of or a contributor
24 to any group which has as its primary concern for the
25 promotion of law enforcement or victims' rights? These

1 groups would include but are not limited to MADD, SADD, or
2 Citizens Against Violent Crime. If so, please stand.

3 I find that there is no one standing.

4 Ladies and gentlemen of the jury panel, I have read to
5 you the allegations in this case. Any member of the jury
6 panel had -- heard anything about this case before today,
7 either through news media or through any conversations or
8 have any information about this case before today or even in
9 the courthouse this morning? If so, please stand.

10 I find that there is no one standing.

11 Is there any member of the jury panel who has formed or
12 expressed any opinion about any issue or matter involved in
13 this case? If so, please stand.

14 I find that there is no one standing.

15 Is there any member of the jury panel that was a member
16 of the grand jury which issued the indictment in this case?
17 If so, please stand.

18 I find that there is no one standing.

19 Ladies and gentlemen, I read to you again the
20 indictment, which states the allegations in this case. Is
21 there anything about this type of case, whether it's your
22 previous experience or that of your close personal or family
23 friends, that would cause you in any way to hesitate in your
24 ability to be fair and impartial to both the State and to
25 the defense? If so, please stand.

1 (WHEREUPON, one person stood.)
2 THE COURT: Yes, ma'am? Would you please come forward?
3 (WHEREUPON, a bench conference was held with Juror
4 Number 97 as follows.)
5 THE COURT: Good morning. Yes, ma'am?
6 JUROR NUMBER 97: I'm Juror 97.
7 THE COURT: 97?
8 JUROR NUMBER 97: Uh-huh.
9 THE COURT: Ms. Jefferson?
10 JUROR NUMBER 97: Yes.
11 THE COURT: Yes, ma'am?
12 JUROR NUMBER 97: I had two brothers murdered. So I
13 wouldn't know how to make a decision based upon that.
14 THE COURT: You wouldn't be able to set -- obviously,
15 that's very difficult for you.
16 JUROR NUMBER 97: Uh-huh.
17 THE COURT: I can certainly understand that. Let me
18 ask you this. Would you be able to sit in a different type
19 of trial that's a criminal trial?
20 JUROR NUMBER 97: Uh-huh.
21 THE COURT: Okay. So if we just not put you in the
22 murder case, you'd be okay?
23 JUROR NUMBER 97: Uh-huh.
24 THE COURT: All right. So we'll keep you for the
25 second trial. Okay?

1 JUROR NUMBER 97: Okay.

2 THE COURT: Put her in the second panel.

3 THE CLERK: All right.

4 JUROR NUMBER 97: Okay.

5 (WHEREUPON, the bench conference ended and the
6 proceedings resumed as follows.)

7 THE COURT: Does any member of the jury panel know of
8 any reason whatsoever why he or she should not serve as a
9 juror in this case, with a particular emphasis on your
10 ability to be fair and impartial to both the State and to
11 the defense? If so, please stand.

12 I find that there is no one standing.

13 Ladies and gentlemen, that will conclude the list of
14 questions before we begin the jury selection in this case.
15 Madam Clerk, do you need a few minutes?

16 THE CLERK: Yes, ma'am.

17 THE COURT: All right. Ladies and gentlemen, it might
18 be a good time for us to take a brief restroom break. If
19 you would, come right back in the courtroom. We'll take
20 about a 10-minute break. That should give everyone enough
21 time to use the restroom real quick.

22 Before you leave though -- hold on a second. Do not
23 talk about this case with anyone or allow anyone to talk
24 about the case with you. We'll see you in about 10 minutes.

25 (WHEREUPON, there was a break in the proceedings from

1 11:21 a.m. until 11:40 a.m., after which the
2 proceedings resumed as follows.)

3 THE COURT: Ladies and gentlemen of the jury panel,
4 before we begin the actual selection process, would Juror
5 Number 1 please come forward? That would be Ms. Abraham.
6 Shondra Abraham.

7 (WHEREUPON, a bench conference was held with Juror
8 Number 1 as follows.)

9 THE COURT: Good morning, ma'am.

10 JUROR NUMBER 1: Good morning. I'm sorry. I just
11 spoke with the victim's sister, who is a very close friend
12 of our family.

13 THE COURT: Okay.

14 JUROR NUMBER 1: We were in the same family circle.
15 She is a good close friend of my husband's family and
16 there's usually family gatherings and so I've been to it
17 together and so I know who her brother is.

18 THE COURT: So when the --

19 JUROR NUMBERS 1: But I hadn't seen her in 30 years. I
20 don't -- I'm not acquainted with him.

21 THE COURT: Okay. So let's take that one at a time
22 then.

23 JUROR NUMBER 1: Okay.

24 THE COURT: So you hadn't seen them in 30 years?

25 JUROR NUMBER 1: No.

1 THE COURT: Okay. So it's not like you just recognized
2 them when you saw them here today?

3 JUROR NUMBER 1: Yeah. I spoke with them.

4 THE COURT: Okay. Having that relationship in the past
5 --

6 JUROR NUMBER 1: Uh-huh.

7 THE COURT: Can you set that aside in this trial and be
8 fair and impartial to both the State and to the defense?

9 JUROR NUMBER 1: Sure. Uh-huh.

10 THE COURT: Can you do that?

11 JUROR NUMBER 1: I can.

12 THE COURT: All right. And again, it's been 30 years.

13 JUROR NUMBER 1: Yeah.

14 THE COURT: It's been a while, but I certainly
15 appreciate you, once you saw them, to let me know.

16 JUROR NUMBER 1: Uh-huh.

17 THE COURT: So you -- you can be fair and impartial to
18 both sides?

19 JUROR NUMBER 1: Yes, ma'am.

20 THE COURT: All right. Thank you, ma'am.

21 JUROR NUMBER 1: Okay.

22 (WHEREUPON, the bench conference ended and the
23 proceedings resumed as follows.)

24 THE COURT: And would Juror Number 129, Ms. Munson,
25 please come forward?

1 (WHEREUPON, a bench conference was held with Juror
2 Number 129 as follows.)

3 THE COURT: Good morning, ma'am.

4 JUROR NUMBER 129: Good morning.

5 THE COURT: How are you today? Ms. Munson, come on
6 forward a little bit so that the court reporter can hear
7 what you're saying. It was brought to my attention that
8 during the break you were standing between some of the
9 victim's family and may have had some conversation with
10 them?

11 JUROR NUMBER 129: Yes. I spoke to them.

12 THE COURT: Do you know them?

13 JUROR NUMBER 129: Yes.

14 THE COURT: And how do you know them?

15 JUROR NUMBER 129: We grew up together and school
16 together.

17 THE COURT: Okay. Is there a reason you didn't
18 disclose that earlier when I asked if you knew the victim?

19 JUROR NUMBER 129: I didn't know they was outside.

20 THE COURT: Oh. You didn't? Do you know --

21 JUROR NUMBER 129: I didn't know they was out there.

22 THE COURT: You didn't realize they were part of this
23 case?

24 JUROR NUMBER 129: Uh-huh.

25 THE COURT: Is that a yes?

1 JUROR NUMBER 129: Yes, ma'am.

2 THE COURT: You have to answer so she can --

3 JUROR NUMBER 129: Yes.

4 THE COURT: So she can hear. Okay. Well, let me ask
5 you this. Knowing the victim's family, do you know anything
6 about this case?

7 JUROR NUMBER 129: Not really.

8 THE COURT: Well --

9 JUROR NUMBER 129: Just -- just seen her out there.
10 That's about it.

11 THE COURT: Just seeing her here?

12 JUROR NUMBER 129: Uh-huh.

13 THE COURT: You hadn't had any previous knowledge about
14 the case or have you?

15 JUROR NUMBER 129: No, ma'am.

16 THE COURT: Okay. So seeing them here, did you know
17 the alleged victim in this case?

18 JUROR NUMBER 129: No, I didn't.

19 THE COURT: You didn't know him?

20 JUROR NUMBER 129: Huh-uh.

21 THE COURT: Okay. And knowing the victim's family, can
22 you set that relationship aside in this case and be fair and
23 impartial to both sides?

24 JUROR NUMBER 129: Yes, ma'am.

25 THE COURT: You can do that?

1 JUROR NUMBER 129: Uh-huh.

2 THE COURT: All right. And you understand it's really
3 important you can't talk to anybody associated with this
4 case.

5 JUROR NUMBER 129: Okay.

6 THE COURT: If you are selected on this case. So you
7 can't have any contact with them because you have to be fair
8 and impartial to both sides.

9 JUROR NUMBER 129: Yes, ma'am.

10 THE COURT: All right. So are you sure you can do
11 that?

12 JUROR NUMBER 129: Uh-huh.

13 THE COURT: Is that a yes or a no?

14 JUROR NUMBER 129: Yes.

15 THE COURT: All right. Thank you, ma'am.

16 JUROR NUMBER 129: All right.

17 (WHEREUPON, the bench conference ended and the
18 proceedings resumed as follows.)

19 THE COURT: All right. Ladies and gentlemen, we're now
20 getting ready to select our first jury.

21 (WHEREUPON, there was a pause in the proceedings, after
22 which the proceedings resumed as follows.)

23 THE COURT: Thank you for your patience, ladies and
24 gentlemen. The computer has to scramble all your names up
25 before we begin the actual selection process and it takes us

1 just a little bit. We had a bit of a computer glitch a
2 little bit ago. So I appreciate your patience.

3 Once we actually begin the selection process, if your
4 name is called, if you would, come forward and face the back
5 of the courtroom. At that point, the attorneys will decide
6 whether or not you're selected to sit on the jury. Please
7 bring all of your personal belongings with you because, if
8 you are seated on the jury, then we'll go ahead and seat you
9 in the jury box.

10 (WHEREUPON, there was a pause in the proceedings, after
11 which the proceedings resumed as follows.)

12 THE COURT: Are you ready?

13 THE CLERK: Juror Number 109, Shakayla King.

14 (WHEREUPON, a black female came forward.)

15 THE CLERK: What says the State?

16 MS. CORNWELL: Please seat Ms. King.

17 THE CLERK: What says the defense?

18 MS. WYMAN: Please seat Ms. King.

19 THE CLERK: Come up, Ms. King. Juror Number 196, Paul
20 Wright.

21 (WHEREUPON, a black male came forward.)

22 THE CLERK: What says the State?

23 MS. CORNWELL: Please seat Mr. Wright.

24 THE CLERK: What says the defense? Just a minute, Mr.
25 Wright. What says the defense?

1 MS. WYMAN: Please excuse Mr. Wright.

2 THE CLERK: You may return to your seat. Juror Number

3 114, Maretta Linder.

4 (WHEREUPON, a white female came forward.)

5 THE CLERK: What says the State?

6 MS. CORNWELL: Please seat Ms. Linder.

7 THE CLERK: What says the defense?

8 MS. WYMAN: Please seat Ms. Linder.

9 THE CLERK: Juror Number 2, Wanda Abraham.

10 (WHEREUPON, a black female came forward.)

11 THE CLERK: What says the State?

12 MS. CORNWELL: Please seat Ms. Abraham.

13 THE CLERK: What says the defense?

14 MS. WYMAN: Please seat Ms. Abraham. 5

15 THE CLERK: Juror Number 182, Shirley Ward.

16 (WHEREUPON, a black female came forward.)

17 THE CLERK: What says the State?

18 MS. CORNWELL: Please seat Ms. Ward.

19 THE CLERK: What says the defense?

20 MS. WYMAN: Please present Ms. Ward.

21 THE CLERK: Juror Number 92, Christopher L. Hughes.

22 (WHEREUPON, a white male came forward.)

23 THE CLERK: What says the State?

24 MS. CORNWELL: Please seat Mr. Hughes.

25 THE CLERK: What says the defense?

1 MS. WYMAN: Please present Mr. Hughes.
2 THE CLERK: Juror Number 170, Felicia Snider.
3 (WHEREUPON, a black female came forward.)
4 THE CLERK: What says the State?
5 MS. CORNWELL: Please seat Ms. Snider.
6 THE CLERK: What says the defense?
7 MS. WYMAN: Please present Ms. Snider.
8 THE CLERK: Juror Number 172, Sharon Stokes.
9 (WHEREUPON, a black female came forward.)
10 THE CLERK: What says the State?
11 MS. CORNWELL: Please excuse Ms. Stokes.
12 THE CLERK: You may return to your seat. Juror Number
13 148, Dewayne Robinson.
14 (WHEREUPON, a black male came forward.)
15 THE CLERK: What says the State?
16 MS. CORNWELL: Please excuse Mr. Robinson.
17 THE CLERK: You may return to your seat. Juror Number
18 112, Lashonda Lewis.
19 (WHEREUPON, a black female came forward.)
20 THE CLERK: What says the State?
21 MS. CORNWELL: Please excuse Ms. Lewis.
22 THE CLERK: You may return to your seat. Juror Number
23 162, Joe Sloop.
24 (WHEREUPON, a white male came forward.)
25 THE CLERK: What says the State?

1 MS. CORNWELL: Please seat Mr. Sloop.
2 THE CLERK: What says the defense?
3 MS. WYMAN: Please excuse Mr. Sloop.
4 THE CLERK: You may return to your seat. Juror Number
5 159, Lawrence Simpson.
6 (WHEREUPON, a black male came forward.)
7 THE CLERK: What says the State?
8 MS. CORNWELL: Please seat Mr. Simpson.
9 THE CLERK: What says the defense?
10 MS. WYMAN: Please seat Mr. Simpson.
11 THE CLERK: Juror Number 65, Donna Gleaton.
12 (WHEREUPON, a white female came forward.)
13 THE CLERK: What says the State?
14 MS. CORNWELL: Please seat Ms. Gleaton.
15 THE CLERK: What says the defense?
16 MS. WYMAN: Please excuse Ms. Gleaton.
17 THE CLERK: You may return to your seat. Juror Number
18 110, Joette Kittrell.
19 (WHEREUPON, a white female came forward.)
20 THE CLERK: What says the State?
21 MS. CORNWELL: Please seat Ms. Kittrell.
22 THE CLERK: What says the defense?
23 MS. WYMAN: Please excuse Ms. Kittrell.
24 THE CLERK: You may return to your seat. Juror Number
25 166, Moses Smith.

1 (WHEREUPON, a black male came forward.)
2 THE CLERK: What says the State?
3 MS. CORNWELL: Please seat Mr. Smith.
4 THE CLERK: What says the defense?
5 MS. WYMAN: Please present Mr. Smith.
6 THE CLERK: Juror Number 25, Frederick Crider.
7 (WHEREUPON, a white male came forward.)
8 THE CLERK: What says the State?
9 MS. CORNWELL: Please seat Mr. Crider.
10 THE CLERK: What says the defense?
11 MS. WYMAN: Please present Mr. Crider.
12 THE BAILIFF: Right this way, Mr. Crider.
13 THE CLERK: Juror Number 21, Charles Clark.
14 (WHEREUPON, a white male came forward.)
15 THE CLERK: What says the State?
16 MS. CORNWELL: Please seat Mr. Clark.
17 THE CLERK: What says the defense?
18 MS. WYMAN: Please excuse Mr. Clark.
19 THE CLERK: Juror Number 128, Gwendolyn Morgan.
20 (WHEREUPON, a black female came forward.)
21 THE CLERK: What says the State?
22 MS. CORNWELL: Please seat Ms. Morgan.
23 THE CLERK: What says the defense?
24 MS. WYMAN: Please present Ms. Morgan.
25 THE CLERK: Juror Number 136, Herbert Patrick.

1 (WHEREUPON, a white male came forward.)
2 THE BAILIFF: Come right here.
3 THE CLERK: And turn around.
4 JUROR NUMBER 136: Okay.
5 THE CLERK: What says the State?
6 MS. CORNWELL: Please seat Mr. Patrick.
7 THE CLERK: What says the defense?
8 MS. WYMAN: Please excuse Mr. Patrick.
9 THE BAILIFF: Go back to your seat.
10 THE CLERK: Yeah. Just have a seat out there.
11 JUROR NUMBER 136: Okay.
12 THE CLERK: I'm sorry. Juror Number 192, Katherine
13 Wimberly.
14 (WHEREUPON, a white female came forward.)
15 THE CLERK: What says the State?
16 MS. CORNWELL: Please seat Ms. Wimberly.
17 THE CLERK: What says the defense?
18 MS. WYMAN: Please present Ms. Wimberly.
19 THE CLERK: Juror Number 124, Jesse McWaters.
20 (WHEREUPON, a white female came forward.)
21 THE CLERK: What says the State?
22 MS. CORNWELL: Please seat Ms. McWaters.
23 THE CLERK: What says the defense?
24 MS. WYMAN: Please excuse Ms. McWaters.
25 THE CLERK: Juror Number 22, Russell Mahoney.

1 THE COURT REPORTER: I have 123.

2 THE CLERK: I'm sorry. 123, Russell Mahoney --
3 McHoney.

4 JUROR NUMBER 123: Yes. That's the wrong number. 123?

5 THE CLERK: Yes. Your number is 123. I'm sorry.

6 JUROR NUMBER 123: Okay.

7 (WHEREUPON, a black male came forward.)

8 THE CLERK: What says the State?

9 MS. CORNWELL: Please excuse Mr. McHoney.

10 THE CLERK: You may return to your seat. Juror Number
11 113, Nathan Lighty.

12 (WHEREUPON, a black male came forward.)

13 THE CLERK: What says the State?

14 MS. CORNWELL: Please seat Mr. Lighty.

15 THE CLERK: What says the defense?

16 MS. WYMAN: Please present Mr. Lighty.

17 THE CLERK: Juror Number 93, John Irick Jr.

18 (WHEREUPON, a white male came forward.)

19 THE CLERK: What says the State?

20 MS. CORNWELL: Please seat Mr. Irick.

21 THE CLERK: What says the defense?

22 MS. WYMAN: I'm sorry. Hold on just a second. Please
23 present Mr. Irick.

24 THE CLERK: Juror Number 129, Williema Munson.

25 (WHEREUPON, a black female came forward.)

1 THE CLERK: What says the State?

2 MS. CORNWELL: Please seat Ms. Munson.

3 THE CLERK: What says the defense?

4 MS. WYMAN: Please excuse Ms. Munson.

5 THE CLERK: Juror Number 188, Abrianna Williams.

6 (WHEREUPON, a black female came forward.)

7 THE CLERK: What says the State?

8 MS. CORNWELL: Please present Ms. Williams.

9 THE CLERK: What says the defense?

10 MS. WYMAN: Please present Ms. Williams.

11 THE CLERK: Okay.

12 THE COURT: Any exceptions or objections to the

13 selection of this jury from either the State or from the

14 defense?

15 MS. CORNWELL: None from the State, Your Honor.

16 MS. WYMAN: No, Your Honor.

17 THE COURT: All right. Ladies and gentlemen of this

18 jury panel that has been selected for this trial, I'm going

19 to ask Ms. Dee to show you to your jury room. I'm going to

20 let you go to lunch before we start the trial of this case.

21 We're going to select the next jury before we actually start

22 the trial.

23 So if you would, be back in your jury room at 2:00 or

24 let's say 1:45. That should give everyone enough time to

25 select the jury and grab some lunch. Again, please remember

1 do not discuss this case with anyone or allow anyone to
2 discuss this case with you while you're out of the
3 courthouse, but have a nice lunch and we'll see you at 1:45.

4 (WHEREUPON, the jury exited the courtroom at 12:01
5 p.m.)

6 (WHEREUPON, there was a break in the proceedings from
7 12:01 p.m. until 1:54 p.m., after which the proceedings
8 resumed as follows.)

9 THE COURT: All right. Before we get started in
10 bringing the jury out, there was previously before jury
11 selection a Jackson v. Denno hearing which was held and the
12 Court has had an opportunity to review the testimony, along
13 with the video, the DVD video that was introduced into
14 evidence, regarding the defendant's confession.

15 The Court finds that the video, of course, was very
16 short in duration. It was from 8:47 through about 9:01 and
17 the last portion of that was I think the defendant was in
18 the room by himself. So in looking at that, it wasn't a
19 lengthy interrogation by any means and, of course, the State
20 has by a preponderance of the evidence standard to establish
21 voluntariness and in compliance with Miranda.

22 And based upon the evidence in the video, Sgt. Stokes
23 went into the room. After the initial introductions, he
24 immediately then read the defendant his Miranda rights,
25 which the defendant acknowledged. He read the waiver

1 portion of it to the defendant, which the defendant
2 acknowledged and signed both of those portions.

3 Although the defendant claims that he was intoxicated
4 at the time of the statement, he is appropriate in his
5 responses and he's able to articulate answers and full
6 sentences where he can certainly be understood. He does not
7 appear to be dazed or slur his speech in any way.

8 In reviewing the Miranda form, which was also
9 introduced into evidence, the initials and the signature are
10 neat and legible, which would indicate that he was not
11 grossly intoxicated.

12 The video shows that the defendant was not promised
13 anything or threatened in any way. In fact, when Sgt.
14 Stokes asked if he would like to write a written statement,
15 the defendant says no and Sgt. Stokes immediately packs up
16 his stuff and -- and concludes the interview. So at no time
17 was he made any threats against him or any promises.

18 The Court does find that his statement is freely and
19 voluntarily given in compliance with Miranda. The defense's
20 assertion that the defendant was intoxicated -- the Court
21 reviewed the video and tried to look to see if there's
22 evidence of intoxication. He wasn't apparently outwardly
23 intoxicated and, if there was any intoxication, it is not
24 readily apparent on the video and it did not appear to
25 prevent the defendant from having the mental capacity

1 necessary to give the statement freely and voluntarily. Any
2 evidence of intoxication would then go to the weight of the
3 admission and not the admissibility of it.

4 So upon reviewing the video, the defendant does make a
5 statement also regarding some other matters which are not a
6 part of this case, which I have instructed the attorneys
7 there is one issue in there where he discusses wanting to
8 shoot another person that same night. The Court finds that
9 that -- that statement will be redacted from the DVD and
10 that it is more prejudicial than probative because there has
11 been no evidence presented that it's actually connected to
12 the crime for which he is on trial today.

13 So the attorneys have been instructed to mute the
14 portion of that DVD and it's a very short matter of seconds,
15 but we have reviewed that and, Solicitor, you're prepared to
16 do that and, counsel for the defense, you've reviewed that
17 DVD as well; is that correct?

18 MS. WYMAN: Yes, ma'am.

19 THE COURT: All right. And I understand, Solicitor,
20 that you did want to put your position on the record before
21 I made that ruling as far as the statement regarding the
22 other potential target.

23 MS. CORNWELL: Yes, Your Honor. We would simply like
24 the record to reflect that we do have an objection to
25 redacting that portion.

1 Under Rule 401, we think that the evidence is relevant,
2 meaning that it has any tendency to make the existence of
3 any fact, consequence or the determination of an action more
4 probable or less probable than it would be without the
5 evidence. Once you determine if it's relevant, obviously
6 under 403 you then have to make a decision whether it's more
7 probative than prejudicial. I understand that the Court's
8 ruling is that it is more prejudicial.

9 The State's position is simply that it is more
10 probative, given the fact that that statement, in the
11 State's opinion, shows motive, it shows intent, it is part
12 of the res gestae, it is evidence of malice, and it also
13 goes to show that there was no accident in this. That not
14 only did he intend to kill this person this night, but he
15 was also going to kill a second person that night and that
16 was indicative in his statement, I was going to get two of
17 them at one time.

18 And that is why we thought that it showed motive,
19 intent, malice, lack of accident, and the res gestae. So we
20 thought it was more probative than prejudicial.

21 THE COURT: All right. Anything from the defense?

22 MS. WYMAN: Your Honor, just we disagree. That the
23 statements are highly prejudicial and not probative at all
24 to this case.

25 THE COURT: I agree, and I don't believe that they're

1 relevant to this particular case. It was apparently a --
2 for lack of a better word, I guess a target or someone that
3 he was intending or stated he was intending to shoot that
4 had nothing to do with this particular case. So the court
5 finds that it's not part -- it's not relevant to this
6 particular case and, again, it's more prejudicial than
7 probative.

8 Anything else before we bring the jury out?

9 MS. WYMAN: Yes, Your Honor. The motion about the voir
10 dire.

11 THE COURT: I'm sorry?

12 MS. WYMAN: The motion about the voir dire.

13 THE COURT: Okay. You can put that on the record.

14 MS. WYMAN: Your Honor, we just wanted to put on the
15 record that we've submitted a copy of additional requests
16 for voir dire this morning and we requested for Your Honor
17 to ask two questions. One, have you, any member of your
18 family or any close friend ever been the victim of a crime?
19 And the second question is does any member of the jury panel
20 have any moral or religious opposition to the use of alcohol
21 and drugs?

22 Your Honor, it's our position that this process is
23 about uncovering potential biases and we believe that we
24 would have needed to know if any of the members of the jury
25 panel would have been one of those biased jurors.

1 THE COURT: Thank you, Ms. Wyman. And the Court
2 certainly reviewed your proposed voir dire and I felt that
3 the questions that were asked encompassed those concerns of
4 the defense. That it was a very broad question to the jury.
5 I've read the indictments and the allegations and asked
6 the jurors if anything whatsoever would cause them to
7 hesitate based upon their prior experiences or that of their
8 family members or acquaintances to be fair and impartial, if
9 they had any biases or prejudice towards either the State or
10 any reason whatsoever why they could not sit fairly and
11 impartially, and I think it's within the Court's discretion
12 and the Court feels that they adequately addressed those
13 concerns as many of the jurors did come up and disclose such
14 information during the voir dire process.

15 So your motion was respectfully denied.

16 MS. WYMAN: Thank you, Your Honor.

17 THE COURT: Anything further?

18 MS. CORNWELL: Yes, Your Honor. Just to go ahead and
19 cover all bases, we did give defense counsel copies of the
20 rap sheets of our witnesses as requested. The State does
21 want to make a motion to preclude prior bad acts of some of
22 those witnesses under -- I believe it's 609.

23 Ms. Salley Rivers is one of our witnesses. She has
24 priors of a 1979 shoplifting, a 1987 possession of cocaine,
25 and a 2012 possession of cocaine. Obviously, the State's

1 position on the convictions from '79 and from '87 is that it
2 falls well without -- outside the 10-year limit.

3 As far as the 2012 possession of cocaine base, the
4 State does not believe that that is relevant to this case.
5 It is not probative. It does not show any sort of
6 dishonesty and the only reason for bringing that in would
7 simply be to assassinate the character of that witness.

8 So we would ask that none of her prior record -- none
9 of her prior offenses be allowed in for her.

10 With Ms. Darlene Holmes, she has also got a prior
11 record. She has some convictions in '94 for fraudulent
12 checks. She also has a conviction in 2010 of fraudulent
13 checks. It's the State's position, again, that the '94
14 charge is without that 10-year window. However, we would
15 agree that the 2010 would come in for impeachment purposes.

16 THE COURT: All right. Ms. Wyman?

17 MS. WYMAN: Your Honor, it's our position that if the
18 witnesses opened the door to these topics, then we would use
19 it for impeachment purposes.

20 THE COURT: Otherwise, though, under Rule 609, do you
21 concur with what the Solicitor's recitation --

22 MS. WYMAN: Yes, ma'am.

23 THE COURT: -- is as far as her position?

24 MS. WYMAN: Yes, ma'am.

25 THE COURT: Okay. All right.

1 MS. CORNWELL: Thank you, Your Honor. That's all from
2 the State.

3 THE COURT: All right. Anything further?

4 MS. WYMAN: No, Your Honor.

5 THE COURT: All right. Let's have our jury, please.

6 THE BAILIFF: Yes, Your Honor.

7 (WHEREUPON, the jury entered the courtroom at 2:04
8 p.m.)

