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In The Court of Appeals

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SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY,  
Court of General Sessions

The Honorable Thomas W. Cooper, Jr., Circuit Court Judge

Case No. 2015-002242

Henry Norris Johnson, Jr.,

Appellant,

v.

State of South Carolina..... Respondent.

RECORD ON APPEAL  
VOLUME 2 of 2

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Trial transcript, dated October 19-22, 2015

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1 Q I asked you did you talk with the Solicitor about your  
2 testimony here today?

3 A Did I talk to the Solicitor about my testimony today?  
4 He asked me what happened and I told him what happened.

5 Q So you talked to him? The answer is, yes?

6 A Yes.

7 Q How many times you talk to him?

8 A Talked to who?

9 Q The Solicitor, the law enforcement, anybody sitting on  
10 this side of the room?

11 A I talked to one of them once, and I talked to another  
12 one once. And I talked to another one that day after Matt  
13 got killed.

14 Q Did they come to you or you went to them?

15 A The first one, I went to him. The second one, he came  
16 to me. But they told me when I got in contact with them,  
17 they told me that I needed to come talk to them.

18 Q So they made the first contact?

19 A No, I made the first contact.

20 Q What you call them for?

21 A That was the day after Matt got killed.

22 Q Was that before or after you got your drugs out the  
23 house?

24 A I never went back to the house.

25 Q Thank you. I have nothing further.

1 THE COURT: Thank you. Redirect, Mr. Bell?

2 MR. BELL: No further questions for this witness,  
3 Your Honor.

4 THE COURT: Thank you. Mr. Duckson, you can step  
5 down.

6 Is this a good time to break for lunch, gentlemen?

7 MR. BELL: Your Honor, at this time the State  
8 would rests it's case.

9 THE COURT: This is a good time to break for  
10 lunch. Thank you.

11 Ladies and gentlemen, the State has rested its case in  
12 chief. That means that you've heard all the evidence and  
13 testimony that you're going to hear from the State in the  
14 presentation of its case in chief.

15 Necessarily, every trial of this nature at this  
16 juncture, I have to deal with matters of law outside of your  
17 presence. It just so happens, coincidentally, it happens to  
18 be the lunch hour for you all. And so I'm going to send you  
19 to lunch now. Please be back in your jury room at -- let's  
20 say 2:15. We've got some matters to do here before we go to  
21 lunch. And so it might take us -- in order for us to get at  
22 least a part of the lunch hour in, I'm going to get you back  
23 at 2:15. That's an hour and a half. That's a little longer  
24 than you would normally get.

25 Please remember once again that you're not to talk

1 about this case with anybody and let anybody else talk with  
2 you about it. And I'll see you back at 2:15. Thank you.

3 (Jury out at 12:45 p.m.)

4 THE COURT: Mr. Screen, I'll be glad to hear your  
5 motion from the Defense?

6 MR. SCREEN: Yes, sir. Your Honor, on behalf of  
7 the Defendant, Henry Johnson, Jr., I would move for a motion  
8 of directed verdict. I understand many years that this  
9 motion is made in the sound discretion of this Court.

10 THE COURT: Right.

11 MR. SCREEN: And that this Court must view the  
12 evidence in the most favorable light to the State.  
13 Notwithstanding that, Your Honor, I would still ask you to  
14 consider a directed verdict of acquittal in this case.

15 THE COURT: All right. Thank you. Mr. Screen, as  
16 you have stated, I must take the evidence that has been  
17 presented in the light most favorable to the State. And if  
18 there is any direct evidence or significant circumstantial  
19 evidence from which this jury might conclude that Mr.  
20 Johnson is guilty of these charges, then the motion must be  
21 denied. And, of course, in this case the evidence -- there  
22 is some circumstantial evidence surrounding the telephone  
23 records and things of that nature. But the bulk of the  
24 evidence is the testimony of the two other folks who are  
25 involved in this, especially Mr. Washington. That evidence

1 alone would be sufficient to survive the motion. I need not  
2 go beyond that. For that reason, Mr. Screen, your motion  
3 for directed verdict is respectfully denied.

4 MR. SCREEN: Thank you, Your Honor.

5 THE COURT: Mr. Screen, would you like for me to  
6 instruct Mr. Johnson as to his rights concerning testifying  
7 or not testifying at this time.

8 MR. SCREEN: Yes, sir, that would be fine.

9 THE COURT: Good.

10 Mr. Johnson, if you will stand where you are? Please  
11 raise your right hand and let me put you under oath.

12 (WHEREUPON Henry Johnson, Jr. was  
13 sworn to tell the truth.)

14 THE COURT: You may have a seat.

15 Mr. Johnson, the State has presented all the evidence  
16 and testimony that it intends to offer in support of the  
17 charges, at least in their case in chief. You now have the  
18 opportunity to offer evidence and testimony if you choose  
19 to, but as you heard me tell the jury, you're under no  
20 obligation to do that.