9 THE COURT: Welcome back, ladies and gentlemen of the
10 jury. Thank you for your patience with us this afternoon.
11 Madam Clerk, if you would, please swear in our jury.

12 THE CLERK: Will you please stand and raise your right
13 hand?

14 (WHEREUPON, all jurors complied.)

15 THE CLERK: Do you solemnly swear or affirm that you
16 shall well and truly try and true deliverance make between
17 the State of South Carolina and the defendant at the bar,
18 whom you shall have in charge, and a true verdict give
19 according to the evidence, so help you God? Please answer
20 by saying I will.

21 THE JURY: I will.

22 THE CLERK: Thank you. You may be seated.

23 THE COURT: Ladies and gentlemen of the jury, thank you
24 for accepting the important responsibility of jury service
25 and for your contribution today to our system of justice.

1 What I will now say to you is intended to serve as an
2 introduction to the trial of this case.

3 These remarks are not a charge on the law in this case.
4 I will instruct you on the law applicable to this case at
5 the end of the trial before you retire to consider your
6 verdict. This is merely an explanation of the procedures
7 that we will follow so you will have a better understanding
8 of what is going on. You may not take notes during the
9 trial of this case.

10 Ladies and gentlemen, the defendant is charged in an
11 indictment filed in this court with the crime of murder, the
12 elements of which will be explained to you later. The
13 indictment is simply the charge by which the case is brought
14 into this court and it is not in any sense evidence of any
15 of the allegations that it contains.

16 The defendant has pled not guilty to this indictment.
17 The State, therefore, has the burden of proving each of the
18 elements of the indictment beyond a reasonable doubt.

19 It will be your duty, ladies and gentlemen, to decide
20 whether the State has met that burden. Your purpose as
21 jurors is to find and determine the facts. You are the sole
22 judge of the facts. If at any time I make any comment
23 regarding the facts, you must disregard that. You are to
24 determine the facts from the testimony that you hear and the
25 other evidence that is introduced into court. It is up to

1 you to determine the inferences which you may feel may be
2 properly drawn from the evidence. It is especially
3 important that you perform your duty of determining the
4 facts diligently and conscientiously because ordinarily
5 there's no way to correct an erroneous determination of the
6 facts by a jury.

7 On the other hand and with equal emphasis, the same law
8 that makes you the judges of the facts makes me the judge of
9 the law. The law as given by the Court is the only law that
10 you may consider. You must accept it and follow it, even
11 though you may disagree with that. I cannot tell you what
12 the facts are and you cannot disagree with me about what the
13 law is or what the law should be.

14 Your job is to take the law as I give it to you and
15 apply it to the facts as you find them from the testimony of
16 the witnesses and any other evidence that is properly
17 introduced into the court. After doing that, you will
18 render your verdict under the solemn oath that you just took
19 as jurors.

20 Until I advise you to begin your deliberations, you
21 must not discuss this case with anyone, including your
22 fellow jurors, your friends, your family, any members or any
23 witnesses involved in this case. This includes any face-to-
24 face discussions, anything by telephone, email, text, blogs
25 or any other method of communication. You may not use a

1 computer, cell phone or any other electronic device with
2 communication capabilities while anytime while you're in the
3 courtroom or during your deliberations.

4 During your breaks for meals or for overnight, if
5 necessary, of course, you may use these devices. However,
6 you may not at any time use these devices to get or send
7 information about the case. This includes any information
8 about a party, a witness, any attorney or any court officer,
9 any news accounts about the case, any research on any topics
10 that may be raised, any topics that you think would be
11 helpful in deciding the case or any testimony that is
12 presented by any of the witnesses.

13 During the trial, please do not read, listen to or
14 watch any news reports about this case. This includes
15 anything that may be in the newspaper, the Internet, radio
16 or TV. You must not consider anything that you have heard
17 or read about this case outside of this courtroom, whether
18 before or during the trial.

19 After the case is submitted to you, you must discuss it
20 only in your jury room with your fellow jurors. The
21 attorneys and the parties in this case have been advised not
22 to talk to you. So if they see you out and about during
23 lunch or after coming in and out of the courthouse and they
24 don't say hello, they're not being rude. They're just
25 following the Court's instructions.

1 It is important that you keep an open mind and not
2 decide any issue in the case until all of the evidence has
3 been presented, the parties have made their closing
4 arguments, and I have instructed you on the law in this
5 case. It is your solemn responsibility to determine the
6 guilt or the innocence of the defendant and your verdict
7 must be based solely upon the evidence as it is presented to
8 you during this trial and the law as I instruct you at the
9 close of the trial.

10 In just a moment, the solicitor will make what is
11 called an opening statement, in which the solicitor will
12 explain to you what the issues in the case are or at least
13 what the solicitor thinks the issues in the case are. The
14 attorney for the defense may also make an opening statement,
15 although they are not required to do so.

16 What the attorneys tell you during their opening
17 statements is not evidence in this case. It's only their
18 contention as to what the issues are. The evidence in this
19 case will be presented to you by the testimony of the sworn
20 witnesses from the witness stand and by any of the exhibits
21 that are properly introduced during the trial of this case.

22 From time to time during the trial, you may hear one of
23 the attorneys say something like, Your Honor, may we
24 approach or we have a matter of law or sometimes I myself
25 might find it necessary to excuse you from the courtroom for

1 a short while so the attorneys and I can discuss a matter of
2 law. The reason for this is because you are the judges of
3 the facts in this case and sometimes, when I'm discussing
4 matters of law with the attorneys, it may be necessary for
5 me to make some comment as to whether the facts in
6 connection -- apply with the ruling in connection -- whether
7 the facts apply to the particular law in this case. I'm not
8 supposed to tell you what I think the facts are; so I will
9 excuse you from the courtroom for a short while while these
10 discussions take place so that in no way will you be
11 influenced by anything I might say or do in connection with
12 the facts of this case.

13 In determining what the true facts are in this case,
14 you must decide whether or not the testimony of the
15 witnesses is believable. It will be my responsibility to
16 rule as a matter of law as to whether or not certain
17 testimony is admissible at all or not, but once the
18 testimony is admitted, whether or not you believe it is
19 entirely up to you.

20 In deciding whether or not to believe a witness, you
21 have the right to consider the interest of any witness, the
22 bias of any witness, the prejudice of any witness, the
23 opportunity for the witness to have seen the matters and the
24 things about which the witness may testify, and the way that
25 the witness acts on the witness stand. You have the right

1 to consider anything that is in the record that will help
2 you evaluate the testimony of the witnesses.

3 That is -- that means that it is your duty to pay close
4 attention to these witnesses, to observe the witnesses, to
5 listen to the witnesses, and to pay close attention to the
6 attorneys and to the Court. Please do not let your thoughts
7 wander, but please give strict attention to the testimony.

8 After the arguments of counsel and after I have
9 instructed you on the law in this case, you will then be in
10 a position to determine what the true facts are in this case
11 and thus render a verdict.

12 It will be the added duty of the foreperson to write
13 the verdict on the verdict form and on the indictment, and I
14 will appoint a foreperson at a later time.

15 Is there -- are there any objections from either the
16 State or the defense for the opening remarks to the jury?

17 MS. CORNWELL: None from the State, Your Honor.

18 MS. WYMAN: None from the defense, Your Honor.

19 THE COURT: All right. Solicitor, you may proceed.

20 MS. CORNWELL: Thank you, Your Honor. May it please
21 the Court.

22 THE COURT: Yes, ma'am.

23 MS. CORNWELL: Counsel.

24 OPENING STATEMENT ON BEHALF OF THE STATE

25 MS. CORNWELL: November 28th of 2015. Franklin Vereen

1 -- I'm sorry. Franklin Degree had gotten off work, gone by
2 Bojangles, picked up some chicken, and was on his way home.
3 He reached his house at [REDACTED].

4 And when he approached his house, he saw the defendant,
5 Michael Green. Mr. Degree and Mr. Green had not been the
6 best of friends at this point. They'd been having some
7 issues with each other.

8 And when Michael approaches -- when Franklin
9 approaches, he sees Michael and he is upset that Michael is
10 at his house. He tells him why are you at my house. There
11 is some sort of verbal exchange that goes on there. Mr.
12 Degree walks into the house. He's got his gloves on. He's
13 got his bookbag on.

14 He sets the box of chicken down on the dining room
15 table. His girlfriend, Darlene Holmes, notices that he is
16 upset. She comes up to him. She asks him what's wrong.

17 You're going to hear that Franklin has a stutter. So
18 when he gets upset, sometimes he can't speak very clearly.
19 So when Ms. Holmes asked him what's wrong, at this point he
20 can't tell her why he's upset, why he's upset with the man
21 that he does not like that he had been having issues with
22 for the past month is at his house.

23 Ms. Holmes tells him to just calm down. Go to your
24 room. I'm going to run to the bathroom and we'll talk about
25 it. At that point, Ms. Holmes walks past Mr. Degree towards

1 the hall, turns down the hall to go to the restroom, and in
2 that second, in less than a minute, she hears a gunshot.
3 She turns around. She runs back into the room and she sees
4 that defendant pointing his hand with what appeared to be a
5 gun at the victim, Mr. Degree.

6 She runs and goes and tells Salley Rivers, who was in
7 the house, I think Michael just shot Franklin. Ms. Rivers
8 nor Ms. Holmes has a phone; so they have to run next door
9 and call 9-1-1.

10 Once 9-1-1 is called, law enforcement arrives and, when
11 law enforcement arrives, Sgt. Stokes, Investigator
12 Ketcherside, and others secure the scene and start to
13 investigate. They see the victim, Franklin Degree, lying in
14 the dining room on his back, gloves still on his hands, both
15 straps of his bookbag still on his shoulders. He never even
16 had time to take his gloves off.

17 They speak with Ms. Rivers and with Ms. Holmes, who
18 indicate that the last person that was seen with the victim
19 was the defendant. After an attempt to locate the defendant
20 that night, law enforcement is unable to find him that
21 night. Two days later on November 30th, Sgt. Stokes meets
22 with the defendant and you're going to hear the defendant
23 says, yeah, I shot him. I busted a cap in his ass.

24 His words. Murder, that's what he did to Franklin
25 Degree. He came in. He knew that they had a problem with

1 each other. He came to the victim's home. While in the
2 victim's home, pulled a gun and shot him and killed him.
3 That is murder.

4 The judge has just told you that the State has the
5 burden of proof in this case and we absolutely do. The
6 defendant doesn't have to say a word. He never has to take
7 the stand. They don't have to put up any evidence. It is
8 completely the State's burden of proof in proving that
9 Michael Green murdered Franklin Degree, and we will do just
10 that.

11 In South Carolina, the definition of murder is the
12 unlawful killing of another with malice aforethought. What
13 is malice? Malice is an intentional act of violence. The
14 use of a deadly weapon, for instance in this case a gun, is
15 evidence of malice.

16 There is no time limit that has to occur between a
17 person having a malicious intent and carrying out that time.
18 It could happen at the second of the fatal blow.
19 Premeditation is not a requirement of murder in South
20 Carolina. So this doesn't have to be a planned act. He
21 didn't have to go out and think about it. The malicious
22 intent could have happened the second that he saw Mr. Degree
23 walk in front of him, the second he pulled that gun and
24 pulled the trigger. That is malice. The use of a deadly
25 weapon, the happening of a fatal blow.

1 Malice can be expressed or implied. Expressed malice
2 is saying I'm going to kill you. Implied malice is pulling
3 a gun and shooting somebody.

4 There's not a whole lot to think about in this case.
5 It's pretty simple, actually. The fact of the matter is
6 that the victim, Franklin Degree, was inside his own home
7 when this man walked in the house, pulled a gun, and killed
8 him. And that's murder.

9 And at the end of this trial, after you've heard the
10 testimony and you've seen the evidence, I feel confident
11 that you will be able to easily render a verdict of guilty
12 in this case because you will see that there's no defense
13 that the victim can put -- that the defendant can put up to
14 give him any lawful reason for killing Franklin Degree.

15 THE COURT: Counsel for the defense?

16 MS. WYMAN: Your Honor, if it please the Court.

17 THE COURT: Yes, ma'am.

18 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

19 MS. WYMAN: A jealous boyfriend, an aggressive
20 individual. That's who Franklin Degree was. You cannot
21 attack someone. You cannot threaten someone and expect that
22 the other person is not going to defend himself. Michael
23 Green was protecting himself.

24 The solicitor left a couple of things out of her
25 narrative. Frank came to the house and started accusing

1 Michael of sleeping with his girlfriend. Michael had an
2 injured hand. He couldn't fight. Michael believed that
3 Frank had a weapon. He did what he had to do to protect
4 himself.

5 The State only presented part of the picture to you.
6 Their case is that, well, Frank was killed; so therefore
7 Michael must've committed a crime. No. It is not a crime
8 to protect yourself.

9 The State also seems to think that the situation -- the
10 story leads -- leads to one -- one conclusion and that's --
11 that's not the case. It is full of doubt. You will see
12 that. You will see that by the end of this trial, if you
13 weigh the evidence, if you question the credibility of the
14 witnesses, that you will see that this, this story that they
15 have, is full of doubt. And because there will be
16 reasonable doubt, you must find Michael Green not guilty.

17 THE COURT: You may call your first witness.

18 MS. CORNWELL: Thank you, Your Honor. The State would
19 call Darlene Holmes.

20 (WHEREUPON, there was a pause in the proceedings until
21 the witness entered the courtroom, after which the
22 proceedings resumed as follows.)

23 THE CLERK: Please place your left hand on the Bible
24 and raise your right hand. Do you hereby swear or affirm
25 that the testimony you're about to give is the truth, the

DARLENE HOLMES - DIRECT BY MS. CORNWELL

1 whole truth, and nothing but the truth, so help you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Thank you. You may have a seat.

4 THE WITNESS: Thank you.

5 THE CLERK: And please state your name again for the
6 record into the mic.

7 THE WITNESS: Darlene Holmes.

8 THE CLERK: Thank you.

9 THE COURT REPORTER: Spell your last name for me.

10 THE WITNESS: H-o-l-m-e-s.

11 THE COURT: Your witness.

12 MS. CORNWELL: Thank you, Your Honor.

13 DARLENE HOLMES, being first
14 duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. CORNWELL:

17 Q: Hey, Ms. Holmes. How are you doing today?

18 A: I'm good.

19 Q: Good. I appreciate you coming up here. I know these
20 are difficult circumstances. If you don't mind doing a
21 favor, tell the jury a little bit about yourself. How old
22 you are, where you live, where you grew up?

23 A: My name is Darlene Holmes. I'm 48 years old. I was
24 born and raised in Orangeburg, South Carolina. As of right
25 now, I lives at St. Paul's Apartments.

DARLENE HOLMES - DIRECT BY MS. CORNWELL

1 Q: Okay. And did you know the victim in this case,
2 Franklin Degree?

3 A: Yes.

4 Q: How did you know Franklin?

5 A: Me and him was social -- I mean we was together for 16
6 years.

7 Q: 16?

8 A: This month. Uh-huh.

9 Q: And tell the jury a little bit about Franklin?

10 A: He was a goodhearted person. He also had this passion
11 for fishing. He loved to fish. He was a people person. He
12 got along with a lot of people, including children. So --

13 Q: Okay.

14 A: And he was a hard worker. He works all the time.

15 Q: And to your knowledge -- in the 16 years that you were
16 in a relationship with him, did you also live with him?

17 A: Yes. We did.

18 Q: And where did y'all live at the time that this incident
19 occurred?

20 A: We was living at [REDACTED] -- [REDACTED]
21 at Salley River's house -- home.

22 Q: All right. And I know it's been a little over a year.
23 Could that address have been [REDACTED]?

24 A: [REDACTED].

25 Q: [REDACTED]? Okay. But it was Salley River's home?

DARLENE HOLMES - DIRECT BY MS. CORNWELL

- 1 A: Home. Yes, ma'am.
- 2 Q: And were you and Mr. Degree paying rent to Ms. Rivers?
- 3 A: Yes, ma'am, we were.
- 4 Q: Okay. And the entire time that you lived with Franklin
- 5 and that you were in a relationship with him, did you ever
- 6 know Franklin to own a gun?
- 7 A: No, ma'am. He never owned one.
- 8 Q: And let's talk about the defendant in this case,
- 9 Michael Green. Do you know the defendant in this case?
- 10 A: Yes, I do.
- 11 Q: Okay. And how do you know the defendant in this case?
- 12 A: He always come and visit at Salley's home.
- 13 Q: Okay. And to your knowledge, were you aware that Mr.
- 14 Green and Franklin were having a dispute over the last few
- 15 weeks prior to this incident happening?
- 16 A: No, ma'am. I didn't. Honestly, I didn't know they had
- 17 anything -- anything wrong between each other --
- 18 Q: Okay.
- 19 A: -- going on.
- 20 Q: All right. And when Franklin would get upset, what
- 21 would happen?
- 22 A: He would have a speech problem. You know, he stuttered
- 23 real bad and, when he gets upset, he can't speak at all.
- 24 Q: Okay. And let's turn your attention to the night that
- 25 this incident occurred. Can you tell the jury what you

DARLENE HOLMES - DIRECT BY MS. CORNWELL

1 remember seeing and hearing that night?

2 A: Well, at a certain time I know exactly around about
3 what time he gets home. So I heard words coming up, like an
4 argument going on outside, and I could -- I could hear, but
5 I couldn't make out the words what was saying, but I knew
6 that Frank was on the outside during the time of the
7 argument.

8 Q: Okay. And at some point, did Frank come inside the
9 house?

10 A: Yes, he did.

11 Q: Okay. And did you see him when he came inside the
12 house?

13 A: Yes, I did.

14 Q: And --

15 A: I was sitting in the den. Yes, I did.

16 Q: Okay. Was Michael inside the house at that time?

17 A: No, ma'am. He was not there.

18 Q: And when you saw Franklin when you were inside the
19 house, what did you do?

20 A: I was getting up prior to him getting ready to walk in
21 -- into the house because I had to use the bathroom at the
22 time. And so by the time he got into the house, we was
23 meeting each other.

24 Q: And did you ask him what was wrong?

25 A: Yes. I was -- because I heard the commotion and I was

DARLENE HOLMES - DIRECT BY MS. CORNWELL

1 asking him, well, Frank, what's wrong, what's wrong, and he
2 couldn't speak. He was hmm hmm because, like I said, he --
3 you know, he stuttered and when he gets over-angry, he can't
4 speak at all. So he kept saying hmm hmm.

5 So I told him -- I said, well, baby -- I said I have to
6 go to the bathroom. I have to go take care -- go to the
7 bathroom and use it. I said, well, since you can't speak --
8 and I know that's what he do. I said because you can't
9 speak, I said I'll tell you what. Meet me to the bedroom
10 and that'll give you enough time to calm down so we can talk
11 about why you're so angry.

12 Q: Okay. And when you went to go to the restroom, what
13 happened?

14 A: I turned the corner. I went to turn and I heard a
15 gunshot. So instead of me going back to see where the
16 gunshot, because it scared me too, I ran to Salley's bedroom
17 and was knocking on her door, knocking on her door, and I
18 said -- I kept saying, Salley, I think somebody's been shot.
19 Somebody's been shot. So I walked back and I seen Frank
20 laying on the floor. Okay? With his hand over his chest,
21 over his heart.

22 Q: Okay. And did you see the defendant?

23 A: Yes.

24 Q: And what was he doing?

25 A: He was standing in the door with his hand out like

DARLENE HOLMES - DIRECT BY MS. CORNWELL

1 this.

2 Q: Were you able to see a gun?

3 A: At that moment, at that time, all I seen was Frank
4 laying on the floor and I seen Mike's hand stretched out,
5 but I never seen the gun. I just seen his fingers stretched
6 out like this.

7 Q: Okay. So he could have been holding a gun, you just
8 didn't see it? You don't know?

9 A: I didn't see the gun.

10 Q: Okay.

11 A: To be honest, I just seen his finger out.

12 Q: Okay. And once you saw Franklin on the ground and you
13 told Salley, what did y'all do next?

14 A: Well, I had to go to the back and tell her what I seen
15 because she never came out the bedroom. So I went back and
16 told her. I said, Salley, I believe Mike just shot Frank
17 because he was laying on the floor with his hand over his
18 chest.

19 Q: Okay. At any time when Franklin entered the house or
20 when you walked up to him or approached him, did you ever
21 hear him say I've got a gun or I'm going to kill you or
22 anything like that to the defendant?

23 A: No, never.

24 Q: Is that something that he would normally tell someone?

25 A: No.

DARLENE HOLMES - DIRECT BY MS. CORNWELL

1 Q: That Franklin would normally tell someone?

2 A: No, no, no. Huh-uh.

3 Q: And after you went back and told Sally what you thought
4 you saw, at that point did you go and try to call the
5 police?

6 A: Yes, ma'am. I had to go. I had on some -- my
7 nightgown. I just needed to put some pants on. It was cold
8 back then. So during that time, so I just slipped a pair of
9 pants on and went straight on out the door.

10 Q: Okay. Did you or Ms. Rivers or anybody have a phone in
11 the house?

12 A: Not to my knowledge. I know I didn't have one.

13 Q: So you had to go run down the street to call?

14 A: Yes, ma'am.

15 Q: All right. And after you did that, the police showed
16 up?

17 A: Well, during the time when I was at my brother's house
18 and when I got on the inside to make the call, calling
19 9-1-1, they said that the police was already at the scene
20 and they was looking for me. So I needed to go back to the
21 scene where it happened at.

22 Q: Okay. And when you went back to the scene, did you
23 meet with law enforcement at that time?

24 A: Yes, ma'am. There was three of them pulling up on the
25 side of the road and one of them jumped out and said we was

DARLENE HOLMES - DIRECT BY MS. CORNWELL

1 about to come and search for you, if you was dead or
2 something at the time.

3 Q: And at that time, did you give a statement to law
4 enforcement?

5 A: Yes, ma'am, I did.

6 Q: And did you tell law enforcement what you just told
7 this jury today?

8 A: Yes, ma'am, I did.

9 MS. CORNWELL: Thank you, Ms. Holmes. Please answer
10 any questions defense counsel may have.

11 THE COURT: Cross-examination?

12 MS. WYMAN: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MS. WYMAN:

15 Q: Back in November of 2015, Ms. Holmes, who was all
16 living in the home?

17 A: There was this young lady that I know. Her name is
18 Fifi. She was living there. And there was this other
19 gentleman. His name was New York. That's all I knew of the
20 name. I believe that's -- other than me and Frank.

21 Q: Okay. And you and Frank paid rent; right?

22 A: Yes, ma'am, we did.

23 Q: How much rent did you pay?

24 A: \$40 a week.

25 Q: Each?

DARLENE HOLMES - CROSS BY MS. WYMAN

- 1 A: No. Just -- yes, ma'am. Each.
- 2 Q: Oh, each?
- 3 A: Yes, ma'am.
- 4 Q: Do you work?
- 5 A: No, ma'am, I don't.
- 6 Q: You didn't work at the time either?
- 7 A: No, ma'am, I didn't.
- 8 Q: During this incident, who all was at the house?
- 9 A: There was me, this young lady named Fifi, this young
- 10 man named Greek, the other young man named New York, another
- 11 young lady and I don't know her name at the time. Well, I
- 12 don't know her name now, but I don't know her name, none of
- 13 the young ladies.
- 14 Q: And Salley?
- 15 A: And Salley. But Salley wasn't home during the time.
- 16 Q: Salley was not home during the time of the incident?
- 17 A: No, ma'am.
- 18 Q: All right. You went to Elton Robinson's house to call
- 19 9-1-1? Was that you?
- 20 A: Huh?
- 21 Q: Did you go to Elton Robinson's house to call 9-1-1?
- 22 A: No, ma'am, I didn't.
- 23 Q: Who went to call 9-1-1?
- 24 A: I went to call 9-1-1 at my brother's house. Someone
- 25 already had done called before me.

DARLENE HOLMES - CROSS BY MS. WYMAN

1 Q: Okay. Who is your brother?

2 A: Rico Johnson.

3 Q: Ma'am?

4 A: Rico Johnson.

5 Q: And when you got to Mr. Johnson's house, you called
6 9-1-1 then?

7 A: Yes, ma'am, I did.

8 MS. WYMAN: That's all the questions. Thank you, Your
9 Honor.

10 THE COURT: Any redirect?

11 MS. CORNWELL: Yes, Your Honor, briefly.

12 REDIRECT EXAMINATION

13 BY MS. CORNWELL:

14 Q: Ms. Holmes, you just indicated that Salley was not
15 home?

16 A: Well, at least that's what she told me.

17 Q: But --

18 A: She made it back home before.

19 Q: This incident happened?

20 A: Yes, ma'am.

21 Q: Okay. So when this incident happened, when Franklin
22 got shot, was Salley at home?

23 A: Yes, she was.

24 Q: Okay.

25 A: She was.

DARLENE HOLMES - REDIRECT BY MS. CORNWELL

1 Q: And that's when you ran back and knocked on her door?

2 A: Yes, ma'am.

3 Q: And told her what you thought you saw?

4 A: Yes, ma'am.

5 Q: You indicated all of these other people that live
6 there?

7 A: Uh-huh.

8 Q: To your knowledge, did any of them witness the
9 shooting?

10 A: I don't have any idea.

11 MS. CORNWELL: Thank you, Ms. Holmes.

12 THE COURT: You may step down, ma'am. Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: You may call your next witness.

15 MS. CORNWELL: Thank you, Your Honor. The State would
16 call Salley Rivers.

17 (WHEREUPON, there was a pause in the proceedings until
18 the witness entered the courtroom, after which the
19 proceedings resumed as follows.)

20 THE CLERK: Please place your left hand on the Bible
21 and raise your right hand. Raise your right hand.

22 THE WITNESS: I can't.

23 THE BAILIFF: Just a little --

24 THE CLERK: Okay. I'm sorry.

25 THE BAILIFF: She had a stroke. I remember her.

SALLEY RIVERS - DIRECT BY MS. CORNWELL

1 THE WITNESS: Okay.

2 THE CLERK: Do you hereby swear or affirm the testimony
3 you're about to give is the truth, the whole truth, and
4 nothing but the truth, so help you God?

5 THE WITNESS: Yes.

6 THE CLERK: Thank you. You may have a seat.

7 THE COURT: Do you need some help? No?

8 THE WITNESS: I'm okay.

9 THE CLERK: Okay. Please state your name again for the
10 record.

11 THE WITNESS: Salley Rivers.

12 THE COURT REPORTER: Would you spell your first name?
13 Could you spell your first name?

14 THE WITNESS: S-a-l-l-e-y.

15 THE COURT: Your witness.

16 MS. CORNWELL: Thank you, Your Honor.

17 SALLEY RIVERS, being first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. CORNWELL:

21 Q: Hey, Ms. Rivers. How are you doing today?

22 A: I'm well. You?

23 Q: I'm good. I appreciate you coming up here. I know
24 this is a tough time. If you don't mind, can you tell the
25 jury a little bit about yourself? How old you are, where

SALLEY RIVERS - DIRECT BY MS. CORNWELL

1 you live, where you grew up?