21 Under our law, not only do you have a presumption of  
22 innocence but you also have the protection a Fifth Amendment  
23 to the constitution, which says that you cannot be forced or  
24 compelled at any criminal proceeding to testify against  
25 yourself. And we have a similar counterpart to that in our

1 state constitution as well. That means that you cannot be  
2 made to take the stand and testify in this case. That is a  
3 constitutional right that you have. And if you choose to  
4 exercise that right, the jury will be instructed that they  
5 cannot take that into account in their deliberations and in  
6 considering whether you're guilty or not guilty of these  
7 charges. They'll be told that they can't even talk about  
8 that in the jury room. Because if you exercise a  
9 constitutional right that you have that cannot be used  
10 against you. On the other hand, if you choose to give up  
11 that constitutional right to remain silent and choose to  
12 testify, then you'll be subject to questions by the lawyers,  
13 not only by Mr. Screen, but also by Mr. Bell or Mr. Graham.  
14 And you can be impeached on any issue that's relevant to  
15 this particular case.

16 So it's a personal choice up to you. And, of course,  
17 you and Mr. Screen will talk about that during the lunch  
18 hour and make a decision in that regard. But before you do  
19 that, I need to know, do you have any questions that you  
20 want to ask me about your right to testify or your right not  
21 to testify?

22 MR. JOHNSON: No, sir.

23 THE COURT: So I can assume then that when you  
24 make a decision as to whether you're going to testify or  
25 not, that you're making that decision with the full

1 understanding of what your rights are; is that fair to say?

2 MR. JOHNSON: Yes, sir.

3 THE COURT: All right. Mr. Screen, do you want me  
4 to put any more questions to Mr. Johnson in that regard?

5 MR. SCREEN: No, sir. I think you've covered it.  
6 I have thoroughly gone over these with him prior to  
7 submitting him to this Court.

8 THE COURT: I'm sure.

9 MR. SCREEN: And I am comfortable in representing  
10 that he understands his rights in that regard.

11 THE COURT: All right. Thank you.

12 Understanding that the -- unless you're prepared to  
13 announce at this time whether or not he wants to offer  
14 evidence and testimony, Mr. Screen, let me, in the interest  
15 of at least saving a little bit of time now, go over  
16 proposed charges based on what I've heard thus far.  
17 Obviously if additional evidence and testimony is offered in  
18 the Defense case, then I may add to these charges. So this  
19 is as a good a time as any, I think, to deal with these  
20 things.

21 My standard felony charge and the definition that I use  
22 for reasonable doubt or proof beyond a reasonable doubt is  
23 the definition from the United States Supreme Court of  
24 Victor versus Nebraska. Our state counterpart is State  
25 versus Darby. It's similar to the abbreviated instruction

1 that I gave the jury when we started this trial on Tuesday.  
2 And that is that reasonable doubt or proof beyond a  
3 reasonable doubt is proof that leaves you firmly convinced  
4 of the Defendant's guilt. And that's a line that I use. I  
5 say that -- of course, there's more to it than that, but  
6 that's the essence of it. Obviously, you can use any  
7 definition of reasonable doubt in your arguments to the jury  
8 that our court has approved. I simply tell you what I'm  
9 going to say because sometimes lawyers may think that I'm  
10 going to say that the reasonable is the type of doubt that  
11 would cause a reasonable person to hesitate to act, things  
12 like that. I'm not going to say that. You can say that if  
13 you want to. Just don't tell the jury that I'm going to say  
14 that because I'm not.

15 Based on what's before me now, if Mr. Johnson chooses  
16 not to testify, of course, I would instruct the jury about  
17 that. I would instruct the jury on credibility of  
18 witnesses, of course. And among those instructions are the  
19 limited purpose evidence of conviction of a crime of a  
20 witness. I will instruct on expert witness testimony.  
21 Obviously, the elements of burglary in the first degree, the  
22 elements of murder, the use of a statement, the  
23 voluntariness requirement of a statement. I'll instruct on  
24 criminal intent. I'll instruct about testimony of a witness  
25 who has pled guilty to a crime arising out of these events,

1 that that is not evidence against this Defendant, of course.  
2 I will instruct on the hand of one is the hand of all and  
3 circumstantial evidence. I think I've touched it all. My  
4 hand of one charge contains a mere presence element that  
5 says mere presence at the scene of a crime, even with  
6 knowledge of the commission, without intent to aid or abet  
7 does not constitute guilt itself. Those are the things that  
8 occur to me.

9 And gentlemen, I'll be glad to hear any exceptions to  
10 those requests to charge or any additional requests if you  
11 want to present those to me at the end of the lunch hour.  
12 But basically what you've heard so far, are there any  
13 exceptions to those that occur to you off-the-top-of-your-  
14 head.

15 Mr. Graham?

16 MR. GRAHAM: No exceptions, Your Honor.

17 THE COURT: Thank you.

18 Mr. Screen?

19 MR. SCREEN: None, Your Honor.

20 THE COURT: I'll take any additional ones in at  
21 the -- if you've got them, you can offer them after lunch.  
22 Based on what I've heard thus far, it appears to me that the  
23 verdict form as to each of these charges will be guilty or  
24 not guilty. I don't think any lesser includes apply, from  
25 my understanding of the facts. I'll be glad to hear from

1 either side in that regard.