2 A: Okay. I'm from Orangeburg. I'm 62 years old.

3 Q: Okay. And where do you live?

4 A: On the Belleville Road.

5 Q: Okay. And what --

6 A: [REDACTED].

7 Q: [REDACTED]? Okay. And do you own that
8 house?

9 A: Yes.

10 Q: How long have you owned that house?

11 A: For about 10 or 11 years.

12 Q: Okay. And during November of 2015, did Darlene Holmes
13 and Franklin Degree live in your house?

14 A: Yes.

15 Q: And did they pay you rent?

16 A: Uh-huh.

17 THE COURT REPORTER: Is that a yes?

18 THE WITNESS: Yes.

19 BY MS. CORNWELL:

20 Q: Tell me a little bit about how you know or how you knew
21 Franklin back then?

22 A: Well, really, I really knew Darlene.

23 Q: Okay.

24 A: And I knew Franklin, but just barely.

25 Q: Okay. When he was living at your house, what was his

SALLEY RIVERS - DIRECT BY MS. CORNWELL

- 1 personality? What was his -- how did he act around you?
- 2 A: He was just a nice, quiet guy.
- 3 Q: Did he ever cause any trouble at your house?
- 4 A: No.
- 5 Q: Did he ever bring any trouble to your house?
- 6 A: Huh-uh.
- 7 Q: While he was living at your house, did you ever know
- 8 him to have, own or possess a gun?
- 9 A: No.
- 10 Q: Did you ever hear him tell anybody that he had a gun?
- 11 A: No.
- 12 Q: And, Ms. Rivers, do you also know the defendant in this
- 13 case, Michael Green?
- 14 A: Yes, I do.
- 15 Q: Can you tell us how you know Michael?
- 16 A: Oh, from a very young age.
- 17 Q: Did he --
- 18 A: He used to be with my brother.
- 19 Q: Okay.
- 20 A: My younger brother, about 10 years. And we knew -- our
- 21 family knew each other very well.
- 22 Q: Okay. And so Michael was known to come over to your
- 23 house every once in a while?
- 24 A: Yes.
- 25 Q: Did Michael live at your house?

SALLEY RIVERS - DIRECT BY MS. CORNWELL

1 A: No.

2 Q: During this time?

3 A: But he was always welcome.

4 Q: Okay. Did you know during this time that Michael and
5 Franklin were having disagreements with each other?

6 A: No, I didn't know that.

7 Q: If you would have known that, would you have allowed
8 Michael to come to your house when Franklin was there?

9 A: It's hard to say in particular because they -- I didn't
10 see any trouble coming.

11 Q: Okay. And the day that you were home on this night,
12 tell the jury kind of what you remember happening. Did you
13 see the shooting happen?

14 A: Nope. Huh-uh.

15 Q: Did you -- when you got home that day, was Franklin
16 home when you got home?

17 A: No.

18 Q: Was Michael at your house when you got home?

19 A: No.

20 Q: So you didn't --

21 A: I went straight to my bedroom.

22 Q: Okay. So you didn't see either one of them? You
23 didn't know either one of them were at your house?

24 A: No.

25 Q: Okay.

SALLEY RIVERS - DIRECT BY MS. CORNWELL

1 A: I looked in the -- in the -- in the den area.

2 Q: Okay.

3 A: I didn't see none of them.

4 Q: Okay.

5 A: Okay.

6 Q: And while you were in your bedroom, did you hear

7 anything?

8 A: Yes. Sitting down -- well, about three minutes after I

9 got home, I sat down to pull off my shoes and I heard a pop.

10 Q: Okay. So you heard the shot?

11 A: Yes.

12 Q: Okay.

13 A: But I didn't see anything.

14 Q: Okay. And after you heard that shot, what happened?

15 A: Well, I heard people yelling and Darlene calling me and

16 says Michael shot Frank.

17 Q: And did you walk outside or walk out of the room to see

18 what happened?

19 A: Yes.

20 Q: And what did you see?

21 A: Michael standing there and Frank lying by my china

22 cabinet.

23 Q: Did Michael say anything to you?

24 A: Yes, he did.

25 Q: What did he say to you?

SALLEY RIVERS - DIRECT BY MS. CORNWELL

1 A: He said I told you I was going to shoot somebody.

2 Q: And after he told you --

3 A: And then went out --

4 Q: I'm sorry.

5 A: -- the door.

6 Q: And then he walked out the door?

7 A: Uh-huh.

8 MS. CORNWELL: Thank you, Ms. Rivers. Please answer
9 any questions the defense might have for you.

10 THE COURT: Cross-examination?

11 CROSS-EXAMINATION

12 BY MS. WYMAN:

13 Q: Ms. Rivers, you own a three-bedroom house; right?

14 A: Yes.

15 Q: And you rented two of the --

16 A: Three and a half.

17 Q: -- bedrooms out?

18 A: Huh?

19 Q: You rented two of the bedrooms out?

20 A: Yes.

21 Q: Back in November of 2015, who did you rent the rooms
22 to?

23 A: Darlene and Frank in one and -- and Patricia Wanamaker
24 in one.

25 Q: How long had Darlene been living there?

SALLEY RIVERS - CROSS BY MS. WYMAN

1 A: On and off because he had put around her out, more than
2 anything.

3 Q: Okay.

4 A: About four months prior.

5 Q: How long had Frank been living there?

6 A: About two -- two months. He came in. He moved in with
7 Darlene after him and his -- the place that Darlene moved
8 out of had some discrepancies.

9 Q: How long have you known Darlene?

10 A: Over -- over 30-some years.

11 Q: How long have you known Frank?

12 A: About six or seven years.

13 Q: How long had she and Frank been in a relationship?

14 A: Now that, I don't know. I can tell you about I heard
15 over 15 years.

16 Q: You've heard over 15 years?

17 A: Yes. Well, I know it been a long time. I can't really
18 count.

19 Q: You have a nephew named Greek; correct?

20 A: Yes. Well, he's really not my nephew.

21 Q: And you told officers --

22 A: I had --

23 Q: Oh, I'm sorry.

24 A: Originally, he is and then he ain't. Because everybody
25 call me Aunt Salley.

SALLEY RIVERS - CROSS BY MS. WYMAN

1 Q: All right. And you told officers you couldn't call
2 9-1-1 because your nephew, Greek, took the phone?

3 A: Yes. He took the phone after all the commotion. I
4 don't know why. I don't know why he needed my phone.

5 Q: When you were in your bedroom, you heard arguing?

6 A: No. I didn't hear nothing but people talking loud and
7 --

8 Q: You didn't tell officers that you heard arguing, but
9 you thought it was Darlene and Franklin?

10 A: Well, I heard Darlene's voice and that's -- that's --
11 that's normal when Darlene's in the house. But I didn't
12 hear no arguing. No. Maybe. So I figured it was Darlene
13 and Frank.

14 Q: You heard some arguing --

15 A: Yeah.

16 Q: And you figured it was Darlene and Frank?

17 A: Okay.

18 Q: Is that -- is that your testimony?

19 A: Yeah. I'm always hearing Darlene though when she in
20 the house.

21 Q: I gotcha. Did they argue a lot?

22 A: No. No, Darlene be mainly talking. I don't hear Frank
23 and that's the truth.

24 Q: So you did not know that Michael was in the house;
25 right?

SALLEY RIVERS - CROSS BY MS. WYMAN

1 A: No. He wasn't there at the time.

2 Q: Tell me what time you got home?

3 A: I forgot.

4 Q: Okay.

5 A: After all of that commotion. Because see, I went to a

6 funeral.

7 Q: Yes, ma'am. Okay. During direct examination --

8 A: I don't know when he got home.

9 Q: -- you testified --

10 A: What time he got home.

11 Q: -- that you got home, went to your bedroom for three

12 minutes, and then heard the gunshot?

13 A: Yeah.

14 Q: Okay. What door did you come through to get to your

15 bedroom? Was it the carport door?

16 A: Yes.

17 Q: So you would have had to walk through the dining room?

18 A: That's the only entrance.

19 Q: You would have had to walk through the dining room,

20 down the hall all the way down to your bedroom; correct?

21 A: Yes.

22 Q: And who all did you see at the house?

23 A: Okay. When I walked in the door to my dining room --

24 okay? I normally look down when I come to the door of the

25 entrance between the den and the dining room and speak, see

SALLEY RIVERS - CROSS BY MS. WYMAN

1 who all is in my house, and that I do normally like
2 clockwork.
3 Q: Okay. And like clockwork, who was all at your house
4 that day?
5 A: Okay. Patricia Wanamaker. Greek and his girlfriend.
6 I forgot her name.
7 Q: Okay.
8 A: But anyway, and Darlene was down in the den. Did I
9 call Greek? Okay.
10 Q: Okay. So Patricia, Greek, his girlfriend, and Darlene?
11 A: Yes.
12 Q: Were the only people you saw in your house?
13 A: Yes. At the time.
14 Q: At the time?
15 A: Uh-huh.
16 Q: And then you went to your bedroom?
17 A: Yes.
18 Q: For three minutes and then you heard a gunshot?
19 A: Yes. And my friend was there also.
20 Q: Okay. Who's your friend?
21 A: Priest. Yeah. He was waiting on me in my bedroom.
22 Q: I believe officers asked you who all was at home and
23 did you tell them all these people you just named?
24 A: Yeah.
25 Q: Did they ask for any of their real names?

SALLEY RIVERS - CROSS BY MS. WYMAN

1 A: Yeah.

2 Q: You gave it to them?

3 A: Oh, I really didn't know none of them except one girl,
4 Patricia Wanamaker. And the only thing I know about Greek
5 is his last name, Starks.

6 Q: Starks?

7 A: That's the only thing I could tell them. I know his
8 first name, but I can't remember it.

9 Q: Yes, ma'am.

10 MS. WYMAN: No more questions, Your Honor.

11 THE COURT: Any re --

12 MS. WYMAN: Thank you, Ms. Rivers.

13 THE COURT: Any redirect?

14 MS. CORNWELL: No, Your Honor.

15 THE COURT: You may step down, Ms. Rivers. Thank you.
16 You may call your next witness.

17 MS. CORNWELL: Thank you, Your Honor. The State would
18 call Investigator Ketcherside. Your Honor, may Ms. Holmes
19 and Ms. Rivers be released from their subpoenas?

20 THE COURT: Any objection?

21 MS. WYMAN: No objection.

22 THE COURT: All right. They're free to go.

23 (WHEREUPON, there was a pause in the proceedings until
24 the witness entered the courtroom, after which the
25 proceedings resumed as follows.)

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 THE CLERK: Do you hereby swear or affirm that the
2 testimony you're about to give is the truth, the whole
3 truth, and nothing but the truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Thank you. You may have a seat. Please
6 state your name for the record. Spell your last name.

7 THE WITNESS: William Ketcherside Jr. That's K-e-t-c-
8 h-e-r-s-i-d-e.

9 THE CLERK: Thank you.

10 THE COURT: Your witness.

11 MS. CORNWELL: Thank you, Your Honor. If it's okay
12 with Your Honor, I'm going to let Mr. Bines sit over there
13 to the computer. I've got some of the photos that the State
14 intends on introducing.

15 THE COURT: That's fine.

16 MS. CORNWELL: And publishing.

17 INVESTIGATOR WILLIAM
18 KETCHERSIDE, being first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. CORNWELL:

21 Q: Investigator Ketcherside, can you tell the jury where
22 you work, what your duties are, what your position is?

23 A: Yes. I'm currently employed by the Orangeburg County
24 Sheriff's Office, where I'm a sergeant over the forensic
25 services division, and my primary responsibility is crime

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 scene investigation.

2 Q: And tell the jury a little bit about what you mean when
3 you discuss crime scene investigation. What all does that
4 entail?

5 A: Basically, we respond to the scenes with the intent of
6 processing that scene, searching and documenting and
7 collecting items from that scene that are thought to be
8 pertinent to a case. That would include ballistics, DNA or
9 biological evidence, footwear, tire treads, fingerprint
10 evidence, and so forth.

11 Q: And do you have to have any special training to be a
12 crime scene investigator?

13 A: Yes.

14 Q: And can you tell the jury a little bit about that
15 training?

16 A: I have attended multiple different trainings. Most of
17 mine are through the Central Piedmont Community College in
18 Charlotte, North Carolina, which is a partner with the
19 American Academy of Forensics. I have an 80-hour course in
20 basic crime scene techniques basically. Also, blood pattern
21 analysis and some crime scene photography.

22 Q: And were you working in that capacity on November 28th
23 of 2015?

24 A: Yes.

25 Q: Do you recall being dispatched out to [REDACTED]

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 Road in Orangeburg that night?

2 A: I do.

3 Q: What county is that in?

4 A: Orangeburg County.

5 Q: And what were you dispatched there in reference to?

6 A: In reference to a death investigation with a shooting
7 -- possible shooting incident.

8 Q: And when you arrived on scene, what did you initially
9 do?

10 A: When I arrived on scene, I began by documenting the
11 outside of the residence by photographs while waiting on a
12 search warrant and then, once the search warrant was signed,
13 I entered the residence via that search warrant.

14 Q: Okay. And once you entered the residence, what did you
15 see?

16 A: I entered at the carport area, which leads into -- it
17 has a doorway that leads into the dining area of the
18 residence. Inside of that dining room, there was a table
19 and then a hutch, I guess you would call it, and there was a
20 male victim on the floor between the table and the hutch.

21 Q: And what was the male victim wearing?

22 A: He was wearing a jacket, jeans. He was fully clothed.
23 He had on gloves and also had a backpack attached to both
24 shoulders.

25 Q: And did you photograph and document these observations?

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 A: I did.

2 Q: I'm going to show you what's been previously marked as
3 State's Exhibits 3 -- 3 through 10. One second. If you
4 will, look through these photographs and let me know if you
5 recognize those?

6 A: I do.

7 Q: And are those true and accurate depictions of the
8 photographs that you took that day?

9 A: Yes, ma'am.

10 MS. CORNWELL: Your Honor, at this time, the State
11 would move State's 3 through 10 into evidence.

12 THE COURT: Any objection?

13 MS. WYMAN: No objection.

14 THE COURT: All right. They're in.

15 (WHEREUPON, State's Exhibit Number 3 through State's
16 Exhibit Number 10, photographs, were admitted into
17 evidence.)

18 MS. CORNWELL: If you could, hold onto these. I'm
19 going to -- may I publish to the jury, Your Honor?

20 THE COURT: You may.

21 BY MS. CORNWELL:

22 Q: We're going to publish these to the jury and kind of go
23 through them. So if you can look at State's Exhibit 3?
24 What is that a photograph of?

25 A: This is a photograph of the exterior of the residence,

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 the front of the residence. It's also from the roadway.

2 Q: Okay. And looking at State's Exhibit 4?

3 A: This is a photograph of the open carport, which depicts
4 the doorway going into the dining area.

5 Q: Okay. And based on what you were able to see, is that
6 kind of the main entrance and exit of that building or of
7 that house?

8 A: Yes, ma'am.

9 Q: Okay. And looking at State's Exhibit 5?

10 A: That is the doorway in the carport leading into the
11 dining area.

12 Q: Okay. State's Exhibit 6?

13 A: This is inside the dining area. You see the table to
14 the right side of the photograph, as well as the doorway
15 that leads into another room of the residence.

16 Q: Okay.

17 A: A front room.

18 Q: And looking at this photograph -- I'll actually do it
19 on your photo so they can see. If you are -- the carport
20 door would be over here to the left-hand side, on this side?

21 A: Yes, ma'am. The carport door would be to the bottom
22 left side of the photograph.

23 Q: Okay. So if you're looking in from the carport, those
24 doors are to your left?

25 A: Yes, ma'am.

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 Q: And State's Exhibit 7?

2 A: This is a photograph depicting the dining room table.

3 It's actually a dining room. You can see the hutch or china
4 cabinet. It also has the doorway going into a hallway and
5 the doorway from the carport would be behind me in this
6 photograph.

7 Q: Okay. And State's Exhibit 8?

8 A: That is a photograph of the victim on the floor from
9 the opposite direction. I just stepped past the victim and
10 turned around and this would be a photograph back towards
11 the living room, which is to the right of the doorway coming
12 in from the carport.

13 Q: And just to go through this and clear it up a little
14 bit more, so in this photograph, the carport door is on the
15 other side of the table?

16 A: Yes, ma'am. It would be on the opposite side of the
17 table to the right side of the photograph.

18 Q: And if you were walking into the carport, this den area
19 is to the right?

20 A: Yes, ma'am.

21 Q: And looking at State's 9?

22 A: This is a photograph of the living area that is to the
23 right of the doorway coming from the carport.

24 Q: Okay. And State's 10?

25 A: This is another photograph of the same rooms from the

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 -- basically, I rotated a little bit to the left --

2 Q: Okay.

3 A: -- in that photograph.

4 Q: And that shows that there are multiple couches --

5 A: Yes, ma'am.

6 Q: -- in that room? Okay. All right. Once you were able
7 to document both the outside and the inside of the scene,
8 were you able to examine the victim more closely?

9 A: Yes, ma'am.

10 Q: And were you able to photograph and document those as
11 well?

12 A: Yes, ma'am.

13 Q: And while you were examining the victim, were you able
14 to locate any injuries on him?

15 A: Yes, ma'am.

16 Q: And what was those -- what were those injuries?

17 A: The victim had what appeared to be a gunshot wound to
18 the right side of his chest.

19 Q: Okay. And let me show you what's been marked as
20 State's Exhibits 11 through 19.

21 THE COURT: Did you say 19?

22 MS. CORNWELL: Yes, Your Honor.

23 MS. WYMAN: We object to Number 19.

24 THE COURT: Would y'all please approach?

25 MS. WYMAN: May we approach?

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 (WHEREUPON, a bench conference was held in the presence
2 of the jury but out of the hearing of the jury as
3 follows.)

4 MS. WYMAN: Your Honor, it's pretty much the same as
5 18. We don't think there's any evidentiary value there to
6 have both of them.

7 MS. CORNWELL: It's just a closer up shot showing again
8 that there's no powder or anything around it. It's just --

9 THE COURT: Why don't you just use one or the other
10 then?

11 MS. CORNWELL: Okay.

12 (WHEREUPON, the bench conference ended and the
13 proceedings resumed as follows.)

14 MS. CORNWELL: For the court reporter, remove 19 from
15 the list.

16 THE COURT REPORTER: Okay.

17 THE COURT: You're removing 18 or 19?

18 MS. CORNWELL: 19, Your Honor.

19 THE COURT: Okay.

20 THE COURT REPORTER: I'm going to just put withdrawn.

21 MS. CORNWELL: Thank you.

22 BY MS. CORNWELL:

23 Q: I'm going to show you what's been marked as State's
24 Exhibit 11 through 18. Are those also photographs that you
25 took that night?

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 A: Yes, ma'am.

2 Q: And do they accurately depict what you saw?

3 A: Yes, ma'am.

4 MS. CORNWELL: Your Honor, at this time, the State
5 would move State's 11 through 18 into evidence.

6 THE COURT: Any objection?

7 MS. WYMAN: No objection.

8 THE COURT: All right. They're in.

9 (WHEREUPON, State's Exhibit Number 11 through State's
10 Exhibit Number 18, photographs, were admitted into
11 evidence.)

12 MS. CORNWELL: May I publish to the jury?

13 THE COURT: You may.

14 BY MS. CORNWELL:

15 Q: And we're just going to go through these photographs as
16 well. Looking at State's 11, what is that a photograph of?

17 A: This is also in the living -- I mean -- correction, the
18 dining room. It depicts a photograph of the victim lying on
19 the floor. It's what we consider a midrange photograph.

20 Q: And the way that photograph is taken, where you are, is
21 that coming if you were looking from inside the den?

22 A: Yes, ma'am. If you were standing at the doorway of the
23 den or living room to the right of the carport, that would
24 be taken from that direction.

25 Q: Okay. And looking at State's 12?

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 A: This is just a midrange photograph of the victim.

2 Q: Okay. And this photo -- is it as you described that

3 the victim was fully clothed?

4 A: Yes, ma'am.

5 Q: Gloves on both hands?

6 A: Yes, ma'am.

7 Q: Both bookbag straps still on his shoulders?

8 A: Correct.

9 Q: And looking at State's 12? I'm sorry. I think that's

10 State's 13.

11 A: 13? This photograph depicts the victim's hands, which

12 are gloved.

13 Q: Okay. Is there anything in his hands or anything to

14 indicate that he was holding anything?

15 A: No, ma'am.

16 Q: And looking at State's 14?

17 A: This photograph depicts a -- the actual -- what

18 appeared to be the gunshot wound through the -- or impact

19 through the jacket the victim was wearing.

20 Q: And you stated in your training that y'all study

21 ballistics and things of that nature as a crime scene

22 investigator; right?

23 A: Yes, ma'am.

24 Q: And looking at this photograph with this indentation in

25 the clothing, would that indicate a close range shot or a

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 distant shot?

2 MS. WYMAN: Objection, Your Honor. He's not an expert
3 in that area.

4 THE COURT: Sustained.

5 BY MS. CORNWELL:

6 Q: In your training with ballistics, would that indicate a
7 high caliber or a large bullet or a small bullet?

8 MS. WYMAN: Objection, Your Honor.

9 MS. CORNWELL: Your Honor, he's indicated that he's got
10 sufficient training in ballistics through Charlotte school.
11 He's gone through the Academy and everything else. I
12 believe in his investigation and his experience he can
13 indicate -- if I can lay a little bit more foundation, Your
14 Honor?

15 THE COURT: Please do.

16 BY MS. CORNWELL:

17 Q: How many shootings have you investigated in your
18 career?

19 A: Since 2010 when I was originally transferred to crime
20 scene, I've worked somewhere around 700 to 750 crime scenes
21 with maybe half or more being shooting incidents.

22 Q: So between 3- and 400 shooting incidents?

23 A: Correct.

24 Q: All right. And through your training with ballistics
25 and everything, did that training include showing you

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 evidence of gunshot wounds and sizes and the types of
2 caliber bullets that could impact those?

3 A: In some -- in some ways, yes, ma'am.

4 Q: And prior to becoming a forensic investigator in 2010,
5 did you also go to the Academy and work --

6 A: Yes, ma'am.

7 Q: -- in law enforcement?

8 A: Correct.

9 Q: And during that time that you worked in law
10 enforcement, did you have firearms training?

11 A: Yes, ma'am.

12 Q: And did you also work with different weapons and
13 gunshots and view gunshot wounds --

14 A: Yes, ma'am.

15 Q: -- during that time as well? And how many years'
16 experience did you have prior to being a crime scene
17 investigator?

18 A: Prior to being a crime scene investigator, I started in
19 2003.

20 Q: So --

21 A: So seven years.

22 Q: So in total since 2003 up until today's date, you've
23 got about 14 years of experience --

24 A: Yes.

25 Q: -- in law enforcement?

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 A: Correct.

2 Q: And through those 14 years, you've been able to look at
3 numerous gunshots and gunshot wounds?

4 A: Yes, ma'am.

5 Q: And have you studied caliber bullets and the impact
6 that they have?

7 A: Somewhat.

8 Q: Based on all of that experience and training, would you
9 be able to tell this jury whether that was a large caliber
10 bullet or a small caliber bullet?

11 A: Based on what I saw at the scene, the impact was very
12 hard and difficult to find and, originally, I was --

13 MS. WYMAN: Objection, Your Honor.

14 A: -- unable to see.

15 MS. WYMAN: Same --

16 THE COURT: Would y'all please approach?

17 (WHEREUPON, a bench conference was held in the presence
18 of the jury but out of the hearing of the jury as
19 follows.)

20 THE COURT: You're asking him to give an opinion such
21 as that of an expert based on ballistics. You haven't
22 qualified him as an expert. If he's going to give an
23 opinion, he needs to be qualified. I mean he can say if he
24 knows what caliber, but you're asking him an expert type
25 opinion for that.

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 MS. CORNWELL: Okay.

2 THE COURT: He hasn't been qualified as such.

3 MS. CORNWELL: Okay. Thank you.

4 THE COURT: Was that your objection I take it?

5 MS. WYMAN: Thank you, Your Honor.

6 (WHEREUPON, the bench conference ended and the
7 proceedings resumed as follows.)

8 BY MS. CORNWELL:

9 Q: Investigator Ketcherside, based on your investigation,
10 do you know specifically what caliber bullet caused this
11 injury?

12 A: Only if I go based on what the SLED report says.

13 Q: Did you get a copy of that SLED report?

14 A: I did.

15 Q: And do you normally get copies of those reports as your
16 role as an investigator?

17 A: I do.

18 Q: And based on that, do you know what caliber bullet
19 created that injury?

20 A: Yes, ma'am.

21 Q: And what is that?

22 MS. WYMAN: Objection. Hearsay.

23 THE COURT: Would y'all approach?

24 (WHEREUPON, a bench conference was held in the presence
25 of the jury but out of the hearing of the jury as

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 follows.)

2 THE COURT: In order to get it in, you have to
3 establish that that's part of the investigative process and
4 the investigation of this case, that it is a report he
5 relied upon in his investigation and information he
6 received, but make sure you just lay the proper foundation.

7 MS. CORNWELL: Okay.

8 (WHEREUPON, the bench conference ended and the
9 proceedings resumed as follows.)

10 BY MS. CORNWELL:

11 Q: Before you answer that question, Investigator
12 Ketcherside, let's go back a little bit. When you
13 investigate any type of crime such as this one and you
14 collect evidence, does that evidence include collection of
15 bullets, projectiles, casings, things of that nature?

16 A: It does.

17 Q: And when you collect those things, as the lead forensic
18 investigator, do you often send those things off to get
19 tested by experts?

20 A: Yes, ma'am.

21 Q: And as part of your duty to do that, do you also
22 receive reports that they give regarding their conclusions?

23 A: I do.

24 Q: And once you get those reports, as the lead
25 investigator, do you review those reports and take it into

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 consideration in your conclusions of the investigation?

2 A: I do.

3 Q: And did that happen in this case?

4 A: Yes, ma'am.

5 Q: So you were able to ultimately distinguish what caliber
6 bullet caused this?

7 A: Yes, ma'am.

8 Q: And based off of what you know --

9 MS. WYMAN: Your Honor, I'm sorry that I keep --
10 objection, based on hearsay still.

11 THE COURT: Come on forward.

12 MS. CORNWELL: Your Honor, we'll move on.

13 THE COURT: Okay.

14 BY MS. CORNWELL:

15 Q: This is a bullet hole; correct?

16 A: Correct.

17 Q: A gun caused that hole; correct?

18 A: Yes, ma'am.

19 Q: Okay. We'll go to the next State's exhibit.

20 A: This is a -- hopefully, a photograph. It's just an
21 underexposure. By that, I mean it's just a little bit
22 darker. It also depicts the bullet impact to the jacket.

23 Q: And looking at State's Exhibit --

24 A: 16.

25 Q: -- 16.

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 A: This is a -- this photograph depicts the jacket being
2 opened up and it's hard to see with the shirt being black,
3 but this actually depicts the gunshot where the bullet
4 impacted to the shirt.

5 Q: And State's --

6 A: 17.

7 Q: -- 17?

8 A: This is a photograph of the shirt itself and the bullet
9 impact to the shirt.

10 Q: And that little tiny hole is what -- where --

11 A: Yes, ma'am.

12 Q: -- the bullet went?

13 A: Correct.

14 Q: All right. And when you have reviewed gunshot wounds
15 before, when you see a bullet hole that size, is that
16 usually something that comes from close range?

17 MS. WYMAN: Your Honor, objection.

18 THE COURT: Sustained.

19 BY MS. CORNWELL:

20 Q: Let's go to the next photograph, please. Can you
21 please tell the jury what you depict in this?

22 A: This is a photograph depicting the victim's chest and
23 the gunshot wound to the chest.

24 Q: And when you were at the scene and taking all your
25 photographs and making all of your documentations, were you

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 able to locate any physical evidence?

2 A: No, ma'am.

3 Q: So no cartridge casings, bullets, anything of that
4 nature?

5 A: No, ma'am.

6 Q: Okay. After clearing the scene, what did you do?

7 A: Once I cleared the scene, on -- I believe it was the
8 Monday after the 30th, I went to Newberry, South Carolina,
9 for an autopsy.

10 Q: Okay. And upon attending an autopsy, did you take
11 possession of any items of evidentiary value?

12 A: Yes, ma'am, I did.

13 Q: And what did you take into possession?

14 A: The victim's clothing, the backpack. Also, a
15 toxicology packet to be delivered to SLED, as well as a
16 fired bullet.

17 Q: Okay.

18 MS. CORNWELL: I'd like to have this marked.

19 THE COURT: Number 20?

20 MS. CORNWELL: Number 26.

21 THE COURT REPORTER: Okay.

22 BY MS. CORNWELL:

23 Q: Investigator Ketcherside, this is sealed. I'm going to
24 allow you to open it and tell me if you recognize what's
25 inside of that?

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 A: Yes, ma'am, I do.

2 Q: And what is that?

3 A: It is a plastic bag with a fired projectile, a fired
4 bullet inside of it.

5 Q: And is this the fired bullet/projectile that you
6 received from autopsy?

7 A: Yes, ma'am.

8 Q: And do you know that based off the lab number?

9 A: That and also on the bag on the inside it has the
10 victim's name on it as well.

11 Q: Okay. And did you submit this to SLED?

12 A: I did.

13 MS. CORNWELL: Your Honor, at this time, the State
14 would move State's 26 into evidence.

15 THE COURT: Any objection?

16 MS. WYMAN: No objection.

17 THE COURT: All right. It's in.

18 (WHEREUPON, State's Exhibit Number 26, fired
19 projectile, was admitted into evidence.)

20 BY MS. CORNWELL:

21 Q: Is that the bullet that was retrieved from Franklin
22 Degree's body?

23 A: Yes, ma'am.

24 Q: And when you took it to SLED, you got it tested?

25 A: Yes, ma'am. That was submitted to SLED for analysis.

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 Q: And once it was submitted to SLED for analysis, did you
2 receive a report on it?

3 A: Yes, ma'am.

4 Q: Did that report indicate what caliber it was?

5 A: Yes, it did.

6 MS. WYMAN: Objection. Hearsay.

7 THE COURT: Sustained.

8 BY MS. CORNWELL:

9 Q: Did you also take possession of the victim's personal
10 effects?

11 A: I did.

12 MS. CORNWELL: I'd like this marked as State's 27.

13 THE COURT REPORTER: Oh, you want it marked. I thought
14 you said it was marked.

15 MS. CORNWELL: No.

16 THE COURT REPORTER: Do you call it clothing?

17 MS. CORNWELL: It's personal effects.

18 BY MS. CORNWELL:

19 Q: We're looking at State's 27. Are those the personal
20 effects that you collected from autopsy?

21 A: Yes, ma'am, they are.

22 Q: And in these personal effects, is there a gun?

23 A: No, ma'am.

24 Q: In these personal effects, can you tell the jury what
25 that blue item right there is?

WILLIAM KETCHERSIDE - DIRECT BY MS. CORNWELL

1 A: That blue item is a Cobalt, a folding Cobalt utility
2 knife.

3 MS. CORNWELL: Your Honor, I don't know if I did this,
4 but I'd like to move 27 into evidence.

5 THE COURT: Any objection?

6 MS. WYMAN: No objection.

7 THE COURT: All right. It's in.

8 (WHEREUPON, State's Exhibit Number 27, personal
9 effects, was admitted into evidence.)

10 MS. CORNWELL: Okay. And just to let the jury see some
11 of the stuff.

12 BY MS. CORNWELL:

13 Q: Investigator Ketcherside, as part of your role as the
14 forensic investigator, are you also aware that there was
15 gunshot residue kits taken?

16 A: Yes, ma'am.

17 Q: Can you tell the jury about those?

18 A: There was one taken from one of -- I can't remember who
19 at the scene, but also -- I didn't collect that one. I also
20 collected the gloves at autopsy, which were packaged to be
21 sent to SLED for GSR analysis.

22 Q: And after you submitted all the evidence to SLED and
23 attended the autopsy, did you have any further involvement
24 in this case?

25 A: No, ma'am.

WILLIAM KETCHERSIDE - CROSS BY MS. WYMAN

1 MS. CORNWELL: Thank you. Please answer any questions
2 the defense may have.

3 THE COURT: Cross-examination?

4 MS. WYMAN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. WYMAN:

7 Q: Investigator Ketcherside, you observed what you
8 described to be a bullet impact in the dining room ceiling;
9 correct?

10 A: Yes, ma'am.

11 Q: And to be clear, the gunshot residue test -- you did or
12 somebody on your team did do one for Darlene Holmes;
13 correct?

14 A: Correct.

15 Q: And you sent off an analysis?

16 A: We sent off requesting analysis.

17 Q: Requesting an analysis?

18 A: Yes, ma'am.

19 Q: And an analysis was also requested for Frank's gloves
20 as well?

21 A: Correct.

22 Q: Each of them?

23 A: Correct.

24 MS. WYMAN: That's all the questions, Your Honor.

25 THE COURT: Any redirect?

WILLIAM KETCHERSIDE - REDIRECT BY MS. CORNWELL

1 MS. CORNWELL: Yes, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. CORNWELL:

4 Q: Investigator Ketcherside, when you were documenting
5 things in the house, such as what you believe are bullet
6 impacts and things like that, do you document everything
7 that has any even hint of evidentiary value?

8 A: When we see something such as a hole in a wall or a
9 ceiling, if it has similar characteristics of a bullet
10 impact, we try to document those. We -- because you never
11 know.

12 Q: Okay. But just because you document something doesn't
13 mean that it necessarily has anything to do with the
14 incident at hand?

15 A: Correct.

16 Q: And when you were documenting the impact that Ms. Wyman
17 referenced, did you find any bullet fragments in that?

18 A: No, ma'am, I did not.

19 Q: Did you find any -- anything that would indicate that
20 it actually was a gunshot impact?

21 A: No, I did not.

22 Q: Okay.

23 MS. CORNWELL: Madam Court Reporter, if I could have
24 these two marked 28 and 29?

25 THE COURT REPORTER: Just photographs?

WILLIAM KETCHERSIDE - REDIRECT BY MS. CORNWELL

1 MS. CORNWELL: Yes.

2 MS. WYMAN: No objection.

3 BY MS. CORNWELL:

4 Q: I am going to show you State's 28 and 29. Would that
5 be the impact that you reference in your report?

6 A: Yes, ma'am.

7 Q: And again, you took that photograph as a just in case?

8 A: Yes, ma'am.

9 Q: In looking at State's 29, if you look above this casing
10 and everything else, are there also blemishes on that as
11 well?

12 A: Yes, ma'am, there are.

13 Q: All right. But nothing in any of those blemishes or
14 anything indicate that there were ever any gunshot impacts
15 or bullet impacts?

16 A: No, ma'am.

17 Q: All right.

18 MS. CORNWELL: May I publish to the jury, Your Honor?

19 THE COURT: Have you moved them in?

20 MS. CORNWELL: Can I move in State's 29 and 28 into
21 evidence?

22 THE COURT: Any objection?

23 MS. WYMAN: No objection.

24 THE COURT: All right. They're in.

25 (WHEREUPON, State's Exhibit Number 28 and State's

WILLIAM KETCHERSIDE - RECROSS BY MS. WYMAN

1 Exhibit Number 29, photographs, were admitted into
2 evidence.)

3 MS. CORNWELL: I'm happy to have computer screens.
4 Thank you, Investigator -- Investigator Ketcherside. No
5 further questions.

6 MS. WYMAN: Your Honor?

7 THE COURT: You may step down, sir. Thank you.

8 MS. WYMAN: Your Honor, may I ask one redirect or
9 recross?

10 THE COURT: You may.

11 MS. WYMAN: Just one question.

12 RECROSS-EXAMINATION

13 BY MS. WYMAN:

14 Q: To be clear, Investigator Ketcherside, you did write in
15 your report that it appeared to be a bullet impact to the
16 dining room ceiling?

17 A: Yes, ma'am, I did.

18 Q: Okay.

19 MS. WYMAN: Thank you, Your Honor.

20 THE WITNESS: If I may explain that though?

21 THE COURT: You may explain.

22 THE WITNESS: I put in there it appeared to be because
23 at the moment it did appear to be, but I found no evidence
24 anywhere in the room, such as a bullet or a cartridge case
25 that it came from a bullet. I had nothing to support that

WILLIAM KETCHERSIDE - RECROSS BY MS. WYMAN

1 it came from a bullet, but how when I first observed it I
2 did observe it as a -- what appeared to be a bullet impact.

3 THE COURT: All right, sir. You may step down.

4 THE WITNESS: Thank you.

5 THE COURT: You may call your next witness.

6 MS. CORNWELL: Your Honor, the State would call Meghan
7 Fletcher.

8 THE COURT REPORTER: Fletcher? F-l-e-t-c-h-e-r?

9 MS. CORNWELL: F-l-e-t-c-h-e-r.

10 (WHEREUPON, there was a pause in the proceedings until
11 the witness entered the courtroom, after which the
12 proceedings resumed as follows.)

13 THE CLERK: Do you hereby swear or affirm that the
14 testimony you're about to give is the truth, the whole
15 truth, and nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Thank you. You may have a seat. Please
18 state your name and spell your last name for the record.

19 THE WITNESS: It's Meghan Fletcher, F-l-e-t-c-h-e-r.

20 THE CLERK: Thank you.

21 THE COURT: Your witness.

22 MEGHAN FLETCHER, being first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. CORNWELL:

MEGHAN FLETCHER - DIRECT BY MS. CORNWELL

1 Q: Ms. Fletcher, if you don't mind, tell the jury a little
2 bit about yourself, where you work, what your educational
3 background is?

4 A: Yes, ma'am. I am with the South Carolina Law
5 Enforcement Division in the forensic services laboratory in
6 the trace evidence department. And at the trace evidence
7 department, I perform analyses such as gunshot residue, fire
8 debris, fibers, paint, explosives, glass, and tape.

9 Q: And tell us a little bit about your educational
10 background?

11 A: I have my bachelor's degree from Chatham College in
12 biochemistry and English. I also have a Masters in forensic
13 science from Marshall University, emphasizing in forensic
14 chemistry.

15 Q: Okay. And through your job with SLED, you test gunshot
16 residue kits?

17 A: Yes, ma'am.

18 Q: And you also test items for gunshot residue; is that
19 correct?

20 A: Yes, ma'am.

21 Q: And approximately how many -- and we call those GSR?
22 Is that for short? Is that correct?

23 A: Yes, ma'am.

24 Q: How many GSR kits and testing have you done since you
25 began working at SLED?

MEGHAN FLETCHER - DIRECT BY MS. CORNWELL

1 A: I've probably tested around 150 cases, which is around
2 450 kits.

3 Q: And have you ever testified as an expert in court?

4 A: Yes, ma'am.

5 Q: And what were you qualified as an expert in?

6 A: I've been qualified in gunshot residue, paint, fibers,
7 fire debris, and trace others.

8 Q: And how many times have you testified as an expert in
9 court?

10 A: Approximately 10.

11 MS. CORNWELL: Your Honor, at this time, the State
12 would move to have Ms. Fletcher admitted as an expert in
13 gunshot residue testing.

14 THE COURT: Any voir dire?

15 MS. WYMAN: Court's indulgence, Your Honor. No
16 objection, Your Honor.

17 THE COURT: All right. The Court finds that she is
18 qualified.

19 Ladies and gentlemen of the jury, normally a person
20 cannot give opinion testimony. Normally, when a person
21 testifies, they must testify as to either what they saw,
22 heard or sensed by smell or something of that nature.

23 However, there is an exception when someone is
24 qualified because of their education and their experience.
25 They are permitted to give their opinion in certain areas if

MEGHAN FLETCHER - DIRECT BY MS. CORNWELL

1 the Court qualifies them that way.

2 Ms. Fletcher is qualified as an expert in the field of
3 gunshot residue analysis and to give opinion testimony in
4 that area. That does not mean that you must accept the
5 opinion, but it is evidence for you to use in any way that
6 you see fit and give it the weight and the credibility that
7 you feel it deserves.

8 You may proceed.

9 MS. CORNWELL: Thank you.

10 BY MS. CORNWELL:

11 Q: Ms. Fletcher, just to be clear, you have not tested any
12 evidence in this case; is that correct?

13 A: No, ma'am.

14 Q: All right. One of the things that I would like for you
15 to explain to the jury is kind of what a gunshot residue kit
16 is and what y'all look for and what y'all test for when
17 you're testing for the gunshot residue kits.

18 A: A gunshot residue kit is typically composed of four
19 particle lifts, which are basically stamps with a sticky
20 surface on them. Typically, they're collected from the
21 right palm of the hand, the right back of the hand, the left
22 palm of the left hand, and the left back of the hand.

23 What we're looking for are particles that are
24 characteristic of the primer residue. When a gun is fired,
25 all sorts of things come out of the gun and that's all

MEGHAN FLETCHER - DIRECT BY MS. CORNWELL

1 considered gunshot residue. You've got smoke, soot, lead
2 particles, projectile, as well as this primer residue that
3 we are able to test for in our laboratory.

4 Q: Okay. And when a victim has been shot, particularly
5 been shot in the chest, would y'all normally test for
6 gunshot residue on that victim?

7 A: A victim's test can be analyzed. However, it's not as
8 pertinent in most cases because we're unable to determine
9 whether they were a shooter or the victim of a homicide, an
10 accidental shooting or a suicide.

11 Q: So even if you were given a kit on say somebody's
12 gloves and those hands -- and their hands were found to be
13 close to their chest as a gunshot victim --

14 MS. WYMAN: Objection, Your Honor. Speculation.

15 THE COURT: She hasn't finished the question.

16 MS. WYMAN: Calls for speculation.

17 THE COURT: Let her -- let her finish the question and
18 then we can see. You may proceed.

19 BY MS. CORNWELL:

20 Q: And those gloves are collected, would you expect to
21 find GSR on them regardless of whether they shot a gun or
22 not?

23 A: In our laboratory, we have run some numbers on kits
24 collected from the victims of different shootings and about
25 75 percent of the time we find gunshot residue on the

MEGHAN FLETCHER - DIRECT BY MS. CORNWELL

1 victims.

2 Q: And I believe I've heard from SLED in the past that
3 South Carolina is one of the very few labs that actually
4 even does -- will actually even consider doing testing on a
5 gunshot victim; is that correct?

6 A: Yes, ma'am. The vast majority of labs in the United
7 States do not perform GSR testing on victims on a routine
8 basis.

9 Q: And is that because of what you just said, that you
10 really can't give any extra information based off of that
11 test?

12 A: Yes, ma'am.

13 Q: Also, if a victim's loved one were to come and touch
14 the body of a gunshot victim or render assistance to that
15 gunshot victim in any way, would you also expect or could
16 you expect to find a transfer of GSR onto that person's
17 hands as well?

18 A: Gunshot residue -- you can get it on your hands from
19 discharging a firearm, being in the vicinity or from
20 touching something that has gunshot residue on it. Gunshot
21 residue is very easily transferred from one object or one
22 person to another person or to another object.

23 Q: So in your expert opinion, if somebody had gunshot
24 residue on their hands, does that definitively indicate they
25 have shot a firearm?

MEGHAN FLETCHER - DIRECT BY MS. CORNWELL

1 A: If somebody has gunshot residue on their hands, the
2 only thing that I can say is that they either fired a gun,
3 were in the vicinity to or they touched something that had
4 gunshot residue on it.

5 MS. CORNWELL: Thank you, Ms. Fletcher. Please answer
6 any --

7 THE COURT: Cross-examination?

8 MS. CORNWELL: -- questions the defense may have.

9 THE COURT: Any cross?

10 MS. WYMAN: No questions, Your Honor.

11 THE COURT: You may step down, ma'am. Thank you. You
12 may call your next witness.

13 MS. CORNWELL: May I have just a moment to make sure
14 that they are here?

15 THE COURT: Uh-huh.

16 (WHEREUPON, there was a pause in the proceedings until
17 the witness entered the courtroom, after which the
18 proceedings resumed as follows.)

19 MS. CORNWELL: Your Honor, the State would call Dr.
20 Janice Ross.

21 THE COURT: All right.

22 THE CLERK: Do you hereby swear or affirm that the
23 testimony you're about to give is the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 THE WITNESS: I do.

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 THE CLERK: Thank you. You may have a seat, Dr. Ross.

2 THE WITNESS: Thank you.

3 THE CLERK: Please state your name for the record and

4 spell your last name.

5 THE WITNESS: Janice Edwards Ross, R-o-s-s.

6 THE CLERK: Thank you.

7 THE COURT: Your witness.

8 MS. CORNWELL: Thank you.

9 DR. JANICE ROSS, being first

10 duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. CORNWELL:

13 Q: Dr. Ross, can you tell the jury where you work?

14 A: At Newberry Pathology Associates in Newberry, South

15 Carolina.

16 Q: And what do you do there?

17 A: We do forensic pathology. We do autopsies for various

18 coroners of the state --

19 Q: Okay.

20 A: -- at their request.

21 Q: And will you tell the jury a little bit about your

22 education and training?

23 A: Yes. I have a bachelor's degree from the University of

24 South Carolina and my MD, a Doctor of Medicine, from Upstate

25 Medical Center in Syracuse, New York, where I did further

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 training in pathology.

2 The field of pathology, unlike surgery or pediatrics,
3 we learn how to diagnose diseases by looking at tissue under
4 the microscope and using the blood work in the hospital. So
5 we diagnose cancers, et cetera. We also learn how to do an
6 autopsy to find the cause of death.

7 In forensic pathology, I've done further training at
8 the medical examiner's offices where we learned how to
9 identify patterns of injury, whether it's a beating or a
10 shooting or a stabbing or whatever, and we learn how to find
11 cause of deaths and decide on the manner of death.

12 Q: Thank you. And are you a member of any specialized
13 medical or scientific groups or associations?

14 A: Yes. The National Association of Medical Examiners,
15 the American Association of Forensic Sciences, the South
16 Carolina Society of Pathology.

17 Q: Are you also certified by the American Board of
18 Pathology?

19 A: Yes.

20 Q: Approximately how many autopsies have you performed?

21 A: Over 11,000.

22 Q: And have you ever testified in court as an expert?

23 A: Yes.

24 Q: And that's in the field of pathology?

25 A: Yes.

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 Q: About how many times?

2 A: In South Carolina, over 150 times.

3 Q: Thank you.

4 MS. CORNWELL: Your Honor, at this time, the State
5 would move to introduce Dr. Ross as an expert in the field
6 of pathology.

7 THE COURT: Any voir dire?

8 MS. WYMAN: No, Your Honor.

9 THE COURT: She is qualified.

10 MS. CORNWELL: Thank you, Your Honor.

11 BY MS. CORNWELL:

12 Q: Dr. Ross, were you working as a pathologist in November
13 of 2015?

14 A: Yes.

15 Q: And do you recall receiving the body of the victim,
16 Franklin Degree?

17 A: Yes.

18 Q: And that was on November 30th of 2015?

19 A: Correct.

20 Q: Okay. And when you first received the body, what did
21 you do?

22 A: The body comes to us in a body bag in the morgue at
23 Newberry County Memorial Hospital. We take pictures of the
24 -- the outside of the body, clothes, and then we take the
25 clothing off, do an inventory of it and look at it more

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 closely, and then do photographs of the external body.

2 In this case, it was obvious -- there was an obvious
3 gunshot wound; so we did x-rays to find out if there was any
4 bullet or lead metal in -- left in the body. Then we do an
5 internal exam to find out what damage was done by the
6 injury.

7 Q: Okay. And when you received this victim's body, can
8 you tell the jury what he had on?

9 A: He had on a jacket and -- let me make sure. A jacket
10 and a shirt. Some blue jeans, a belt, boxer-style
11 underwear, a pair of socks, and a pair of brown boots. He
12 also was wearing a hat.

13 Q: And when you received the body, did he also have a
14 bookbag on him?

15 A: Let me see. Yes.

16 Q: And were you able to see what was inside the bookbag?

17 A: It had 11 cans of Coors beer.

18 Q: Once you removed the victim's clothing and jewelry,
19 what do you do with those items?

20 A: Well, the clothing we look at closely, and there were
21 holes in the jacket and the shirt overlying the bullet
22 wound. We look for evidence like soot and stippling. Then
23 we look at the -- we keep the clothing and send it together
24 with the other evidence. And then we look at the external
25 body.

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 Q: Okay. And when you looked at the clothing in this
2 case, you had mentioned soot and stippling. Can you explain
3 to the jury what soot and stippling are and what you're
4 looking for when you're looking for soot and stippling?

5 A: Yes. It indicates --

6 MS. WYMAN: Objection, Your Honor. She's not an expert
7 in that subject matter.

8 THE COURT: She testified regarding her training and
9 experience in looking for things like that. So your
10 objection is overruled. You may proceed.

11 BY MS. CORNWELL:

12 A: Soot and stippling have to do with the fact that when a
13 bullet comes out of a gun, so does some soot and so does
14 some powder. But the soot and powder only go a certain
15 distance, whereas a bullet will go quite far obviously.

16 So if you have soot and evidence of powder on the
17 surface of the -- wherever the bullet went in, in this case
18 in the jacket first, then you can say that the gun was
19 fairly close to the victim. If there's no powder and soot
20 there, then we call it a distant wound, which means it's
21 beyond where the powder and soot go.

22 Powder and soot will travel certain distances depending
23 on the type of weapon, the caliber of ammunition, the length
24 of the barrel, et cetera, but in general, it'll go probably
25 two feet to 36 inches.

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 Q: And were you able to find any soot or stippling on this
2 victim's clothing?

3 A: No, I did not.

4 Q: After you finished documenting the victim's clothing,
5 the personal effects and preserving those, can you explain
6 to the jury what you did in inspecting the body?

7 A: Yes. We do a thorough examination, opening the body
8 and looking at each organ of the body. In this case, there
9 was a lot of blood spilled out into the chest and abdominal
10 cavities, so we measure that. And then we look at the --
11 where the bullet path went and what organs it hit.

12 Q: And do you document those through photograph as well?

13 A: Yes.

14 Q: And did you do that in this case?

15 A: Yes.

16 Q: And I am going to show you what has been marked as
17 State's Exhibit 20. Do you recognize that photograph?

18 A: Yes. That's the entrance wound in the chest. There's
19 a lot of chest hair there. That just shows the wound, the
20 entrance wound itself, and it's in the chest just to the
21 right of midline.

22 Q: Okay. And this is a true and accurate depiction of the
23 injury?

24 A: Yes.

25 MS. CORNWELL: Your Honor, at this time, the State

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 would move State's 20 into evidence.

2 THE COURT: Any objection?

3 MS. WYMAN: No objection.

4 THE COURT: All right. It's in.

5 (WHEREUPON, State's Exhibit Number 20, a photograph,
6 was admitted into evidence.)

7 BY MS. CORNWELL:

8 Q: And can you tell the jury approximately how large the
9 actual injury was, the actual bullet hole was?

10 A: I'm not a ballistics expert. The wound itself measured
11 .38 inches in diameter, which usually means it's about a
12 medium-caliber weapon.

13 Q: Okay. And once you were able to perform the autopsy,
14 were you able to retrieve the bullet from the body?

15 A: Yes.

16 Q: I'm going to show you what's -- do you also photograph
17 that bullet?

18 A: Yes.

19 Q: I am going to show you State's 21 through 23. We're
20 looking at State's 21 through 23. Do you recognize those
21 photographs?

22 A: Yes. That is the bullet retrieved from the left lower
23 back of Franklin Degree at the autopsy.

24 MS. CORNWELL: Your Honor --

25 Q: Are these true and accurate depictions of the bullet

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 that you photographed?

2 A: Yes.

3 MS. CORNWELL: At this time, the State would move
4 State's 22 -- 21, 22, and 23 into evidence.

5 THE COURT: Any objection?

6 MS. WYMAN: No objection.

7 THE COURT: All right. They're in.

8 (WHEREUPON, State's Exhibit Number 21, State's Exhibit
9 Number 22, and State's Exhibit Number 23, photographs,
10 were admitted in evidence.)

11 BY MS. CORNWELL:

12 Q: And these photographs depict the exact condition that
13 the bullet was in when you retrieved it from the body?

14 A: Yes.

15 Q: We're looking at State's 26. That looks like your
16 autopsy number on there. Would that be the bullet that you
17 pulled from the body?

18 A: Yes, it is.

19 Q: And, Dr. Ross, can you tell the jury were you able to
20 ultimately make a finding in this case?

21 A: Yes. The bullet went through the right chest down to
22 the left back. So it was going front to back downward and
23 right to left. It went through the heart, the liver, the
24 stomach, and the kidney. It went through the left kidney,
25 and the bullet itself was found underneath the skin of the

DR. JANICE ROSS - DIRECT BY MS. CORNWELL

1 left back.

2 Q: And what was the result of those injuries?

3 A: It caused a lot of hemorrhage, especially the heart,
4 and it caused -- gosh. It was 600 ccs, about two units of
5 blood, a unit and a half of blood in the abdomen, a unit of
6 blood in the right chest, and a unit of blood around the
7 heart itself.

8 Q: So in layman's terms, would it be proper to say that he
9 basically bled to death internally?

10 A: Correct.

11 Q: Is that why there would not have been a lot of blood at
12 the scene or on the victim's clothing?

13 A: Correct.

14 Q: And based on all of your findings, were you able to
15 determine an approximate date that Mr. Degree died?

16 A: He would have died within a few minutes.

17 Q: And in your expert opinion, what is the cause of death
18 in this case?

19 A: Exsanguination, which means to bleed out due to the
20 laceration of the heart and other organs, heart and liver
21 basically, due to the gunshot wound to the chest.

22 Q: And what was the manner of death?

23 A: Homicide.

24 MS. CORNWELL: Thank you, Dr. Ross. Please answer any
25 questions defense counsel may have.

DR. JANICE ROSS - CROSS BY MS. WYMAN

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION

3 BY MS. WYMAN:

4 Q: Dr. Ross, you found a knife on Mr. Degree's belt;
5 correct?

6 A: Yes. A pocketknife attached to the belt.

7 Q: Let me show you what's been marked as State's Exhibit
8 27. Would that be the knife?

9 A: Let me see. I'm not sure. Yes, it is.

10 MS. WYMAN: Thank you. No more questions.

11 THE COURT: Any redirect?

12 MS. CORNWELL: No, Your Honor.

13 THE COURT: Okay. You may step down, Doctor. Thank
14 you.

15 THE WITNESS: Thank you.

16 THE COURT: You may call your next witness.

17 MS. CORNWELL: Your Honor, at this time, the State has
18 one final witness. Based on our prior discussion of
19 evidence, there is a video that we are going to put in
20 place. So if we could take a brief 5- to 10-minute break
21 for us to get that set up?

22 THE COURT: Okay. Ladies and gentlemen, it's actually
23 a good time for us to take an afternoon restroom break. So
24 we'll be right back with you in about five minutes.

25 If you would, please again please remember my previous

1 instruction to not discuss this case amongst yourselves.

2 We'll be right back with you.

3 (WHEREUPON, the jury exited the courtroom at 3:38 p.m.)

4 THE COURT: All right. Y'all let me know when you're
5 ready.

6 (WHEREUPON, there was a break in the proceedings from
7 3:38 p.m. until 3:53 p.m., after which the proceedings
8 resumed as follows.)

9 THE COURT: All right. Are you ready for our jury?

10 MS. CORNWELL: Yes, Your Honor.

11 THE COURT: Are you ready, Ms. Wyman?

12 MS. WYMAN: Yes, ma'am.

13 THE COURT: All right. Let's have our jury, please.

14 THE BAILIFF: Yes, Your Honor.

15 THE COURT: Wait, hold on one second. Will y'all
16 approach for just one second?

17 (WHEREUPON, a bench conference was held regarding
18 scheduling off the record, after which the proceedings
19 resumed as follows.)

20 THE COURT: Let's have our jury, please.

21 THE BAILIFF: Yes, Your Honor.

22 (WHEREUPON, the jury entered the courtroom at 3:54
23 p.m.)

24 THE COURT: You may call your next witness.

25 MS. CORNWELL: Thank you, Your Honor. The State would

JOHN STOKES - DIRECT BY MS. CORNWELL

1 call Sgt. John Stokes.

2 THE CLERK: Do you hereby swear or affirm that the
3 testimony you're about to give is the truth, the whole
4 truth, and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you. You may have a seat. State
7 your name again for the record and spell your last name.

8 THE WITNESS: My name is Sgt. John C. Stokes, S-t-o-k-
9 e-s.

10 THE CLERK: Thank you.

11 THE COURT: Your witness.

12 JOHN STOKES, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. CORNWELL:

16 Q: Sgt. Stokes, can you tell the jury about yourself,
17 where you work, how long you've been in law enforcement, and
18 what your current rank and position are?

19 A: My name is Sgt. John C. Stokes. I'm a sergeant with
20 criminal investigations division of the Orangeburg County
21 Sheriff's Office. I'm a sergeant. I supervise all the
22 criminal investigators.

23 Q: Okay. And how long have you been in law enforcement?

24 A: I've been in law enforcement for approximately 14
25 years.

JOHN STOKES - DIRECT BY MS. CORNWELL

1 Q: And what is your role in an investigation such as this
2 as sergeant?

3 A: As the sergeant, it's basically more of an
4 administrative role. You monitor the investigators and make
5 sure they do all their affidavits and warrants and search
6 warrants and subpoenas and all things are accurate.

7 Q: Okay. And in this case against Michael Green that
8 occurred on November 28th, 2015, were you working as the lead
9 investigator in that case?

10 A: I was.

11 Q: And I understand that as sergeant of investigation
12 you're kind of over all investigations?

13 A: Yes.

14 Q: As the lead investigator, what is your role in an
15 investigation such as this?

16 A: As the lead investigator, you are responsible for all
17 paperwork that's dedicated to this -- to that case, whether
18 it be arrest warrants, search warrants, subpoenas, and also
19 you can, like, delegate other roles to other investigators.

20 Q: And do all reports ultimately come to you on this case?

21 A: Correct.

22 Q: And as lead investigator, do you recall responding to
23 [REDACTED] on November 28th of 2015?

24 A: I do.

25 Q: What county is that address in?

JOHN STOKES - DIRECT BY MS. CORNWELL

1 A: The county of Orangeburg.

2 Q: And what were you responding to?

3 A: A shooting incident.

4 Q: Once you arrived on scene, what did you observe?

5 A: The victim, Mr. Franklin Degree. He was lying in the
6 dining room. He had a backpack on and also some gloves.

7 Q: Okay. And were you able to observe any physical
8 injuries on the victim at that time?

9 A: At that time, I wasn't.

10 Q: After walking through the crime scene, what did you do?

11 A: After we walk through the crime scene, we do what's
12 called a protective sweep, which is to make sure there
13 aren't any more victims or any defendants in the house. I
14 made contact with Ms. Darlene Holmes and also Ms. Salley
15 Rivers.

16 Q: And once you made contact with them, were they able to
17 give you any information that assisted in your
18 investigation?

19 A: Yes. They said that the defendant, Michael Green, had
20 shot Franklin.

21 Q: And were you also able to determine what the victim was
22 doing at that house that night?

23 A: He lived there.

24 Q: Did the defendant also live in that house?

25 A: He didn't.

JOHN STOKES - DIRECT BY MS. CORNWELL

1 Q: After speaking with Ms. Holmes and Ms. Rivers, were
2 officers able to get statements from them?

3 A: They were.

4 Q: Okay. And once they got the statements, what did you
5 do that night?

6 A: After the statements were taken, we actually searched
7 for Mr. Michael Green. We were unable to locate him at that
8 time.

9 Q: Okay. Eventually, were you able to locate the
10 defendant?

11 A: Yes.

12 Q: And approximately how much later was that?

13 A: The incident took place late that Saturday after --
14 that Saturday night. So we searched a little bit into that
15 Sunday morning and we were able to locate him early that
16 Monday morning.

17 Q: Okay. And once you were able to locate the defendant,
18 was he willing to speak with you about what happened on the
19 night of November 28th?

20 A: He was.

21 Q: When you met with the defendant, did you give him his
22 Miranda rights?

23 A: I did.

24 Q: How do you give a defendant Miranda rights?

25 A: Well, we read what's called a Miranda waiver. It's

JOHN STOKES - DIRECT BY MS. CORNWELL

1 five waivers. The defendant has to initial beside each one
2 and also sign and state they understood what they have been
3 given.

4 Q: Okay. And I'm going to show you what's been previously
5 marked as State's Exhibit 1. Do you recognize that
6 document?

7 A: I do.

8 Q: And what is that document?

9 A: A Miranda waiver.

10 Q: And is this specifically the defendant's Miranda
11 waiver?

12 A: It is.

13 Q: Okay. And when you gave the defendant his Miranda, did
14 he appear to understand his constitutional rights as you
15 gave them to him?

16 A: He did.

17 Q: And after -- how do you know that he understood those
18 constitutional rights?

19 A: He initialed beside each of them.

20 Q: Okay. And after initialing beside each right, did he
21 agree to waive those rights and speak with you?

22 A: He did.

23 Q: And is that also indicated on this form?

24 A: It is.

25 Q: Okay. For purposes of the jury, could you read the

JOHN STOKES - DIRECT BY MS. CORNWELL

1 constitutional rights as you gave them to Mr. Green?

2 A: I will. This states:

3 You have the right to remain silent. Anything you say
4 can be used against you in court. You have a right to talk
5 to a lawyer for advice before we ask you any questions and
6 to have him or her with you during the questions. If you
7 cannot afford a lawyer, one will be appointed for you before
8 any questions if you wish. If you decide to answer
9 questions without a lawyer present, you will still have the
10 right to stop answering at any time. You also have the
11 right to stop answering at any time until you talk to a
12 lawyer.

13 Q: And did he initial beside each one of those?

14 A: He did.

15 Q: And did he also sign at the bottom stating that he
16 understood those rights?

17 A: He did.

18 Q: And below on that form, is there also a waiver of
19 rights?

20 A: It is.

21 Q: And can you read to the jury what that waiver of rights
22 says?

23 A: The waiver states:

24 I've read this statement of my rights. I understand
25 what my rights are. I'm willing to make a statement and

JOHN STOKES - DIRECT BY MS. CORNWELL

1 answer questions. I do not want a lawyer at this time. I
2 understand and know what I am doing. No promises or threats
3 have been made to me and no pressure or coercion of any kind
4 has been used against me.

5 Q: And did the defendant sign off on that as well?

6 A: He did.

7 Q: To your knowledge, was the defendant fully aware of his
8 rights and his ability to waive those rights?

9 A: He was.

10 Q: And to your knowledge, was he fully aware of the
11 statement that he was giving you at that time?

12 A: He was.

13 MS. CORNWELL: Your Honor, at this time, the State
14 would move State's Exhibit 1 into evidence.

15 THE COURT: Any objection?

16 MS. WYMAN: No objection.

17 THE COURT: All right. It's in.

18 (WHEREUPON, State's Exhibit Number 1, Miranda waiver
19 form, was admitted into evidence.)

20 BY MS. CORNWELL:

21 Q: And Investigator Stokes, when you were interviewing
22 this defendant, was that interview video and audio recorded?

23 A: It was.

24 Q: I'm going to show you what's been marked as State's
25 Exhibit 2. Do you recognize this?

JOHN STOKES - DIRECT BY MS. CORNWELL

1 A: This is the DVD of the recording. The interview.

2 Q: All right. And is that the case number that's on it as
3 well?

4 A: It is.

5 Q: All right. And have you had an opportunity to review
6 this video?

7 A: I have.

8 Q: Is this a true and accurate copy of the interview as
9 you gave it to Mr. Green?

10 A: It is.

11 MS. CORNWELL: Your Honor, at this time, the State
12 would move State's 2 into evidence.

13 THE COURT: Any objection?

14 MS. WYMAN: Your Honor, we just renew our previous
15 objection.

16 THE COURT: Yes, ma'am. Subject to your previous
17 objection, the ruling is the same and it's in.

18 (WHEREUPON, State's Exhibit Number 2, DVD of statement,
19 was admitted into evidence.)

20 MS. CORNWELL: Thank you, Your Honor. May we publish
21 to the jury?

22 THE COURT: Yes, ma'am.

23 BY MS. CORNWELL:

24 Q: While he's doing that, Investigator Stokes, during your
25 interview, did the defendant make any admissions to you?

JOHN STOKES - DIRECT BY MS. CORNWELL

1 A: He did. He admitted to shooting Franklin Degree, .
2 causing his death.

3 (WHEREUPON, State's Exhibit Number 2, DVD containing
4 video statement, was played in open court. Not
5 transcribed herein. After conclusion of the video, the
6 proceedings resumed as follows.)

7 MS. CORNWELL: May we approach?

8 THE COURT: You may.

9 (WHEREUPON, a bench conference was held in the presence
10 of the jury but out of the hearing of the jury as
11 follows.)

12 MS. CORNWELL: Do you want to give a curative
13 instruction now as to why that was a needed spot or do you
14 want to wait until after the testimony?

15 THE COURT: I'm going to do it during the jury
16 instructions because basically it says if there was any
17 portion that was ordered stricken from the record because I
18 don't want them to pay more attention to it. They objected
19 to it. So I'll cover it in the proposed jury instructions.

20 MS. CORNWELL: Okay.

21 (WHEREUPON, the bench conference ended and the
22 proceedings resumed as follows.)

23 BY MS. CORNWELL:

24 Q: Investigator Stokes, that was the entirety of your
25 interview?

JOHN STOKES - DIRECT BY MS. CORNWELL

1 A: Correct.

2 Q: Did the defendant ever make any more statements to you
3 after giving you that initial statement?

4 A: No, ma'am.

5 Q: Through your investigation, were you able to determine
6 whether or not the defendant was legally allowed to possess
7 a gun under either federal or state law?

8 A: He wasn't.

9 Q: He was not?

10 A: He was not.

11 Q: So before any of this ever happened, was he already
12 committing an unlawful act by carrying that gun?

13 A: He was.

14 Q: And through the course of your interview, he kind of
15 told you a couple of different things in how it happened,
16 didn't he?

17 A: Correct.

18 Q: It sounds like at one point he claims that the victim
19 was going in his pocket and then at another point he says
20 that the victim charged him?

21 A: Correct.

22 Q: In your experience as an investigator, when people
23 change their stories like that, what does it indicate?

24 A: Deceit.

25 Q: The defendant in this mentioned the gun. Did he say

JOHN STOKES - DIRECT BY MS. CORNWELL

1 what he did with it?

2 A: He said he got rid of it.

3 Q: Did he say why he got rid of it?

4 A: He stated that would be all I would have that would be
5 important in the case.

6 Q: All right. Did he indicate what caliber it was?

7 A: A .38.

8 Q: Through your investigation with reports that you
9 received, were you able to corroborate that?

10 A: I was.

11 Q: He mentioned a box cutter in his interview and we've
12 mentioned the victim's effects. Were you aware that the
13 victim had a box cutter on him?

14 A: I was aware he had a knife on him.

15 Q: Okay. And that's what we consider a box cutter, a
16 knife, is the blue Cobalt thingee?

17 A: Correct.

18 Q: That you're referencing?

19 A: Yes, ma'am.

20 Q: All right. And is that -- it looks like it's attached
21 to the red string and the green clip?

22 A: Yes.

23 Q: Were you able to inquire as to whether or not Mr.

24 Degree often carried that around with him, whether it was
25 known that he always had that on him or not?

JOHN STOKES - DIRECT BY MS. CORNWELL

- 1 A: Yes.
- 2 Q: And what were you able to find out in your
3 investigation regarding that?
- 4 A: He used it for work.
- 5 Q: Okay. And in looking at the photographs of the victim
6 when this incident occurred, can you see -- did he ever have
7 that box cutter pulled out? Was it brandished? Did it
8 appear to be brandished in any way?
- 9 A: No, ma'am.
- 10 Q: And in fact, if you were looking at photographs,
11 looking at State's 12, can you see where that clip and that
12 red string are?
- 13 A: They appear to be on his pants, on the belt -- belt
14 loop.
- 15 Q: Can you see the actual knife or box cutter or is it
16 somewhere else?
- 17 A: It had to be somewhere else. I could only see the
18 green clip part.
- 19 Q: And based on that photograph, would it indicate that
20 that box cutter is down in his pocket?
- 21 A: Correct.
- 22 Q: Based on this photograph, does it look like it was ever
23 pulled out of his pocket?
- 24 A: It wasn't.
- 25 Q: Other than the defendant's statement, is there anything

JOHN STOKES - DIRECT BY MS. CORNWELL

1 during your investigation to indicate that Mr. Degree ever
2 had a firearm on his person?

3 A: No, ma'am.

4 Q: Is there anything in your investigation to show that
5 Mr. Degree ever owned a firearm?

6 A: No, ma'am.

7 Q: Was there anything in your investigation that indicated
8 that Mr. Degree ever said anything or threatened anybody by
9 saying that he had a firearm?

10 A: No, ma'am.

11 MS. CORNWELL: Thank you, Investigator Stokes. Please
12 answer any questions the defense may have for you.

13 THE COURT: Cross-examination?

14 CROSS-EXAMINATION

15 BY MS. WYMAN:

16 Q: Sgt. Stokes, you wrote an incident report about this
17 case; right?

18 A: Investigator Stokes. Yes, ma'am.

19 Q: Or a supplemental report actually?

20 A: Yes, ma'am.

21 Q: And you've received training on how to write reports?

22 A: I have.

23 Q: In your 14 years, you said, in law enforcement, you
24 must have handled what? Hundreds, maybe even thousands of
25 cases?

JOHN STOKES - CROSS BY MS. WYMAN

- 1 A: I've been in investigations probably about seven years,
2 but before that, yes.
- 3 Q: Okay. And so I imagine you can't possibly remember
4 every detail of every case?
- 5 A: I can't.
- 6 Q: So that's why it's so important that when you write
7 reports that they are accurate?
- 8 A: Correct.
- 9 Q: And it's so important that they be complete?
- 10 A: Correct.
- 11 Q: And that they be truthful?
- 12 A: Correct.
- 13 Q: And these reports -- they're filed for later use?
- 14 A: They are.
- 15 Q: For you or another officer to review?
- 16 A: Yes, ma'am.
- 17 Q: And so, again, it's important that it's accurate,
18 complete, and truthful?
- 19 A: Correct.
- 20 Q: So let's talk about your involvement in this case.
- 21 A: Uh-huh.
- 22 Q: You said you were lead investigator?
- 23 A: Yes, ma'am.
- 24 Q: You were not the first officer to arrive on scene
25 though?

JOHN STOKES - CROSS BY MS. WYMAN

1 A: I wasn't.

2 Q: Sgt. Smith and McDuffie and Staley were the first
3 responding officers to get to the scene; right?

4 A: I'm sure about Smith and McDuffie. I'm not really sure
5 about Staley.

6 Q: And you're sure about Smith because he actually wrote
7 the initial report?

8 A: Correct.

9 Q: When you got to the scene, those officers I assume
10 filled you in on what was going on?

11 A: Yes, ma'am.

12 Q: And so you spoke with Sgt. Smith when you got to the
13 scene?

14 A: I did.

15 Q: And he interviewed witnesses; right?

16 A: Per his -- his report, yes, ma'am.

17 Q: Where is Sgt. Smith today?

18 A: I'm not -- I'm not sure.

19 Q: Does he work at Orangeburg County Sheriff's Office
20 anymore?

21 A: He does, but he's on a special assignment. I'm not
22 really sure what he's doing right now.

23 Q: So -- okay. So that's a good example then of why
24 officers are trained to write accurate, complete, and
25 truthful reports then. So that other members of the

JOHN STOKES - CROSS BY MS. WYMAN

1 department can rely on their reports for future use, like
2 today?

3 A: Correct.

4 Q: Wouldn't you agree?

5 A: I agree.

6 Q: So, of course, as lead investigating officer, you would
7 have reviewed the initial incident report?

8 A: Correct.

9 Q: The one written by Sgt. -- by Sgt. Smith?

10 A: Correct.

11 Q: And so you are aware that Sgt. Smith interviewed Salley
12 Rivers?

13 A: Correct.

14 Q: When he got to the scene?

15 A: Correct.

16 Q: So you're aware that Salley indicated she was in the
17 room the whole time?

18 A: Correct.

19 Q: And Salley indicated that she had to change her pants
20 when she heard the gunshot?

21 A: I believe that Darlene -- I'm not sure about that. Let
22 me see it.

23 Q: When --

24 A: Do you have Sgt. Smith's report there?

25 Q: I do. Would you like to see it?

JOHN STOKES - CROSS BY MS. WYMAN

1 A: If you don't mind, yes, ma'am. Where's the part about
2 -- maybe I'm overlooking it.
3 Q: The third to the last line there.
4 A: That's what he wrote.
5 Q: So Salley had to change her pants and --
6 A: Correct.
7 Q: -- that Salley called 9-1-1 as well?
8 A: Correct.
9 Q: And also as lead investigating officer, you would have
10 reviewed all the written statements?
11 A: I will.
12 Q: And so, of course, Darlene was the only one who wrote
13 -- actually wrote a statement?
14 A: Correct.
15 Q: And so having reviewed her statement, you are aware
16 that at the time of the incident there was someone at the
17 house named Greek and someone named Fifi?
18 A: Correct.
19 Q: Someone named New York?
20 A: Correct.
21 Q: Someone named Pee?
22 A: Correct.
23 THE COURT REPORTER: Pete?
24 MS. WYMAN: Pee.
25 BY MS. WYMAN:

JOHN STOKES - CROSS BY MS. WYMAN

1 Q: Sgt. Smith mentioned in his report that there was a
2 Greek, Fifi, and a New York there that night as well?

3 A: Correct.

4 Q: You heard Salley Rivers testify about an hour or two
5 ago; so you heard her say that she told you that there were
6 people at the house?

7 A: I heard her say she told somebody. She never
8 specifically --

9 Q: Oh.

10 A: -- said me.

11 Q: Okay. But she did indicate there were people at the
12 house?

13 A: Correct.

14 Q: So as far as what you wrote, you wrote the supplemental
15 incident report?

16 A: I did.

17 Q: And none of those people I just named were listed in
18 your report; right?

19 A: Correct.

20 Q: In fact, you say in your report that aside from Salley,
21 Darlene, Frank, and Michael, no other people were there?

22 A: Correct.

23 Q: And that was after you spoke with Salley and Darlene?

24 A: Yes. What I stated was I was advised by both Salley
25 and Darlene that nobody else was there at the time of the

JOHN STOKES - CROSS BY MS. WYMAN

1 incident.

2 Q: Okay.

3 A: And it was also stated by the defendant on his recorded
4 interview that nobody was there when he actually shot Frank.

5 Yes, ma'am.

6 Q: Mr. Green turned himself in; right?

7 A: He did.

8 Q: I wanted to ask you about what Ms. Cornwell spoke to
9 you about earlier. She said that it appeared that Mr. Green
10 was changing his story because he said he was reaching in
11 his pocket and then he charged at him.

12 A: He said at one --

13 Q: And he said two things.

14 A: At one point, he said he was reaching in his coat
15 pocket and then he said he charged at him, yes.

16 Q: But actually, to clarify that, Mr. Green actually said
17 he shot him before he -- he reached in his pocket and then
18 he shot him before he could pull anything out?

19 A: That's what he said, yes.

20 Q: And then Mr. Green said he charged at him. He shot him
21 because -- after he charged at him. He shot twice?

22 A: Repeat that again?

23 Q: I'm sorry. I know that was confusing.

24 A: Yeah, it was.

25 Q: I was a little confused too.

JOHN STOKES - CROSS BY MS. WYMAN

1 A: Yeah.

2 Q: Okay. Let's repeat this. Mr. Green's statement was
3 that he shot Frank before he could pull anything out?

4 A: Correct.

5 Q: And that Frank was going in his pocket?

6 A: Before he pulled anything out of his pocket?

7 Q: Yeah.

8 A: Correct.

9 Q: Okay. And then you had indicated or you clarified on
10 the video that Mr. Green shot twice; right?

11 A: That's what he said. Correct.

12 Q: And he said he did that because Frank kept charging?

13 A: That's what he said, yes.

14 Q: Okay.

15 MS. WYMAN: No more questions, Your Honor.

16 THE COURT: Any redirect?

17 REDIRECT EXAMINATION

18 BY MS. CORNWELL:

19 Q: Sgt. Stokes, I first want to go back and discuss this
20 report that Ms. Wyman showed you from Investigator Smith.

21 A: Uh-huh. Sgt. Smith.

22 Q: Sgt. Smith. I apologize. This isn't your report. You
23 didn't write this?

24 A: No, ma'am.

25 Q: But you did review it?

JOHN STOKES - REDIRECT BY MS. CORNWELL

1 A: I did.

2 Q: And you've written hundreds of reports before; correct?

3 A: I have.

4 Q: Occasionally, do you get a name mixed up when you're
5 writing your report?

6 A: I do.

7 Q: And in the context of Sgt. Smith's report, when he's
8 discussing -- he's discussing both Salley and Darlene in his
9 report; correct?

10 A: Correct.

11 Q: And based on your knowledge of the investigation, as
12 well as based on Darlene Holmes's statement that she wrote
13 herself, does it appear that Sgt. Smith simply got the name
14 wrong when he put Salley urinated as opposed to Darlene?

15 A: Yes, ma'am. Because in Darlene's statement, she stated
16 that she actually urinated on herself and had to put pants
17 on.

18 Q: Okay. So there's no deception there, is there?

19 A: No.

20 Q: Thank you. Now, Ms. Wyman also mentioned the other
21 people that Darlene and Salley and even Mr. Green himself
22 admitted were at the house at this time: Fifi and New York
23 and Greek and several people?

24 A: Correct.

25 Q: As a law enforcement officer, if somebody does not want

JOHN STOKES - REDIRECT BY MS. CORNWELL

1 to talk to you, can you force them to talk to you?

2 A: I can't.

3 Q: Can you force them to give you a statement?

4 A: I can't.

5 Q: So all you can go on is the information that you're
6 given from witnesses that are willing to speak to you?

7 A: I'm only going to write or investigate what I can
8 corroborate.

9 Q: Okay.

10 A: I could not corroborate any -- any of those other
11 people were there at the time of the shooting.

12 Q: And is it your experience that in shootings like this
13 that witnesses sometimes become afraid and do not want to
14 come forward?

15 A: Yes, ma'am.

16 Q: And when you interviewed or when Ms. Rivers and Ms.
17 Holmes were interviewed, they were forthcoming with that
18 information that there were other people there; correct?

19 A: They were.

20 Q: Okay. But none of them seem to indicate that anybody
21 saw what happened?

22 A: I was more focused on who was at the house at the time
23 of the incident.

24 Q: And then when you interviewed Mr. Green, he told you
25 that nobody saw what he did; correct?

JOHN STOKES - REDIRECT BY MS. CORNWELL

1 A: Correct.

2 Q: And throughout his confession, as we just saw, he
3 admits he shot and killed Franklin Degree?

4 A: He does.

5 MS. CORNWELL: Thank you.

6 THE COURT: You may step down, Sergeant. Thank you.
7 You may call your next witness.

8 MS. CORNWELL: Your Honor, at this time, the State
9 rests.

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, it's about 4:30. The State has rested their case at
12 this point. It's a good time for us to take our evening
13 recess. We must take some matters up outside of your
14 presence and I'm sure that most of you don't live right next
15 door to the courthouse and might need to get home. I know
16 it's raining and hopefully you can get home safely.

17 Again, please remember my instruction to you to not
18 discuss this case with anyone or allow anyone to discuss
19 this case with you. Also, do not do any independent
20 research or read anything that may be in the newspapers or
21 TV or anything. I don't know if there is, but just in case,
22 I have to caution you about not doing any independent
23 research or talking to anyone about the case.

24 If you would, please be back here in your jury room
25 tomorrow at 9:15. Then we will proceed with the trial of

1 the case. Have a nice evening.

2 (WHEREUPON, the jury exited the courtroom at 4:33 p.m.)

3 THE COURT: Any motions?

4 MS. WYMAN: Yes, Your Honor. Your Honor, I would like
5 to move for a directed verdict in favor of the defense in
6 that the evidence, when viewed in the light most favorable
7 to the State, fails to create an issue for the jury.

8 Your Honor, the evidence presented is not substantial
9 enough to prove Michael Green guilty of murder. Murder is
10 defined in the South Carolina Code as the killing of any
11 person with malice aforethought, and the State did not
12 present any evidence in their case in chief to support the
13 elements of murder.

14 The State's witnesses didn't -- did not indicate in
15 their testimony any malice or aforethought. At most, all
16 the witnesses could say was that they thought Michael shot
17 Franklin. They didn't testify as to Michael's demeanor.
18 Therefore, can't establish that they're having -- there was
19 having -- or he didn't have any malice aforethought.
20 Further, his video statement indicated he thought he was
21 getting attacked, which shows he acted out of fear for his
22 safety, not out of any malice or ill will.

23 Your Honor, this leaves no issue for the jury to decide
24 and, therefore, I move for a directed verdict in our favor.

25 THE COURT: All right. Solicitor?

1 MS. CORNWELL: Thank you, Your Honor. Your Honor, as
2 the Court knows, when ruling on a motion for directed
3 verdict, the trial Court is concerned with the existence or
4 nonexistence of evidence, not its weight.

5 In the case at hand, the State has put forth sufficient
6 evidence regarding the murder, the unlawful killing with
7 malice aforethought. The first witness, Darlene Holmes,
8 indicated that she heard arguing, that she understood
9 Franklin to be upset. When she heard the gunshot, she
10 turned around and saw Michael had shot Franklin.

11 Salley Rivers indicates she heard a gunshot. When she
12 came out, she saw the defendant and the defendant looked her
13 in the eye and told her I told you I was going to kill
14 somebody. That is malice.

15 In interviewing Mr. Green, Mr. Green told Sgt. Stokes
16 on numerous occasions that he shot him, he busted him, he
17 put a cap in him. He indicates on several times, you know,
18 you don't bring that to my table. That they had been
19 fighting. That he was -- he inferred that he was angry and
20 that, in and of itself, would be malice as well.

21 And as Your Honor knows, case law has stated that
22 malice is an intentional act of violence. Malice can be
23 inferred simply by the use of a deadly weapon and that
24 malice can happen -- there's no time limit on malice. It
25 can happen in the second that the deadly shot is fired.

1 So the State would contend that there is sufficient
2 evidence that there is malice in this case, primarily based
3 on the defendant's own statement and his demeanor and
4 aggression in that interview, as well as what he said to
5 Salley Rivers. Therefore, we would respectfully ask that
6 you deny the defense's motion for a directed verdict.

7 THE COURT: All right. Based upon the evidence that
8 has been presented thus far, as the Court is concerned as to
9 the existence of evidence, there has been direct and
10 circumstantial evidence tending to establish the defendant's
11 guilt on each of the elements of each of the charges -- on
12 each charge -- of the one charge of murder, and your motion
13 is respectfully denied.

14 MS. WYMAN: Thank you, Your Honor.

15 THE COURT: Have you had an opportunity to discuss with
16 your client whether or not he wishes to testify?

17 MS. WYMAN: May I have another minute or two?

18 THE COURT: Sure.

19 (WHEREUPON, there was a pause in the proceedings as the
20 defendant and counsel exited the courtroom, after which
21 the proceedings resumed as follows.)

22 THE COURT: Solicitor, I just asked Deputy Morgan to
23 let the defense counsel know if they need overnight to talk
24 to him so he can make his decision --

25 MS. CORNWELL: Okay.

1 THE COURT: -- just to let us know.

2 (WHEREUPON, there was a pause in the proceedings during
3 which the defendant and counsel returned to the
4 courtroom, after which the proceedings resumed as
5 follows.)

6 MS. WYMAN: I'll take you up on the offer.

7 THE COURT: You want to make a decision in the morning?

8 MS. WYMAN: Yes, ma'am.

9 THE COURT: All right. Certainly. All right. We'll
10 be in recess until 9:15.

11 MS. WYMAN: Thank you, Your Honor.

12 MS. CORNWELL: Thank you.

13 (WHEREUPON, the proceedings adjourned for the day at
14 4:41 p.m.)

15
16 MAY 24, 2017

17 (WHEREUPON, the proceedings resumed at 10:23 a.m.)

18 THE COURT: Before we get started, I understand -- I'm
19 going to place the defendant under oath and go over his
20 rights, but prior to that, Ms. Wyman, I understand that your
21 client is not going to testify. Is that correct?

22 MS. WYMAN: Yes, Your Honor.

23 THE COURT: And just so that we don't have to bring the
24 jury in and out, I understand also that you intend to rest
25 your case?

1 MS. WYMAN: Yes, Your Honor.

2 THE COURT: So would you like to go ahead and reargue
3 your motions on the record so we don't have to bring the
4 jury in and out?

5 MS. WYMAN: Yes, Your Honor. Thank you.

6 We renew our first directed motion from yesterday and
7 we also move for a directed verdict on additional grounds.
8 Your Honor, the State has failed to disprove self-defense.
9 We cite the elements set forth in State v. Dickey.

10 Your Honor, applying the law to the facts, even viewed
11 in the light most favorable to the State, shows that, first
12 of all, Mr. Green was not at fault in bringing on the
13 difficulty. Frank came in the door, was already speaking
14 aggressively. Frank then stated he had access to a gun.
15 Frank then reached in his pocket and then Frank was found
16 with a deadly weapon in his possession.

17 Secondly, Mr. Green actually believed he was in
18 imminent danger of losing his life or sustaining serious
19 bodily injury. State v. Fuller says words accompanied by
20 hostile acts may, depending on the circumstances, establish
21 a plea of self-defense. And Mr. Green also had a right to
22 act on appearances.

23 Third, Your Honor, a reasonable prudent man of ordinary
24 firmness and courage would have entertained that same belief
25 based on Frank's words and actions. A person in Mr. Green's

1 position, along with an injured hand, confronted with
2 Frank's behavior would have entertained that same fear when
3 faced with an attack by an angry man who appeared to be
4 reaching for a weapon.

5 Lastly, Mr. Green had no other probable means to avoid
6 the danger. He was faced with a difficult decision and the
7 fact that he was already injured and was being put in a
8 situation by Frank's behavior, he fired a warning shot in an
9 effort to stop Frank, but Frank continued to charge.

10 Therefore, the State has failed to carry their burden
11 and we are entitled to a directed verdict as a matter of
12 law.

13 THE COURT: Solicitor?

14 MS. CORNWELL: Again, Your Honor, we're looking for the
15 existence of evidence, not the weight of evidence. We would
16 rely on our single argument regarding the first directed
17 verdict motion as far as the murder charge. We believe
18 there's sufficient evidence in the record of malice and,
19 obviously, there was a killing that occurred and there's
20 evidence of that.

21 As far as the self-defense argument goes, I believe
22 that the State has disproven not only just one element of
23 self-defense, but each and every element of self-defense.

24 As far as the bringing on the difficulty, I think the
25 State has shown that Mr. Green unlawfully armed himself with

1 a firearm prior to going over to the victim's home. He went
2 to the victim's home when he, by his own words, stated that
3 he had been beefing. So he went over there knowing that he
4 was going to the victim's home, where the victim and he did
5 not get along, and he armed himself prior to going over
6 there.

7 There's also testimony that he was in the yard when the
8 victim came home. That the victim entered inside the home.
9 The defendant was not inside the home. The defendant, in
10 fact, followed the victim inside the home and that's where
11 he shot him, again bringing on the difficulty.

12 As far as what a reasonably prudent person would think
13 and a reasonable fear of great bodily injury or imminent
14 death, Your Honor saw the video. We all saw in no way did
15 he indicate that he was ever afraid of the victim, that he
16 feared for his life or anything like that.

17 As far as what a reasonably prudent person would have
18 believed, I think the State can indicate that any reasonably
19 prudent person would believe that the only person that had a
20 right to self-defense in that moment would have been the
21 victim in his own home being pursued by someone who was
22 known to be aggressive and carry a gun.

23 And as far as no probable means to avoid the danger, he
24 had several ways of avoiding the danger. He could have not
25 come to the victim's home. He could have not brought a

1 firearm. He could have not followed the victim inside of
2 the home once there was an argument outside.

3 So I believe that there's more than enough evidence to
4 disprove each and every element of self-defense, not just
5 one element.

6 THE COURT: All right. Based upon the evidence
7 presented, your motions for directed verdict as indicated
8 yesterday as far as the murder charge remain the same for
9 the same reasons.

10 In regards to the self-defense argument, which has been
11 added, the Court finds, as detailed by the solicitor, that
12 there is evidence tending to establish the disproving of the
13 self-defense, and your motion is respectfully denied.

14 MS. WYMAN: Thank you, Your Honor.

15 THE COURT: All right. Mr. Green, if you would, please
16 stand and be placed under oath.

17 THE CLERK: Please raise your right hand. Do you
18 hereby swear or affirm that the testimony you're about to
19 give is the truth, the whole truth, and nothing but the
20 truth, so help you God?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Would you please state your
23 name for the record?

24 THE DEFENDANT: Michael L. Green.

25 THE COURT: Mr. Green, at this time, I'm going to

1 explain to you certain of your rights. If you do not
2 understand anything that I say, please let me know. If you
3 want me to explain anything in further detail, also please
4 let me know. Do you understand?

5 THE DEFENDANT: Yes.

6 THE COURT: We've reached the stage of the trial where
7 you may present your defense. You have the right to claim
8 the protections given to you by the Fifth Amendment of the
9 Constitution of the United States. This states in part that
10 no person shall be compelled in any criminal case to be a
11 witness against himself. This means that you cannot be
12 required to testify in this case.

13 You have the right to testify on your own behalf.
14 However, no one can make you testify. This is a personal
15 right. No one can waive this right except for you.

16 If you decide to testify, you will be subject to the
17 same rules that govern other witnesses and you may be
18 examined and cross-examined on any relevant issue in this
19 case. In addition, if you have any convictions involving
20 dishonesty or false statement or for crimes punishable by
21 imprisonment for more than one year and I determine that the
22 probative value of admitting this evidence outweighs the
23 prejudicial effect to you, the solicitor will be able to
24 introduce your record and attack your credibility.

25 If you decide to testify, this decision on your part

1 must be freely, voluntarily, and intelligently made, with
2 the knowledge of the protections given to you by the Fifth
3 Amendment and the consequences of your decision to testify.
4 If you decide not to testify, I will instruct the jurors
5 they cannot give the fact that you did not testify any
6 consideration whatsoever and that there is to be absolutely
7 no prejudice to you because you did not testify.

8 It is left entirely up to you as to whether or not you
9 wish to testify. You can talk to your attorneys, your
10 family, your friends, anyone else, but the ultimate decision
11 is up to you. Do you understand what I've explained to you?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you have any questions about what I've
14 explained to you?

15 THE DEFENDANT: No.

16 THE COURT: Have you talked with your attorneys as to
17 whether or not you wish to testify?

18 THE DEFENDANT: Yes, I have.

19 THE COURT: Do you need any more time to talk to them?

20 THE DEFENDANT: No, I don't.

21 THE COURT: Do you wish to testify?

22 THE DEFENDANT: No, I don't.

23 THE COURT: All right, sir. Please have a seat.

24 Anything further before I bring the jury out?

25 MS. CORNWELL: Actually, yes, Your Honor.

1 THE COURT: Right.

2 MS. CORNWELL: Based on State v. Beatty, the decision
3 the Supreme Court recently had, they indicated that the
4 State laws were going to go back to what common law was
5 where, if the defense does not present any evidence or
6 submit any witnesses, that the State can request that they
7 do their closing argument first. We would be able to follow
8 with our closing argument and they would be limited to a
9 brief reply. The State would request that that procedure be
10 put in place today.

11 THE COURT: Defense?

12 MS. WYMAN: Your Honor, we oppose that. Our
13 understanding is that Beatty is not final yet. Oral
14 arguments are being heard on June 15 and we think that
15 Beatty is not yet effective or controlling.

16 THE COURT: What we'll do is, considering that it's not
17 a final decision at this juncture and the defense did not
18 present any testimony, we will allow defense to close last.

19 MS. CORNWELL: Thank you, Your Honor.

20 THE COURT: And the only other thing just for the
21 record is that we did have a charge conference this morning
22 regarding all the jury instructions. The defense has
23 requested a self-defense charge, as well as voluntary
24 manslaughter, which has been included in the charges, and
25 both parties have had an opportunity to review the proposed

1 jury charges, along with the verdict form, and I understand
2 that there are no objections to the charges. Is that
3 correct?

4 MS. CORNWELL: No objection from the State, Your Honor.

5 MS. WYMAN: No objection from the defense, Your Honor.

6 THE COURT: All right. Let's have our jury, please.

7 THE BAILIFF: Yes, Your Honor.

8 MS. CORNWELL: Do you mind if I turn the TV on, Your
9 Honor?

10 THE COURT: Sure.

11 (WHEREUPON, the jury entered the courtroom at 10:32
12 a.m.)

13 THE COURT: Welcome back, ladies and gentlemen of the
14 jury. Thank you for your patience this morning. I promise
15 we were working. It's through no fault of the parties that
16 we're a little bit delayed this morning, but sometimes it's
17 unavoidable. So again, I thank you for your patience.

18 We are now ready to proceed. Defense?

19 MS. WYMAN: The defense rests, Your Honor.

20 THE COURT: Thank you, ma'am. Ladies and gentlemen of
21 the jury, both parties have rested their case. It is now
22 time for the closing arguments of counsel. Please pay close
23 attention.

24 MS. CORNWELL: Thank you, Your Honor. May it please
25 the Court.

1 THE COURT: Yes, ma'am.

2 MS. CORNWELL: Counsel.

3 CLOSING ARGUMENT ON BEHALF OF THE STATE

4 MS. CORNWELL: A jealous boyfriend. An aggressive
5 individual. That was the picture the defense painted for
6 you at the beginning of this trial. It was dramatic. It
7 was downright gripping. I was ready to sit back, grab my
8 popcorn, and watch what was going to happen on the stand.

9 But what the defense told you was going to happen --
10 that didn't come to fruition. You heard that the only
11 person that was aggressive throughout this whole case was
12 the defendant, Michael Green.

13 What did you hear about Franklin Degree? You heard he
14 was kind. He was caring. He was loving. He was a hard-
15 working man who had a passion for fishing. He was quiet,
16 kept to himself. He didn't cause any trouble and he didn't
17 bring any trouble around. That's who Franklin Degree was.

18 The person that was known for violence and who always
19 carried a gun, based on his own words, is sitting right
20 there, and that's the defendant, Michael Green.

21 The night that this incident occurred, Franklin Degree
22 wasn't looking for any trouble. He went to work. He likely
23 went fishing when he got off work because that was his
24 passion. Then he went to Bojangles and got himself some
25 chicken, grabbed a couple of beers, and headed home. He

1 intended on eating dinner, having a few drinks with his
2 girlfriend, and going to bed.

3 Unfortunately for him, the defendant had other ideas in
4 mind because the defendant armed himself with a firearm,
5 unlawfully and illegally, went to the victim's house and,
6 when the victim rode up on his bicycle, the defendant
7 confronted him. They had words.

8 Franklin Degree, being the upstanding man that he is,
9 walked away. He walked inside the house and left the
10 defendant standing in the yard. He spoke to his girlfriend,
11 as you heard, and his girlfriend walked away. She heard a
12 gunshot and that was the last thing between her and
13 Franklin.

14 There is no active aggression by Franklin Degree.
15 There was no jealousy.

16 Before I get into any more of this case, I'm going to
17 talk to you a little bit about the law. I told you at the
18 beginning of this case the defendant is charged with murder.
19 Murder in South Carolina is the unlawful killing of another
20 with malice aforethought. That can be either expressed or
21 implied. As I've told you, premeditation is not an element
22 of murder in South Carolina.

23 So what is malice? Malice is an intentional act of
24 violence. It's a reckless disregard for the welfare of
25 another. It's conduct that signifies a conscious effort of

1 creating a high risk of serious bodily injury to another. I
2 told you that the use of a deadly weapon in and of itself
3 may be considered malice. And there's no time limit that
4 may attach. It can happen at the very moment of the fatal
5 blow.

6 And finally, that malice can be expressed or implied.
7 You don't have to utter the words I'm going to kill you.
8 Just by pulling a gun, pointing it at somebody, and
9 shooting, that's evidence of malice. And what the defendant
10 did by following the victim inside his home, pulling a gun,
11 pointing it at him and shooting him is murder. It is the
12 unlawful killing with malice aforethought.

13 While I know this was a pretty short trial for y'all
14 and I'm going to try not to keep you here too long, I do
15 want to go through what some of the witnesses told you, just
16 kind of to remind you of where we're at.

17 The first witness we heard from was Darlene Holmes.
18 She and Franklin lived together at Salley's house. She told
19 you that the victim did not own a gun. She also told you
20 that the victim had a speech impediment and it made it
21 difficult for him to speak when he was angry. She never
22 heard the victim tell the defendant he had a gun and she was
23 the last person to be in front of that -- that victim before
24 the defendant killed him.

25 She told you that the defendant was not in the house

1 when the victim came inside. She was inside the house. She
2 had gotten up to go to the restroom and that's when Franklin
3 came in. She spoke to Franklin and, as she walked away, she
4 heard the gunshot. When she turned around and came back in
5 the hall, she saw the defendant with an arm outstretched
6 towards the victim, and she ran and told Salley and the
7 police that the defendant shot the victim.

8 We heard from Salley Rivers -- and one other thing
9 about Darlene. Darlene also told you even though she had a
10 16-year relationship or a 15-year relationship with Franklin
11 Degree, she was also friends with Michael Green. Michael
12 was a friend as well.

13 We talked about Salley Rivers. Salley owns the house
14 at [REDACTED]. She told you that the victim lived
15 there and that Darlene and he paid rent. She also told you
16 the victim didn't own a gun. He didn't have a gun in her
17 house. She told you the victim was a quiet guy who never
18 caused any problems.

19 She also told you that she grew up with the defendant.
20 She knew him well. He was able to come over to her house.
21 I even asked her if she knew whether or not there was a
22 disagreement between Franklin and Michael and she said, no,
23 she didn't know. Neither did Darlene.

24 That's because there wasn't a disagreement between
25 Franklin and Michael. The only disagreement they had is

1 whatever the defendant wants you to believe as his reason
2 for killing him, but there is no evidence anywhere in this
3 record other than the defendant's own statement to police
4 that there was ever a dispute between Franklin and Michael.

5 She told you that the defendant was not in the house
6 three minutes prior to her hearing the gunshot because when
7 she came home she also said the defendant wasn't in the
8 house. And then she told you the most important part, the
9 most malicious part of this whole thing. She said that when
10 she came out and she saw the defendant, he looked at her and
11 told her I told you I was going to kill someone. And then
12 he left the house.

13 Salley doesn't have any reason to make that up. She's
14 actually known the defendant much longer than she knew
15 Franklin Degree. She told you on the stand that she had
16 known Franklin for about six years and he'd only lived with
17 her for about two months. She's known the defendant her
18 whole life. They grew up together. He lived down the road
19 from her.

20 The defense is going to talk to you about the
21 credibility of the witnesses, and this is where you get to
22 use your common sense. You know in everyday life when
23 somebody is being truthful and when somebody is being
24 dishonest, when somebody has motive to tell you something
25 and when somebody has motive to lie. You know who is being

1 truthful and who is not.

2 And when you judge the credibility of the witnesses,
3 you get to consider their demeanor on the stand, whether or
4 not they were forthright or hesitant, whether or not their
5 stories were corroborated, whether or not they were
6 consistent, and did they have a reason to be prejudiced or
7 biased.

8 And I would submit to you that neither Darlene Holmes
9 nor Salley Rivers had any reason to be untruthful on the
10 stand. They were consistent in what they told you. Their
11 stories corroborated, not just what they told you today, but
12 what they told police 18 months ago. They weren't hesitant
13 and they didn't have a reason to be biased or prejudiced.
14 Both of them were friends with the defendant. They're not
15 getting anything out of lying about what the defendant said
16 or did.

17 We heard from Investigator Ketcherside. He told you
18 that when he came into the house, the victim was lying on
19 his back in the dining room. He still had his gloves on.
20 He still had both straps of his book bag on his back, and
21 that's important and I keep bringing that up because if
22 there was an argument, if somebody was going to fight -- I'm
23 from the country as well and I know when you're about to
24 fight somebody and when you're about to be aggressive, the
25 first thing you're going to do is you're going to take off

1 your gloves and take off your bag. You don't want anything
2 to hold you back. If you're a female, you might take out
3 your earrings too. That's just me.

4 Franklin didn't have a chance to do that. He walked
5 inside his home. He spoke to Darlene and before he even had
6 a chance to take his gloves off and put his bookbag down,
7 that defendant came in and killed him in cold blood.

8 He told you that there was a gunshot wound to the chest
9 and we looked at those photographs and you can see just how
10 little that impact was on the clothes. And you're going to
11 get to take these pictures back there and you're going to
12 get to look at them. This photograph right here shows you
13 that that defendant was nowhere close to the victim when he
14 shot him. There was no reason for the defendant to shoot
15 him. There was no active aggression on the part of Franklin
16 Degree.

17 This shot, this little blemish in the jacket, shows
18 that that bullet had to travel a pretty far distance and
19 that's why it made such a small impact. You've watched TV
20 and seen shows. You've seen how bigger bullets make bigger
21 impacts and the farther a bullet has to travel, the smaller
22 the hole is going to be. This is a minuscule hole. This
23 shows that that defendant was not anywhere near the victim
24 when he shot him.

25 He photographed the scene and we saw everywhere in all

1 the rooms where everybody could have been and where
2 everybody could have been standing. You saw the victim in
3 this case had just had time to set down his box of chicken
4 before he was shot dead in the living room.

5 You've also heard about more than one shot. The
6 defendant at some point says that he shot twice. He doesn't
7 know how many times he shot. He doesn't know where he shot
8 him. There is no evidence that there was ever more than one
9 shot in this case. The defendant pulled his weapon. He
10 fired one time, hit Franklin Degree in the chest, and killed
11 him, and he died within minutes.

12 He also told you he went to autopsy. He collected the
13 bullet and had the bullet tested by SLED. There was a lot
14 of testimony trying to figure out what caliber bullet it was
15 and I was simply trying to get Investigator Ketcherside to
16 corroborate what the defendant actually did say in his
17 statement, that it was a .38.

18 If you know anything about weapons, you know that a .38
19 -- and you've seen the bullet. It is a smaller bullet, and
20 you'll have an opportunity to look at the bullet when you go
21 back to your evidence room or to your jury room as well, but
22 you will also notice in this bullet that it doesn't
23 mushroom. There's no markings on it, nothing to show that
24 it hit anything, that it went through anything. It was a
25 clean shot made from a distance that killed the victim.

1 There was no act of aggression.

2 You finally heard from Meghan Fletcher. She was the
3 trace evidence expert, the GSR expert, and you might have
4 wondered why we put her up. There was GSR that was
5 collected in this case and it was not tested. Why didn't
6 the State test it? We told you why we didn't test it.
7 Because the shooting victim has clearly been associated with
8 a firearm discharge and the results of a GSR test cannot
9 offer any more information than what is already known.

10 You were also told that if a witness touches a gunshot
11 victim, GSR can transfer to them, despite them never
12 touching a weapon. Why is this important? Well, you heard
13 from the only testimony from the defendant that this victim
14 allegedly had a gun, had something in his pocket. GSR
15 testing can be done. However, that GSR testing is not going
16 to prove or disprove whether anybody had a gun except for
17 the defendant. Clearly, the defendant had a gun. Clearly,
18 he shot it and, clearly, he killed the victim.

19 The evidence that you do have that supports that the
20 victim never had a firearm on him is that nobody ever heard
21 the victim say he had a gun. You know that Darlene and
22 Salley stated that he never owned a gun. There was never a
23 gun in the house. So there is nothing in this record other
24 than the defendant's statement that the victim allegedly had
25 a gun.

1 We heard from Dr. Ross, who is an expert in forensic
2 pathology. She confirmed that there was no soot or
3 stippling on the victim's clothing or body and she told you
4 that that indicates that the bullet was fired from a
5 distance. This was not a close shot. This was not a victim
6 charging towards the defendant. There was no act of
7 aggression. He had simply walked into his dining room,
8 placed his box of chicken on the table, and got killed.

9 She told you that the victim died from a fatal gunshot
10 wound to the chest, which lacerated the heart, and that the
11 victim bled to death internally within minutes of being
12 shot. That's why in the pictures you don't see a lot of
13 blood. You don't see a lot of gore. It's not like you see
14 on TV or in the movies. There is a very small entry wound
15 and from that entry wound the victim died within minutes.
16 She also told you that the manner of death in this case is
17 homicide.

18 You also heard from Sgt. Stokes. Sgt. Stokes told you
19 again he saw the victim lying on the back -- on his back in
20 the dining room. That he spoke to witnesses, Salley Rivers
21 and Darlene Holmes, and they told him that they thought that
22 Michael Green was the one that killed the victim.

23 He interviewed the defendant. You saw him give him his
24 rights, his waiver of rights. The defendant knew fully well
25 what he was talking about when he gave his statement. It

1 was voluntarily done. It was knowingly done. It was
2 intelligently done.

3 You even heard the victim -- I'm sorry -- the defendant
4 in his statement say that the reason he waited so long to
5 come and talk to police is because he had to get his head
6 right. What that means is he had to get his story straight.
7 He had to figure out what story he could tell law
8 enforcement to try to get away with the murder of Franklin
9 Degree. And he didn't do a very good job of it because
10 you'll hear in his confession not only does he give
11 inconsistent statements, but he shows evidence that never
12 came into this courtroom.

13 He also told you that the defendant is not allowed to
14 own or possess a firearm under federal or state law. Why is
15 that important? Because the defendant knew he couldn't have
16 a firearm, armed himself anyway, and went to the victim's
17 house. He was looking for trouble and he found it. And by
18 finding it, he did exactly what he intended on doing. He
19 killed Franklin Degree.

20 The defendant, in his statement, claimed that he and
21 the victim had been beefing since last month. There's no
22 indication of that. Salley and Darlene both told you they
23 had no idea there was any trouble. The only person who
24 claimed that there was trouble between them is the defendant
25 and you have to wonder why he would even bring that up.

1 Well, he brought that up because when he was getting
2 his head right, when he was getting his story straight, he
3 thought, well, if we've got problems, then I can give this
4 self-defense argument. I can give this self-defense story.

5 The problem he didn't realize is by telling law
6 enforcement that he had been beefing since last month, he
7 also negates his self-defense argument because, as you're
8 going to hear in a little while, the first element that you
9 have to establish in order to prove self-defense is that you
10 were not the fault -- you are without fault in bringing on
11 the difficulty to yourself.

12 Clearly, by arming himself, telling police that they
13 had been fighting for a month, and then coming to the
14 victim's house with a gun, he's brought the danger onto
15 himself. So he's automatically failed that first element of
16 self-defense that he took two days to come up with.

17 He told you he had injured his hand fighting someone
18 the night before. He said that he had busted someone in the
19 mouth and their tooth went into his hand and that's why he
20 couldn't fight the victim. If he thought he was going to
21 fight the victim, why did he come over to his house in the
22 first place? Why did he arm himself with a gun?

23 That statement there also shows you that the only
24 aggressive person in this case is the defendant. The only
25 one known to come and try to fight people, to try to cause

1 trouble is the defendant. He admits he never saw the victim
2 with a weapon. He never saw a gun. He never saw any type
3 of weapon.

4 He told you that there was no one in the room when he
5 shot the victim and then he told you that he got rid of the
6 gun. Why did he get rid of the gun? Because he knew that
7 was an important piece of evidence.

8 If this is self-defense, if he were merely defending
9 himself, why would he need to get rid of the gun? Why would
10 he need to worry about evidence against him? That's not
11 what a reasonable person would think if they simply defended
12 their life. The defendant got rid of the gun because he
13 knew he wasn't defending his life. He knew what he did was
14 go to the victim's house and murder him, and that's why he
15 had to get rid of that gun.

16 He told you he waited to give his statement until he
17 got his head right. Then he gave you some inconsistent
18 statements as to what happened that night. What are those
19 inconsistent statements?

20 Well, you heard on two occasions -- well, the first
21 time you heard him say that he heard the defendant -- or the
22 victim say something about a gun and then he reached in his
23 pocket and he busted his butt. He copped him. That's what
24 he said. I shot him before he could even come out. I did
25 it. Those were his words.

1 And then a little later, when Investigator Stokes says,
2 well, how many times did you shoot, well, then he starts
3 thinking. Oh, gosh. What can I say to this? Why? So he
4 goes, oh, well, I warned him first. I warned him. I gave a
5 warning shot first.

6 If you're afraid for your life, why are you warning
7 anybody about anything? And again, there's no evidence to
8 show that there was ever any kind of warning. But even if
9 there was, what does he say after that? And then he kept
10 charging at me. This is the first time we're hearing about
11 this. There's no indication before that the victim ever
12 charged at him. And if the victim is charging at him, how
13 is he reaching into his pocket?

14 These are where the defendant's story breaks down.
15 This is when you know the defendant is lying. As Sgt.
16 Stokes told you, inconsistent statements are evidence of
17 deceit.

18 I'm going to talk to you a little bit more about self-
19 defense. There are four elements required to establish
20 self-defense.

21 The first element is that the defendant must be without
22 fault in bringing on the difficulty. The second element is
23 that the defendant had to actually believe he was in
24 imminent danger of losing his life or sustaining serious
25 bodily injury. You also have to show that a reasonably

1 prudent person of ordinary firmness and courage would have
2 entertained that same belief.

3 You are that ordinary person. You are that person of
4 ordinary firmness and courage and you have to decide would
5 you have entertained the same belief that Michael Green did
6 when he shot and killed Franklin Degree.

7 And finally, there must be no other probable means to
8 avoid the danger.

9 In order to establish a defense of self-defense, every
10 single one of these elements have to be there. If the State
11 disproves even one of those elements, then the defense of
12 self-defense fails and you must find the defendant guilty.
13 So let's go over each of these elements.

14 He's got to be without fault in bringing on the
15 difficulty. Well, if you believe the defendant, he admits
16 that they were beefing for a month before. I don't think
17 that that's true, but let's take his story in the light most
18 favorable to the defendant. Let's pretend that what he's
19 saying was true.

20 If they had actually been beefing for the last month,
21 why is he going over to the victim's house where he knows
22 the victim lives? Why is he bringing that difficulty onto
23 himself? He went to the house anyway and, before he went
24 there, he unlawfully armed himself with a firearm that he
25 was not allowed to possess.

1 Again, if you know that you're having trouble and you
2 know that you can't fight because you've already busted
3 somebody else in the mouth and had their tooth broken off in
4 your hand, why are you arming yourself and going somewhere
5 else where you know that you might get into another fight?
6 He's brought the difficulty onto himself.

7 And while I don't believe anything that the defendant
8 has said, I do think that what Salley Rivers told you is
9 true and what Darlene Holmes told you is true, and that was
10 that the victim was inside the house after having words
11 outside and that defendant followed him inside the house and
12 shot, again bringing on the difficulty to himself. He
13 followed the victim inside the victim's own home after words
14 had been exchanged.

15 This proves the defendant is not without fault in
16 bringing on the difficulty and he fails the first element of
17 self-defense. Automatically, he doesn't get self-defense
18 now. He has failed that element and you must find him
19 guilty.

20 Well, let's go on to the second element. He has to
21 have reasonable fear of death or great bodily injury. Y'all
22 saw the same video that I saw, the same statement that he
23 gave law enforcement. He didn't seem scared. He wasn't
24 afraid. He never feared the victim. He was the aggressor.
25 He followed the victim inside the house. He told you he

1 never saw a weapon. The victim never threatened to kill him
2 or hurt him. There was nothing expressed or implied by the
3 victim. He was not aggressive.

4 And if you're so afraid of death or great bodily
5 injury, why are you going to stand there and watch the
6 victim die and hear the victim tell you I can't feel my legs
7 and then say, and I was going to shoot him again? That's
8 not self-defense. That's murder. That's malice.

9 And then when he was in the interrogation room by
10 himself, muttering to himself, what did he say? He F'ed
11 with the wrong man. And I'm not going to use the words he
12 used because I don't think that they are appropriate, but he
13 -- he messed with the wrong person. That's not fear.
14 That's aggression. That's murder.

15 The defendant was never in reasonable fear of great --
16 of death or great bodily injury. Therefore, not only does
17 he fail the first element, he also fails the second element
18 of self-defense and, if the defense fails, then you must
19 find him guilty of murder.

20 You have to believe a reasonably prudent person would
21 entertain the same belief. Would you entertain the same
22 belief? No. The only person that would have been entitled
23 to self-defense in this case was the victim and that's even
24 if you believe the very best version of the defendant's
25 story because if you believe the defendant's story, they had

1 beef prior to, the victim didn't go to the defendant. The
2 defendant came to the victim.

3 The victim is in his own home. The victim knows that
4 the defendant carries a gun. The victim knows that the
5 defendant is an aggressive person who gets into fights. The
6 victim is in his home and the defendant pursues him inside
7 of his home. The victim was likely in fear and, at that
8 point, the victim had every right to act in self-defense.

9 The defendant didn't have that right. The defendant
10 didn't have to go inside the home. The defendant didn't
11 have to confront the victim. The defendant never even had
12 to come to the victim's house. The only person entitled to
13 self-defense in this is the victim.

14 The defendant cannot prove that a reasonably prudent
15 person would entertain the same belief of imminent death or
16 great bodily injury. So now he's failed on the third
17 element. He fails on the first, fails on the second, fails
18 on the third. Not self-defense. Murder.

19 And the last element, no other probable means to avoid
20 the danger. Well, here the only danger that was created was
21 created by the defendant himself. He could've avoided the
22 danger by not going to the victim's house. He could've
23 avoided the danger by not unlawfully arming himself with a
24 weapon. He could've avoided the danger by not following the
25 victim inside the house and continuing to confront him.

1 There were definitely other probable means to avoid the
2 danger. Therefore, the defendant fails to meet the fourth
3 element of self-defense.

4 The State has disproven the first, the second, the
5 third, and the fourth. We only needed to disprove one.
6 We've disproven all four. Self-defense is not a defense in
7 this case.

8 Defense counsel told you it is not a crime to defend
9 yourself in this state and she is absolutely right. And had
10 the State believed that Michael Green was simply defending
11 himself against an attack, we wouldn't be standing here
12 right now, but that's not the case. Michael Green didn't
13 act in self-defense. Michael Green acted in murder.

14 THE COURT REPORTER: I'm sorry. Say that again.
15 Someone coughed.

16 MS. CORNWELL: Michael Green did not act in self-
17 defense. Michael Green acted in murder.

18 Now, the judge is going to charge you on the law and
19 one of the things the judge is going to charge you is
20 voluntary manslaughter. Make no mistake. This is not a
21 case of voluntary manslaughter. This is a murder case.

22 But if you decide that the defendant is not guilty of
23 murder, you can still find him guilty of manslaughter.
24 Manslaughter is the unlawful killing of another without
25 malice, but with sufficient legal provocation and committed

1 in the heat of passion.

2 The judge is also going to charge you on reasonable
3 doubt. A reasonable doubt is the kind of doubt that would
4 cause a person to hesitate to act. Proof beyond a
5 reasonable doubt is proof that leaves you firmly convinced
6 of the defendant's guilt.

7 And finally, it's not your job to search for reasonable
8 doubt. You're not allowed to consider what isn't presented.
9 And I tell you that because I'm sure that when the defense
10 has a chance to get up and talk to you, they're going to
11 talk about all the things that I didn't prove, all the
12 things that I didn't bring in front of you.

13 Could I have brought more evidence, more testimony,
14 more witnesses? Sure. I definitely could have, but was it
15 worth it to waste your time, to keep you here all week, to
16 do what I would consider beating a dead horse to give you
17 the same information over and over and over again? Yeah. I
18 could have brought Sgt. Smith in. I could have brought Cpl.
19 McDuffie in, Investigator Sheppard.

20 I could have brought all of them in and had each one of
21 them get on the stand and tell you the same thing. They
22 were dispatched out there for a shooting. They spoke to
23 witnesses. They indicated that Michael Green was guilty.
24 They saw the victim on the floor. I could have brought all
25 of those people in.

1 I could have brought in a ballistics expert to tell you
2 exactly what type of gun had to have been used for that
3 bullet. Michael Green told you what gun he used, and the
4 evidence corroborated it.

5 I could have brought in Fifi and Greek and New York and
6 all of these other people that were allegedly at the house
7 when this incident occurred. You heard the defendant. He
8 said nobody was in the house when he shot the victim. You
9 heard Darlene and Salley say that they didn't see it.
10 Nobody else saw the shooting as it actually happened.

11 And you also heard Sgt. Stokes talk about how he can't
12 force anybody to talk to him or to give a statement, and I
13 could've easily subpoenaed all of them and brought them in
14 and put them on the stand, but what good would that have
15 done? Would that have proven anymore what happened to hear
16 them say, yeah, I was at the house, but I didn't see it?
17 There was no need to bring all of those people and there was
18 no need to waste your time with all of those -- that
19 testimony and to drag this case out any longer than it has
20 to be.

21 This is a murder case. It is not self-defense. It is
22 not manslaughter.

23 You've heard the defendant went to the victim's house.
24 The defendant tells you in his statement that he knew the
25 victim rode his bike in. How does he know the defendant

1 rode his bike up to his house? He knows because he was
2 standing outside when the victim came up. That's how he
3 knows that he didn't get dropped off, he didn't drive a car,
4 he rode a bike in.

5 The defendant wasn't inside the house. The victim
6 doesn't come in and act aggressively towards the defendant.
7 The victim never claims to have a gun and the victim never
8 reaches in his pocket. The defendant is standing outside
9 when the victim comes home, sees that he rode his bike in,
10 and follows the victim inside his home and kills him.

11 He killed the victim within seconds of the victim
12 entering his own home. Darlene told you this happened in
13 less than a minute. It didn't take long enough for her to
14 go from him in the dining room to the hallway to the
15 bathroom to hear a gunshot.

16 You heard Salley Rivers say that she heard arguing for
17 a brief moment before hearing the gunshot. This happened in
18 seconds, not long enough for there to be any aggression, any
19 act of violence.

20 The defendant claims that the victim reached in his
21 pocket. So I busted his ass. I capped him. That's what he
22 says. He never saw what was in his pocket. He never
23 indicates that the victim ever said I'm about to kill you or
24 I'm going to get you or anything to that. I shot him before
25 he could even come out. I did it. You know what I mean?

1 So the victim is in his home in November and the
2 defendant wants us to believe that because he reached in his
3 pocket, that gave him a reason, an excuse, a justifiable
4 reason to shoot him and murder him. That's not true.
5 That's not what reasonable people do.

6 Then what did he say? He said he knew the victim
7 carried a box cutter or some little -- and I'm not going to
8 say that word -- shit. And then what did he tell Sgt.
9 Stokes? You don't bring that to my table.

10 This thing that they're calling a box cutter, this
11 little utility knife, that is something that Franklin Degree
12 carried with him every day. He used it for work and he used
13 it for fishing. Darlene told you everybody knows that's
14 what he carries. You can see in the effects bag that it is
15 attached with a yellow -- I'm sorry -- a red leather cable
16 and it's attached to this green carabiner. He would attach
17 it to his belt loop and put it in his pocket so it didn't
18 fall out and so he didn't lose it.

19 And when you look at these photographs back in your
20 jury room, you are also going to see exactly where that box
21 cutter is. You can see where that green carabiner is, where
22 that red leather strap is, and you can see that you cannot
23 see that utility knife because it is firmly down in his
24 pants, in his jean pants pocket at that, not the Army jacket
25 pocket that the defendant told Sgt. Stokes he saw the victim

1 reach into. There is no weapon that this defendant saw or
2 that this defendant was afraid of that would've allowed him
3 to kill the victim.

4 And then he tells you I don't know what he had. All I
5 know is when he went in his pocket, I shot his ass and he
6 fell. He said he don't feel his legs and then I'm about to
7 shoot his ass again. That's not self-defense. That's
8 murder. That's malicious.

9 And then he told you one of the worst things. That he
10 stood in the woods and watched police that night, but he
11 didn't come and talk to police then. He didn't turn himself
12 in. He had to get his head right. He needed to get his
13 story straight.

14 But in the meantime, he stood and he watched every law
15 enforcement officer go into that scene. He watched how
16 upset Darlene and Salley were when they talked to police.
17 He watched the coroner bring Franklin's body out in a body
18 bag. He wasn't afraid.

19 He told you he got rid of the gun because he knew the
20 gun was important evidence and, again, he told you that the
21 victim messed with the wrong person. This was never about
22 self-defense and this is clearly not manslaughter. There's
23 no aggression. There's no heat of passion. There is no
24 sufficient legal provocation.

25 The defendant, for whatever reason, didn't like

1 Franklin Degree. Maybe it was about Darlene. Maybe the
2 defendant wanted Darlene and thought that he had to get rid
3 of Franklin to get her based on their 15-year relationship.
4 We'll never know. The only person that could have told us
5 whether or not there was actually problems between he and
6 Mr. Green is not here today because Mr. Green killed him.

7 What Mr. Green did was willful, it was intentional, it
8 was planned and thought out, and it was malicious and it was
9 murder, and that's what you should find him guilty of.

10 THE COURT: Counsel?

11 MS. WYMAN: Thank you, Your Honor. May it please the
12 Court.

13 THE COURT: Yes, ma'am.

14 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

15 MS. WYMAN: Michael Green is not guilty and I'm going
16 to tell you three reasons why. One, the witnesses are not
17 credible. Two, Michael was acting in self-defense. And
18 three, law enforcement did a sloppy job in investigating
19 this case.

20 So let's talk about the witnesses. Darlene Holmes.
21 She told one officer a bunch of people were at the house.
22 She told another officer, no, there was no one else at home.
23 She told officers Michael had a gun. She told y'all
24 yesterday I didn't see a gun. I saw his hand doing this
25 like a gun. She's going to have you believe she didn't know

1 what they were arguing about, but she was right there. Of
2 course, she did.

3 She has ample reason to lie to y'all and not be
4 truthful because, after all, I submit to you that she is the
5 reason, her behavior is what caused Frank to act out on his
6 jealousy and make those threats to Michael.

7 Salley Rivers did the same thing. She told one officer
8 that there were a bunch of people at the house. She told
9 another officer, no, it was just her and Darlene. She's
10 going to have you believe that Michael said I told you I was
11 going to kill someone. That doesn't make any sense. When
12 would he have told her that? She didn't know that he was
13 home or at least that's what she told officers and what she
14 told y'all yesterday.

15 And what she testified to -- or you would think that if
16 she stayed silent at the time, something that big and that
17 malicious, that she would have told officers at the time.
18 And you have to question her credibility for having remained
19 silent at that time. She might've also mentioned to you
20 that she told Sgt. Smith that she never came out of her
21 bedroom and Darlene confirmed it yesterday on the stand too
22 that Sally never came out of her bedroom.

23 There are a lot of inconsistencies and a lot of holes
24 here because the witnesses are not being truthful. Were
25 they lying then or were they lying now? If you have to even

1 ask yourself that question, that's a problem because the
2 State is relying on the testimony of liars.

3 So Michael was acting in self-defense. The State is
4 wrong in saying that Michael was inconsistent. He never
5 changed his story. Y'all heard him on the video. Frank
6 confronted him about Darlene and said I've got a gun too.
7 Michael knew Frank usually carried a box cutter and then
8 that day maybe even a gun too because he said he had a gun.
9 Frank reached in his pocket. Michael fired a shot. Frank
10 kept charging. So Michael shot him.

11 The State keeps talking about this beef that they had
12 going on. The solicitor heard that wrong. Michael was
13 referring to his cousin, the one that started the rumor
14 about him sleeping with Darlene and then passed that on to
15 Frank.

16 Darlene told y'all Michael always came to visit.
17 Salley told y'all Michael was always at the house. So that
18 day, Michael was hanging out at the house, per usual.

19 Frank comes in, already upset, speaking aggressively,
20 including the mention of having a gun. Michael wasn't going
21 to take any chances once Frank reached in his pocket. He
22 gave off the warning shot and Frank still charged at him.
23 Michael shot once. He wasn't trying to gun him down. He
24 fired one shot at Frank for the sole purpose of defending
25 himself.

1 I mean what was Michael supposed to do? He had an
2 injured hand. He was defenseless with that injured hand.
3 Was he going to use his one free hand to turn his back, open
4 the door, and potentially get attacked or was he going to
5 use his one free hand to arm himself and protect himself
6 from the threats that Frank made to him?

7 Salley testified that she thought it was Darlene and
8 Frank arguing. Darlene testified that supposedly Frank
9 couldn't even speak when he gets overly angry and she told
10 him to meet her in the bedroom so he can calm down. Overly
11 angry and needing to calm down sounds to me like someone who
12 was acting out of rage that day.

13 Frank would not be the first person who's ever gotten
14 jealous and acted out on their emotions and let their
15 emotions get the best of them. Michael had a right to act
16 on appearances and believe the threats that was made to him.

17 The solicitor wants you to believe that Michael had
18 malice because he had a gun. However, you're certainly not
19 going to hear the judge tell you that when she charges you
20 with the law on the case and that's because a person acting
21 in self-defense can have a gun.

22 Now, let's talk about the Orangeburg County Sheriff's
23 Office and the sloppy job that they did in investigating
24 this case. The Sheriff's Office closed this case after
25 Michael turned himself in. They didn't investigate

1 whatsoever whether he acted in self-defense like he told
2 them he did.

3 There were only two officers who wrote incident
4 reports, Sgt. Smith and Investigator Stokes. These two
5 reports were full of inconsistencies and they didn't even
6 care and, in fact, they just glossed over it. Investigator
7 Stokes got on the stand and told you that he, along with all
8 his trained officers, always write reports that are accurate
9 and complete and truthful.

10 Sgt. Smith's report said Salley had to change her pants
11 because she urinated herself. Darlene testified she had to
12 change her pants because it was cold outside. Unless they
13 both happened to change clothes, which I say is just weird
14 in and of itself. Sgt. Smith's report said Salley called 9-
15 1-1. Darlene said she was the one that called 9-1-1.

16 Do not let the solicitor try to say that it's
17 inconsequential error there. If they're going to charge
18 someone with murder, they need to get their facts straight
19 at the very least. They didn't follow up on any witnesses
20 that might've been there during the incident. Sgt. Smith's
21 report, Salley's verbal statement, and Darlene's verbal
22 statement and written statement said there were multiple
23 people in the house. In fact, they even named the people
24 and gave it to law enforcement.

25 Investigator Stokes' report said that there was no one

1 else in the house except Michael, Frank, Salley, and
2 Darlene. You would think they'd see that big discrepancy
3 there and look into the case more.

4 And actually, Investigator Stokes should've known there
5 were more eyewitnesses there. What did he say on the video
6 again? He's the police. He knows everything. He knew
7 there was a guy named Greek. Greek was there. He knew
8 Greek took Salley's phone. He knew that Greek was Salley's
9 nephew. Salley -- Salley could have easily gotten him in
10 touch with Greek or they could have tracked Salley's phone
11 if they wanted to, but they didn't even bother inquiring
12 about that. They didn't even bother getting anyone else's
13 side of the story. They didn't even bother comparing notes
14 to see that it was inconsistent through and through.

15 They didn't even bother looking at this case to find
16 the truth, look into if there were more eyewitnesses there
17 that can tell you what really happened, look into what it is
18 that these people are hiding, look into what these people
19 are not being truthful about. That would just be too much
20 of a hassle for them apparently.

21 They requested gunshot residue tests on Darlene. Did
22 not follow up on that. They requested a gunshot residue
23 test on Frank, but did not follow up on that.

24 The solicitor called a lady from SLED basically to try
25 to explain away why the Sheriff's Office dropped the ball

1 here, saying that they don't test GSR on victims and
2 witnesses because 75 percent of the GSR is on victims
3 anyway. Okay. Well, what about the other 25 percent? Do
4 they often not complete -- do complete investigations on
5 every case?

6 The lady also said she tested around 450 kits in about
7 150 cases. So yeah, essentially that means they do test
8 more than just defendants if they are asked to. Otherwise,
9 how would she have done three more tests than the actual
10 number of cases that she's worked on? So basically, SLED
11 will do it if law enforcement agency or the solicitor asks
12 them to and pushed it. But if they're like them, who don't
13 care about getting to the truth of things, they're just not
14 going to follow up on the investigation and then blame SLED
15 for not doing it.

16 Investigator Ketcherside and Dr. Ross testified as to
17 what Frank had on him, to include a knife on his belt and 11
18 cans of beer in his backpack. I submit to you that had the
19 Sheriff's Office used a touch more effort in following up on
20 key facts and key evidences and key witnesses during their
21 investigation, they would have seen that there is a lot more
22 to the case than, okay, Frank -- or Michael murdered Frank.
23 The end.

24 The State is making very serious accusations here,
25 accusing someone of the worst crime there is, and they just

1 open and shut the case to make it easier on them. That is
2 not right and that is not justice.

3 So that's my take on the case anyway, but aside from
4 all that, there is something very important that I need for
5 you, the jury, to understand. It's that the State did not
6 prove their case beyond a reasonable doubt.

7 I couldn't tell you what happened that day. I wasn't
8 there. That's not our job. We're not here to play
9 investigator or detective. We are here because someone is
10 accusing someone else of a crime and it is your duty to find
11 him guilty or not guilty based on whether the State has
12 proven their case. You need to do your sworn duty and apply
13 some key concepts.

14 First, you presume Michael is innocent. He is. We all
15 are, actually. We are all innocent until the State proves
16 beyond a reasonable doubt otherwise.

17 Next, Michael has a constitutional right to remain
18 silent. He doesn't have to take that stand. Why? Because
19 again, he doesn't have to prove anything. That's the
20 State's job. Hold them to that and hold them to that
21 standard.

22 If y'all think to yourself, well, I don't really think
23 the State's story happened that way, that right there is not
24 guilty. That doubt, that pause, that hesitation, that means
25 not guilty.

1 Reasonable doubt is a powerful thing. The reason it is
2 such an important thing is because we do not convict people
3 of crimes, we do not throw people in prison if the State
4 cannot prove their cases beyond a reasonable doubt and prove
5 their -- and prove their claims -- over claims that are not
6 proven beyond doubt, let alone, like in this case, a story
7 that is full of inconsistencies and told by witnesses with
8 no credibility and followed by very sloppy police work.

9 All of this points to the same conclusion. That there
10 is doubt and that the State did not meet their burden and,
11 because the State did not meet their burden, you must --
12 must find him not guilty.

13 CHARGE ON THE LAW

14 THE COURT: Ladies and gentlemen of the jury, it's now
15 time for me to charge you on the law in this case.

16 The indictment charges the defendant with murder. I
17 remind you that the fact that the defendant was arrested,
18 charged, and indicted in this case is not evidence in this
19 case and cannot be considered by you as evidence of guilt in
20 this case. Nor does it create any presumption or inference
21 of guilt. The document is simply the formal written
22 instrument by which the case is brought into this court.

23 The defendant has pled not guilty to this indictment
24 and that plea puts the burden on the State to prove the
25 defendant guilty. A person charged with committing a

1 criminal offense in South Carolina is never required to
2 prove himself innocent.

3 I charge you that it is an important rule of the law
4 that the defendant in a criminal trial, no matter what the
5 seriousness of the charge may be, will always be presumed
6 innocent of the crime for which the indictment was issued
7 unless guilt has been proven by evidence satisfying you of
8 that guilt beyond a reasonable doubt.

9 The presumption of innocence does not end when you
10 begin your deliberations, but it accompanies the defendant
11 throughout the trial until you reach a verdict of guilt
12 based on evidence satisfying you of that guilt beyond a
13 reasonable doubt. That presumption of innocence is like a
14 robe of righteousness placed about the shoulders of the
15 defendant which remains with the defendant until it has been
16 stripped from the defendant by evidence satisfying you of
17 his guilt beyond a reasonable doubt.

18 The presumption of innocence is not a mere legal
19 theory. It is not just a legal phrase. It is a substantial
20 right to which every defendant is entitled to unless you,
21 the jury, are satisfied from the evidence of the defendant's
22 guilt beyond a reasonable doubt.

23 What is a reasonable doubt in the law? A reasonable
24 doubt is the kind of doubt that would cause a reasonable
25 person to hesitate to act. The State has the burden of

1 proving the defendant guilty beyond a reasonable doubt.

2 Some of you may have served as jurors in civil cases
3 where you were told that it is only necessary to prove that
4 a fact is more likely true than not true, such as by the
5 greater weight or the preponderance of the evidence. In
6 criminal cases, the State's proof must be more powerful than
7 that. It must be beyond a reasonable doubt.

8 Proof beyond a reasonable doubt is proof that leaves
9 you firmly convinced of the defendant's guilt. There are
10 very few things in this world that we know with absolute
11 certainty and in criminal cases the law does not require
12 proof that overcomes every possible doubt.

13 If, based on your consideration of the evidence, you're
14 firmly convinced that the defendant is guilty of the crime
15 charged, you must find the defendant guilty. If, on the
16 other hand, you think there is a real possibility the
17 defendant is not guilty, you must give the defendant the
18 benefit of the doubt and find him not guilty.

19 I remind you that during this trial you and I have
20 certain duties to perform. As the trial judge, it's my
21 responsibility to preside over the trial of this case and I
22 also have the duty to rule on the admissibility of the
23 evidence offered during this trial.

24 You are to consider only the competent evidence before
25 you. If there was any testimony stricken from the record in

1 this case during this trial, you must disregard that
2 testimony. You are to consider only the testimony which has
3 been presented from the witness stand, any exhibits which
4 have been made part of the record in this case, and any
5 stipulations of counsel.

6 The fact that portions of some evidence may have been
7 redacted or omitted should not be considered by you in any
8 way. As the trial judge, I have the sole authority to rule
9 on the admissibility of the evidence and the parties are
10 bound by my decisions in this regard.

11 I have the additional duty to charge you the law
12 applicable to this case. As the presiding judge, I am the
13 sole judge of the law of this case and it is your duty to
14 accept the law and apply the law as I now state it to you.

15 If you already have any ideas of what the law is or
16 what the law ought to be and it does not agree with what I
17 now tell you the law is, you must abandon this idea because
18 you are sworn to accept the law and apply the law exactly as
19 I state it to you.

20 In every case tried in this court before a jury, the
21 jury becomes the sole and exclusive judge of the facts. A
22 trial judge cannot intimate, state, comment on, or make any
23 statements to a trial jury about the facts in a case.

24 Since you, the jury, are the sole judge of the facts in
25 the case, do not infer from anything that I have said during

1 the process of this trial in ruling upon the admissibility
2 of evidence or otherwise or anything that I say now during
3 the course of this instruction to you that I have any
4 opinion about the facts in this case. The law does not
5 allow me to have an opinion about the facts in this case.

6 This matter is solely for you the jury to determine.
7 As jurors, it is your duty to determine the effect, value,
8 weight, and truth of the evidence presented during the
9 trial.

10 There are two types of evidence which are generally
11 presented during a trial: direct evidence and circumstantial
12 evidence. Direct evidence is the testimony of a person who
13 claims to have actual knowledge of a fact, such as an
14 eyewitness. Circumstantial evidence is proof of a chain of
15 facts and circumstances indicating the existence of a fact.

16 The law makes absolutely no distinction between the
17 weight or the value to be given to either direct or
18 circumstantial evidence, nor is a greater degree of
19 certainty required of circumstantial evidence than of direct
20 evidence. You should weigh all of the evidence in the case.
21 After weighing all of the evidence, if you're not firmly
22 convinced of the guilt of the defendant beyond a reasonable
23 doubt, you must find the defendant not guilty.

24 Necessarily, you must determine the credibility of
25 witnesses who have testified in this case. Credibility

1 simply means believability. It becomes your duty as jurors
2 to analyze and to evaluate the evidence and to determine
3 which evidence convinces you of its truth.

4 In determining the believability of witnesses who have
5 testified in this case, you may believe one witness over
6 several witnesses or several witnesses over one witness.
7 You may believe a part of the testimony of a witness and
8 reject the remaining part of the testimony of the same
9 witness. You may believe the testimony of a witness in its
10 entirety or reject the testimony of a witness in its
11 entirety.

12 You may consider whether any witness has exhibited to
13 you any interest, bias, prejudice, or other motive in this
14 case. You may also consider the appearance and manner of
15 the witness while on the witness stand.

16 The rules of evidence ordinarily do not permit
17 witnesses to testify to opinions or conclusions. An
18 exception to this rule exists when we -- for witnesses that
19 we call expert witnesses. A witness who by education and
20 experience has become an expert in some art, science,
21 profession or calling may state an opinion as to relevant
22 material matter in which the witness claims to be an expert
23 and may also state the reasons for that opinion.

24 You should consider any expert opinion received in
25 evidence in this case like any other evidence and give it

1 the weight that you think it deserves. If you think -- if
2 you decide that the opinion of an expert witness is not
3 based on sufficient education and experience or if you
4 conclude that the reasons given in support of the opinion
5 are not sound or that the opinion is outweighed by other
6 evidence, you may disregard the opinion entirely.

7 An expert witness' testimony is to be given no greater
8 weight than that of other witnesses simply because the
9 witness is an expert. Further, you are not required to
10 accept an expert's opinion, even though it's not
11 contradicted.

12 There has been evidence presented that witnesses have
13 made prior statements which are not consistent with the
14 witness' present testimony. You may use this evidence to
15 decide whether to believe the witness. You may also use
16 evidence of the earlier contradictory statements to
17 determine the truth of those statements. It is up to you to
18 decide whether to believe the earlier statements or the
19 testimony given at trial.

20 If a witness has shown to have knowingly testified
21 untruthfully concerning any material matter, you may
22 consider this in determining whether to trust the witness'
23 testimony as to other matters. You may reject all testimony
24 of that witness or give all or part of the testimony the
25 weight that you think it deserves.

1 I instruct you and emphasize that the fact that the
2 defendant did not testify is not a factor to be considered
3 by you in any way during your deliberation and in your
4 consideration on the question of guilt or innocence of the
5 defendant. It must not be considered by you in any manner
6 whatsoever. A defendant has the constitutional right to
7 remain silent and the assertion of this right must not be
8 considered by you in your deliberations.

9 I repeat, under your oath, you are to draw no
10 conclusion whatsoever from the fact that the defendant in
11 this case did not testify. The fact that the defendant did
12 not testify should not even be discussed in the jury room.
13 The burden of proof, as I have stated to you, is on the
14 State. The defendant is not required to prove his
15 innocence. The burden of proof remains on the State to
16 prove guilt beyond a reasonable doubt.

17 A statement alleged to have been made by the defendant
18 has been admitted into evidence in this case. While the
19 Court has determined that the statement is admissible, I
20 instruct you that you make the ultimate decision as to
21 whether or not the defendant made the statement.

22 If the defendant did make the statement, you must
23 determine whether the statement was made by the defendant
24 voluntarily and of his own free will. This means that the
25 statement was not caused by pressure, force, fear, threats,

1 coercion or intimidation or by hope or a promise of leniency
2 or reward of any kind. In determining whether the statement
3 was voluntary, you should consider both the characteristics
4 of the defendant and the details of the questioning.

5 Some of the factors that you must consider are the age
6 of the defendant, the defendant's education or lack of
7 education, the defendant's mental ability or capacity, the
8 defendant's IQ or intelligence, the defendant's background
9 and environment, the place and the length of the detention,
10 the nature of the questioning, and the advice or lack
11 thereof to the defendant of his constitutional rights,
12 including but not limited to the right to remain silent,
13 that any statement could be used against him in a court of
14 law, the right to have a lawyer present, that if he could
15 not afford a lawyer, a lawyer would be appointed to
16 represent him without any cost, that he could stop making a
17 statement at any time. You must carefully consider all of
18 the surrounding circumstances before you give any weight to
19 an alleged statement.

20 The State has the burden of proving beyond a reasonable
21 doubt that the alleged statement was voluntary. If you
22 determine that it was, you may give the statement any
23 further consideration that you deem proper. You must decide
24 what weight, if any, should be given to the alleged
25 statement. If you determine that the alleged statement was

1 not the free and voluntary statement of the defendant, you
2 should not consider the statement at all.

3 In order to establish criminal liability, criminal
4 intent is required. For example, the mental state required
5 to be proven by the State for a particular crime might be
6 purpose, intent, knowledge, recklessness or criminal
7 negligence. Criminal intent must be proven by the State
8 beyond a reasonable doubt. Criminal intent is always a
9 matter that must be determined by the jury from the
10 circumstances surrounding the situation.

11 There is no way to prove intent to a mathematical
12 certainty. There is no way medical science can dissect a
13 person's brain and determine what the person had in mind; so
14 the law says that criminal intent may be inferred from the
15 circumstances shown to have existed. This is how you make a
16 determination of whether or not the element requiring intent
17 was present.

18 It is not necessary to establish intent by direct and
19 positive evidence, but intent may be established by
20 inference in the same way as any other fact by taking into
21 consideration the acts of the parties and all of the facts
22 and circumstances of the case.

23 Criminal intent is a mental state, a conscious
24 wrongdoing. It is up to you to determine what the defendant
25 intended to do based upon the circumstances shown to have

1 existed.

2 Criminal intent can arise from action or a failure to
3 act. It may arise from negligence, recklessness or an
4 indifference to duty or to consequences that is considered
5 by the law to be the equivalent of criminal intent.

6 The defendant is charged with murder. The State must
7 prove beyond a reasonable doubt that the defendant killed
8 another person with malice aforethought.

9 Malice is hatred, ill will or hostility towards another
10 person. It is the intentional doing of a wrongful act
11 without just cause or excuse and with the intent to inflict
12 an injury or under circumstances that the law will infer an
13 evil intent.

14 Malice aforethought does not require that malice exist
15 for any particular time before the act is committed, but
16 malice must exist in the mind of the defendant just before
17 and at the time the act is committed. Therefore, there must
18 be a combination of the previous evil intent and the act.

19 Malice aforethought may be expressed or inferred.
20 These terms, expressed and inferred, do not mean different
21 kinds of malice, but merely the manner in which the malice
22 may be shown to exist. That is either by direct evidence or
23 by inference from the facts and the circumstances which are
24 proved.

25 Expressed malice is shown when a person speaks words --

1 speaks words which express hatred or ill will for another or
2 when the person prepared beforehand to do the act which is
3 later accomplished. For example, lying in wait for a person
4 or any other acts of preparation going to show that the deed
5 was within the defendant's mind would be expressed malice.
6 Malice may be inferred from conduct showing a total
7 disregard for human life.

8 If facts are proved beyond a reasonable doubt
9 sufficient to raise an inference of malice to your
10 satisfaction, this inference would be simply an evidentiary
11 fact to be considered by you along with the other evidence
12 in this case and you may give it the weight that you decide
13 it should carry.

14 If you find that the State has failed to prove beyond a
15 reasonable doubt that the defendant committed murder, you
16 may consider whether the State has proved beyond a
17 reasonable doubt that the defendant committed voluntary
18 manslaughter.

19 To prove voluntary manslaughter, the State must prove
20 beyond a reasonable doubt that the defendant took the life
21 of another in the sudden heat of passion based on sufficient
22 legal provocation, without malice, either expressed or
23 implied. Both heat of passion and sufficient legal
24 provocation must be present at the time of the killing to
25 constitute voluntary manslaughter.

1 Sudden heat of passion may for a time affect a person's
2 self-control and temporarily disturb a person's reason. The
3 sudden heat of passion must be the type that would make an
4 ordinary person unable to coolly reflect on his actions and
5 would produce an uncontrollable -- uncontrollable impulse to
6 do violence.

7 Sufficient legal provocation must be the type that
8 would make a person of ordinary reason and caution become
9 enraged and to lose control temporarily. The provocation
10 needed for voluntary manslaughter must come from some act or
11 related to the victim. Words alone, however vulgar or
12 insulting, are not enough to be legal provocation. Where
13 death is caused by the use of a deadly weapon, the words
14 must be accompanied by some overt threatening act which
15 would have produced the heat of passion.

16 The exercise of a legal right, no matter how offensive
17 it is to another, is never sufficient legal provocation for
18 voluntary manslaughter. If the heat of passion had cooled
19 or if there was enough time between the provocation, if any,
20 and the killing for the passion of a reasonable person to
21 cool, the killing would not be voluntary manslaughter.

22 In deciding whether a reasonable person would have had
23 enough time to cool off, you should consider all of the
24 circumstances surrounding the killing. You may consider the
25 nature of the provocation, if any, the defendant's mental

1 and physical state, and the circumstances and relationship
2 between the parties.

3 The defendant has raised the defense of self-defense.
4 Self-defense is a complete defense and, if it is
5 established, you must find the defendant not guilty. The
6 State has the burden of disproving self-defense by proof
7 beyond a reasonable doubt.

8 If you have a reasonable doubt of the defendant's guilt
9 after considering all of the evidence, including the
10 evidence of self-defense, then you must find the defendant
11 not guilty. On the other hand, if you have no reasonable
12 doubt of the defendant's guilt after considering all of the
13 evidence, including the evidence of self-defense, then you
14 must find the defendant guilty.

15 The following elements are required to establish self-
16 defense.

17 First, the defendant must be without fault in bringing
18 on the difficulty. Any act of the accused in violation of
19 law and reasonably calculated to produce the occasion
20 amounts to bringing on the difficulty and bars his right to
21 assert self-defense as a justification or excuse for
22 homicide.

23 If a defendant's conduct was the type which was
24 reasonably calculated to and did provoke a deadly assault,
25 the defendant would be at fault in bringing on the

1 difficulty and would not be entitled to acquittal based on
2 self-defense. However, he may restore his right to self-
3 defense if he withdraws from the conflict and communicates
4 that decision to his adversary.

5 The second element of self-defense is that the
6 defendant was actually in imminent danger of death or
7 serious bodily injury or that the defendant actually
8 believed he was in imminent danger of death or serious
9 bodily injury.

10 If the defendant was actually in imminent danger, it
11 must be shown that the circumstances would have warranted a
12 person of ordinary firmness and courage to strike the fatal
13 blow to prevent death or serious bodily injury. If the
14 defendant believed he was in imminent danger of death or
15 serious bodily injury, it must be shown that a reasonably
16 prudent person of ordinary firmness and courage would have
17 had the same belief.

18 In deciding whether the defendant actually was or
19 believed he was in imminent danger of death or serious
20 bodily injury, you should consider all of the facts and
21 circumstances surrounding the crime, including the physical
22 condition and characteristics of the defendant and the
23 victim.

24 The defendant does not have to show that he was
25 actually in danger. It is enough if the defendant believed

1 he was in imminent danger and a reasonably prudent person of
2 ordinary firmness and courage would have had the same
3 belief.

4 The defendant has a right to act on appearances, even
5 though the defendant's beliefs may be -- may have been
6 mistaken. It is for you to decide whether the defendant's
7 fear of imminent danger of death or serious bodily injury
8 was reasonable and would have been felt by an ordinary
9 person in the same situation.

10 The final element of self-defense is that the defendant
11 had no other probable way to avoid the danger of death or
12 serious bodily injury than to act as the defendant did in
13 this particular instance. The defendant had no duty to
14 retreat if by doing so the danger of being killed or
15 suffering serious bodily injury would increase.

16 A person cannot be required to make an exact
17 calculation as to the degree or amount of force which may be
18 needed to avoid death or serious bodily harm. Therefore, in
19 self-defense, the defendant has a right to use the force
20 needed to avoid death or serious bodily harm.

21 The force used in self-defense does not have to be
22 limited to the degree or amount of force used by the victim.
23 The defendant has a right to use so much force as appeared
24 to be necessary for complete self-protection in which a
25 person of ordinary reason and firmness would have believed

1 to be needed to prevent death or serious bodily harm.

2 Ladies and gentlemen of the jury, there are two
3 possible verdicts in this case and, Ms. Wimberly, you're
4 right there on the end. Since you're sitting there in the
5 last chair, I'm going to appoint you as our foreperson and
6 it will be your responsibility to write the verdict on the
7 verdict form and on the indictment.

8 The verdict form is simple to follow. It basically
9 states that as to the charge of murder, we, the jury,
10 unanimously find the defendant -- and then you circle the
11 appropriate verdict. If you find the defendant not guilty,
12 then you then go to the charge of voluntary manslaughter.

13 It states that we, the jury, if having found the
14 defendant not guilty of murder, unanimously find the
15 defendant -- and then you would circle the appropriate
16 verdict.

17 You will then date and sign it as the foreperson.
18 Also, on the front of the indictment, if you see this
19 section right here? It says verdict. You would write down
20 the appropriate verdict and sign and date as well.

21 I'm going to send you back to your jury room to make
22 sure I didn't forget to tell you anything, but please do not
23 begin your deliberations until you receive the verdict forms
24 and the indictment, along with all the exhibits. And once
25 you receive those, you may start your deliberations.

1 Again, your verdict must be unanimous. Once you reach
2 a verdict, please knock on the door and we'll bring you back
3 in to receive your verdict. Thank you.

4 (WHEREUPON, the jury exited the courtroom at 11:41
5 a.m.)

6 THE COURT: Any exceptions or objections to the charge
7 on the law from the State or from the defense?

8 MS. CORNWELL: No, Your Honor. The only note, you did
9 indicate that there were two possible verdicts as opposed to
10 three, but I think the way that you explained it with the
11 two possible verdicts was clear, with the possible verdicts
12 being murder or manslaughter. So I don't think that that's
13 a problem for the State anyway.

14 THE COURT: Oh, you mean two as to guilty or not
15 guilty. I mean, like, for each.

16 MS. CORNWELL: Oh, either.

17 THE COURT: To either murder or --

18 MS. CORNWELL: Either murder or guilty of voluntary or
19 --

20 THE COURT: Murder or they need to go to the next one.

21 MS. CORNWELL: Guilty or not guilty. So I guess
22 technically three possible verdicts, but the way you
23 explained it, I think the two possible verdicts was clear.

24 THE COURT: Okay. Any objection or exceptions from the
25 defense?

1 MS. WYMAN: No, Your Honor.

2 THE COURT: All right. If y'all would, get together
3 and make sure we have all the exhibits. Here's the verdict
4 form, along with the indictment.

5 I'm going to give the jury a little bit and then ask
6 Ms. Dee if they decided they want to order lunch to let them
7 know. It'll take I guess about an hour or so to get lunch
8 and then they can let us know if they wish to do that. Any
9 objections to that?

10 MS. WYMAN: No.

11 MS. CORNWELL: No, Your Honor.

12 THE COURT: All right.

13 (WHEREUPON, there was a pause in the proceedings to
14 check the evidence.)

15 (WHEREUPON, the verdict form, indictment, and exhibits
16 were sent to the jury room and deliberations began at
17 11:44 a.m.)

18 (WHEREUPON, the foreperson appointment note was marked
19 as Court's Exhibit Number 1.)

20 (WHEREUPON, there was a break in the proceedings from
21 11:44 a.m. until 12:35 p.m., after which the
22 proceedings resumed as follows.)

23 THE COURT: It's my understanding that we have a
24 verdict in this matter. I always like to tell members of
25 the gallery to please not have any kind of emotional

1 outburst or anything after the verdict. If you don't think
2 you can control your emotions, regardless of what the
3 verdict is, I'll ask you to go ahead and leave the courtroom
4 now.

5 Anything before we bring our jury in?

6 MS. CORNWELL: Nothing from the State, Your Honor.

7 MS. WYMAN: Nothing from the defense, Your Honor.

8 THE COURT: Okay. All right. Let's have our jury,
9 please.

10 THE BAILIFF: Yes, Your Honor.

11 (WHEREUPON, the jury entered the courtroom at 12:36
12 p.m.)

13 THE COURT: Madam Forelady, has the jury reached a
14 verdict?

15 THE FORELADY: Yes, ma'am, we have, Your Honor.

16 THE COURT: If you would, please hand it to the
17 bailiff.

18 THE BAILIFF: Your Honor, may I approach?

19 THE COURT: Yes, ma'am. Madam Clerk, if you'd please
20 publish the verdict.

21 VERDICT

22 THE CLERK: I bring the Court's attention to Indictment
23 Number 2016-GS-38-0574, the State versus Michael L. Green.

24 As to -- as to the charge of murder, we, the jury,
25 unanimously find the defendant guilty.

1 It is signed today by the jury foreperson, Katherine
2 Wimberly, May the 24th, 2017.

3 THE COURT: Thank you, Madam Clerk. If you would,
4 please poll the jury.

5 THE CLERK: As I call your name, will you please stand?
6 Shakayla King. Is this your verdict?

7 JUROR NUMBER 109: Yes.

8 THE CLERK: Is this still your verdict?

9 JUROR NUMBER 109: Yes.

10 THE CLERK: You may have a seat.. Maretta Linder. Is
11 this your verdict?

12 JUROR NUMBER 114: Yes.

13 THE CLERK: Is this still your verdict?

14 JUROR NUMBER 114: Yes.

15 THE CLERK: Thank you. Wanda Abraham. Is this your
16 verdict?

17 JUROR NUMBER 2: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR NUMBER 2: Yes.

20 THE CLERK: Thank you. Shirley Ward. Is this your
21 verdict?

22 JUROR NUMBER 182: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR NUMBER 182: Yes.

25 THE CLERK: Thank you. Christopher Hughes. Is this

1 your verdict?

2 JUROR NUMBER 92: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR NUMBER 92: Yes.

5 THE CLERK: Thank you. Felicia Snider. Is this your
6 verdict?

7 JUROR NUMBER 170: Yes.

8 THE CLERK: Is it still your verdict?

9 JUROR NUMBER 170: Yes.

10 THE CLERK: Thank you. Lawrence Simpson. Is this your
11 verdict?

12 JUROR NUMBER 159: Yes.

13 THE CLERK: Is it still your verdict?

14 JUROR NUMBER 159: Yes.

15 THE CLERK: Thank you. Moses Smith. Is this your
16 verdict?

17 JUROR NUMBER 166: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR NUMBER 166: Yes.

20 THE CLERK: Thank you. Cedric -- I mean Frederick
21 Crider. Is this your verdict?

22 JUROR NUMBER 25: Yes, it is.

23 THE CLERK: Is it still your verdict?

24 JUROR NUMBER 25: Yes, it is.

25 THE CLERK: Thank you. Gwendolyn Morgan. Is this your

1 verdict?

2 JUROR NUMBER 128: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR NUMBER 128: Yes, ma'am.

5 THE CLERK: Thank you. Katherine Wimberly. Is this
6 your verdict?

7 THE FORELADY/JUROR NUMBER 192: Yes, ma'am.

8 THE CLERK: Is it still your verdict?

9 THE FORELADY/JUROR NUMBER 192: Yes, ma'am.

10 THE CLERK: Thank you. Nathan Lighty. Is this your
11 verdict?

12 JUROR NUMBER 113: Yes.

13 THE CLERK: Is it still your verdict?

14 JUROR NUMBER 113: Yes.

15 THE CLERK: Thank you.

16 THE COURT: Thank you, Madam Clerk. Thank you, ladies
17 and gentlemen of the jury. If you would, please return to
18 your jury room one last time. I'll be in there to release
19 you momentarily.

20 (WHEREUPON, the jury exited the courtroom at 12:39
21 p.m.)

22 THE COURT: Solicitor, if you would, please prepare the
23 sentencing sheets. I'm going to release the jury.

24 MS. CORNWELL: Yes, ma'am. Thank you.

25 (WHEREUPON, the Court left the bench at 12:40 p.m. and

1 then returned to the bench at 12:41 p.m.)

2 MS. CORNWELL: Your Honor, we'd ask for the Court's
3 indulgence. For some reason, the computers don't want to
4 work up here.

5 THE COURT: That's fine. Actually, some of the jurors
6 are deciding whether or not they want to be in the courtroom
7 for sentencing or not.

8 MS. CORNWELL: Okay.

9 THE COURT: So we've got a couple of minutes.

10 MS. CORNWELL: Thank you.

11 MS. WYMAN: Your Honor, may I make a few motions?

12 THE COURT: Oh, absolutely.

13 MS. WYMAN: Your Honor, first we renew all of our
14 previous motions, including our motion for a directed
15 verdict.

16 THE COURT: Yes, ma'am. And for the same reasons,
17 they're respectfully denied.

18 MS. WYMAN: And, Your Honor, we also move for a new
19 trial. It's still our position that there isn't evidence to
20 support the conviction of murder.

21 THE COURT: Based upon the evidence that was presented,
22 the Court does find that there is sufficient evidence on
23 each element of the offense and the Court respectfully
24 denies your motion.

25 MS. WYMAN: Thank you.

1 (WHEREUPON, there was a pause in the proceedings during
2 which some members of the jury returned to the
3 courtroom, after which the proceedings resumed as
4 follows.)

5 THE COURT: Ladies and gentlemen of the jury, we are
6 just waiting for some paperwork to be printed out. We'll be
7 right with you.

8 (WHEREUPON, there was a pause in the proceedings, after
9 which the proceedings resumed as follows.)

10 MS. CORNWELL: May I approach, Your Honor?

11 THE COURT: Yes, ma'am. All right. Mr. Green, if you
12 would, please stand. Solicitor, are you ready to proceed
13 with your side?

14 MS. CORNWELL: Yes, Your Honor. Your Honor, you've
15 heard the facts of the case and you saw the video. There's
16 not a whole lot more that the State can add as far as that
17 goes.

18 You also heard the evidence that was not brought forth
19 in front of this jury where this defendant also indicated
20 that, after he committed this act, he was going to commit
21 another most serious act of murder and just was not able to
22 carry that act out that night. I think that that gives
23 clear indication that this defendant is certainly a danger
24 to the community.

25 His prior record also indicates such. He has a

1 conviction for an '84 aggravated assault and battery, an '89
2 purse snatching and burglary in the third degree, a '91
3 failure to return rental objects, a '93 distribution of
4 cocaine base, a 2000 threatening the life of a public
5 official, a 2001 disorderly conduct, and a 2013 assault and
6 battery in the first degree.

7 The State feels that given the facts of this case, as
8 well as his prior record, that he deserves the maximum
9 sentence in this.

10 I have spoken to the victim's family. As Your Honor
11 knows, they have all been here through the course of the
12 trial. They have been in touch with me since this incident
13 happened. They have been fantastic to work with. They
14 haven't gone to the media. They haven't caused any
15 problems.

16 We've asked if they wanted to have anything to say to
17 the Court today, if they wish to speak. They've indicated
18 that, while they do not wish to speak, they do want me to
19 ask again for the maximum punishment on this.

20 Mr. Degree was a loving family member. He was a
21 brother. He was a son. He was a kind and caring person
22 that would do anything for anybody. He worked very hard.

23 Based on his job, he always had some cash on him in his
24 pocket and he was known in the community. If you needed
25 something, he was always going to be there to help, often

1 loaning out two -- three -- four dollars anytime somebody
2 needed anything.

3 He was well loved by his family and he was respected in
4 this community. He did not have any sort of drug or alcohol
5 problem. He did not have any sort of serious criminal
6 record. It was truly a loss of life when Mr. Green killed
7 him.

8 So again, based on the facts and the prior record of
9 the defendant, I believe that a life sentence is
10 appropriate.

11 THE COURT: Thank you, Solicitor. Ms. Wyman?

12 MS. WYMAN: Your Honor, Mr. Green is 53 years old.
13 He's from Orangeburg. He was born and raised here. He's a
14 father. He's a grandfather. He is a high school graduate.
15 I've enjoyed getting to know him through the course of my
16 representation of him. He's a nice guy. He's funny.

17 It's unfortunate that this incident transpired and we
18 ask for the mercy of the Court.

19 THE COURT: Anything further?

20 MS. WYMAN: Nothing, Your Honor.

21 SENTENCE

22 THE COURT: Mr. Green, there's certainly nothing nice
23 or funny about the acts for which you have been convicted
24 and your prior record.

25 On Indictment 2016-GS-38-0574, you are hereby committed

1 to the State Department of Corrections for the remainder of
2 your natural life.

3 MS. CORNWELL: Thank you, Your Honor.

4 THE DEFENDANT: You still can't get him back, bitch.

5 THE COURT REPORTER: I'm going to put that on the
6 record, if that's okay.

7 THE COURT: Yes, please.

8 MS. CORNWELL: Your Honor, may I approach to thank the
9 jury?

10 THE COURT: Certainly.

11 (WHEREUPON, the proceedings ended at 12:49 p.m.)

12

13 --- END REQUESTED TRANSCRIPT ---

14

15

16

17

18

19

20

21

22

23

24

25



Krystal J. Smith

21 | September 11, 2017

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

ORANGEBURG COUNTY SHERIFF'S OFFICE
CRIMINAL INVESTIGATION DIVISION

PLACE: 1032 Chestnut St DATE: 11-30-15 TIME: 9:00 a.m

THESE ARE YOUR RIGHTS. PLEASE READ CAREFULLY

BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

PLEASE INITIAL BESIDE EACH SENTENCE.

- MG 1. You have the right to remain silent; anything you say can be used against you in court.
- MG 2. You have the right to talk to a lawyer for advice before we ask you any questions and to have him/her with you during questioning.
- MG 3. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
- MG 4. If you decide to answer questions without a lawyer present, you will still have the right to stop answering at any time.
- MG 5. You also have the right to stop answering at any time until you talk to a lawyer.

I UNDERSTAND MY RIGHTS.

[Signature]
Signature

WAIVER OF RIGHTS

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

[Signature]
Signature

[Signature]
Witness

Witness

WITNESSES

John C Stokes

Orangeburg County Sheriff

2015-9363

ARREST WARRANT NUMBER

2015A3810200242

Arrested: November 30, 2015

ACTION OF GRAND JURY

Edward A. Green

Date **JUN 15 2016**

Foreperson of Grand Jury

Date: June 15, 2016

VERDICT

Guilty of Murder

Katherine G. Weimberly

Foreperson of Petit Jury

Date: 5/24/2017

DOCKET NO. 2016GS38-0574

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

June 20, 2016 TERM

THE STATE

vs.

Michael Lorenzo Green

Indictment for

MURDER

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury. ✓

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

James B. Clark
CLERK OF COURT
COUNTY OF ORANGEBURG, SC

FILED FOR RECORD
WINNIE B. CLARK
2016 JUN 15 A 11:15
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

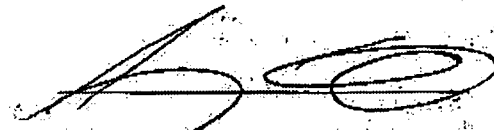
INDICTMENT
2016GS38-0574

At a Court of General Sessions, convened on June 15, 2016 the Grand Jurors of
Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about November 28, 2015, with malice
aforethought, the defendant, Michael Lorenzo Green did kill one Franklin Degree
by means of shooting the victim with a handgun. The victim did die as a
proximate result thereof. This offense being in violation of the Common Law and
Section 16-3-10, of the South Carolina Code of Laws, as amended.

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



Ashley B. Cornwell, Solicitor

STATE OF SOUTH CAROLINA

COL 248 OF
STATE

Orangeburg

VS.

Michael Lorenzo Green

AKA:

Race: Sex: Age:

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder

in violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Cornwell, Ashley B.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.90

TOTAL

\$ 128.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS38-0574

A/W#: 2015A3810200242

Date of Offense: 11/28/2015

S.C. Code § : 16-3-10

CDR Code #: 0116

MAY 26 2017

SENTENCE SHEET Court of Appeals

☒ CONVICTED OF or ☐ PLEADS

☐ Appointed PD or appointed other counsel,
ATTEST: TRUE \$100 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge

Judge Code

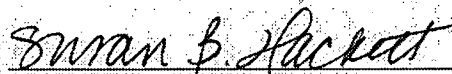
CLERK OF COURT

ORANGEBURG COUNTY

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of March, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

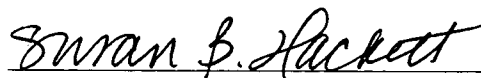
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised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

Respectfully Submitted,

RECEIVED

MAR 27 2018

SC Court of Appeals



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of March, 2018.