2 What says the State?

3 MR. GRAHAM: We agree, Your Honor.

4 THE COURT: Mr. Screen, what says the Defense?

5 MR. SCREEN: I agree, Your Honor.

6 THE COURT: Okay. All right. Then I'll start to  
7 work on the verdict form right this minute. And then you  
8 all can tell me when you get back from lunch. If I can meet  
9 with you all in chambers for just a minute and get some  
10 scheduling things about this so that I -- this doesn't need  
11 to be on the record. I just need to know how to plan. How  
12 soon I can expect maybe to get this case to the jury.

13 We'll be in recess, folks, until 2:15, did I tell the  
14 jury.

15 THE CLERK: Yes, sir.

16 THE COURT: Thank you.

17 (Court in recess for lunch at 12:53  
18 p.m.)

19 (Court in session after lunch at  
20 2:15 p.m.)

21 THE COURT: Thank you, folks. Y'all can be  
22 seated. Good afternoon.

23 Mr. Screen, do we know yet whether the Defense -- I'm  
24 sure you know. Does the Defense wish to offer any evidence  
25 or testimony?

1 MR. SCREEN: Your Honor, the Defense rests.

2 THE COURT: All right, sir. The jury will be  
3 brought in, Mr. Screen. I'll allow you to rest in the  
4 presence of the jury.

5 MR. SCREEN: Yes, sir.

6 THE COURT: We'll go immediately then to final  
7 arguments. Mr. Graham, will open. And then you will close,  
8 Mr. Screen. Everybody ready for the jury?

9 MR. GRAHAM: Yes, Your Honor.

10 THE COURT: Defense?

11 MR. SCREEN: Yes, sir.

12 THE COURT: Bring us the jury.

13 (Jury in at 2:17 p.m.)

14 THE COURT: Mr. Foreman, ladies and gentlemen, as  
15 you recall before we broke for lunch the State had rested  
16 its case in chief. The Defense now has the opportunity to  
17 offer evidence and testimony if it chooses to do so. But as  
18 you already know, he's under no obligation to do that.

19 Mr. Screen.

20 MR. SCREEN: Thank you, Your Honor. Your Honor,  
21 at this time the Defense would rest.

22 THE COURT: Thank you.

23 Ladies and gentlemen, that means now that you have  
24 heard all of the evidence and testimony that you'll hear in  
25 the trial of this case. And so we proceed at this juncture

1 now to the final arguments that the lawyers will make. Mr.  
2 Graham on behalf of the State will make the first of the  
3 final arguments and after he has concluded, Mr. Screen, on  
4 behalf of the Defendant, Mr. Johnson, will present his final  
5 argument. And then I will instruct you or charge you what  
6 the law is in this case and then you'll be able to go back  
7 and finally start talking about this case among yourselves,  
8 to deliberate and to reach a verdict.

9 I've been impressed throughout the trial with your  
10 punctuality and with your attention. And we appreciate  
11 that. Obviously, you understand the seriousness of the  
12 issues that are involved in this trial and you have given it  
13 the attention that it deserves. But it's important now that  
14 you give that same attention to the lawyers as they present  
15 their final arguments and to the Judge, me, as I instruct  
16 you as to the law in this case.

17 Mr. Graham.

18 MR. GRAHAM: Thank you, Your Honor. May it please  
19 the Court?

20 THE COURT: Yes, sir.

21 STATE'S CLOSING

22 BY MR. GRAHAM:

23 Mr. Bell, in his opening statement said it's a story of  
24 loyalty pushed to its limits. And that's what this case is.  
25 Mr. Screen told you in his opening remarks to you that we

1 were going to be here for a journey of justice. And that is  
2 true and that's what your role is and that's why we're here  
3 today. When you were selected and you heard that  
4 indictment, my guess would be that everyone one of you  
5 thought that you were going to have a person accused of  
6 pulling a trigger on that stand. The person who killed  
7 Matthew Milhouse. And it got a little more complicated.  
8 Because now on our journey for justice in the search for the  
9 truth, as Mr. Bell told you, the story does not start and  
10 stop with Justin Washington pulling the trigger. And it  
11 should not and it is not and it will not. The story ends  
12 when each and everyone of the people involved in that  
13 burglary, in that home invasion, and that led up to the  
14 death of Matthew Milhouse is held accountable for their  
15 roles and the consequence of the choices that each and  
16 everyone of them made.

17 Patrick Larry told you he was guilty of murder. He  
18 didn't pull the trigger. And he was guilty of burglary  
19 first, but he didn't go in the house. Justin Washington  
20 told you that he was guilty of burglary first and that he  
21 was guilty of murder, and he did go in the house. Henry  
22 Johnson's accused and you've heard the evidence and the  
23 evidence proves that he is just as guilty as each and  
24 everyone of those other two men. He didn't go in the house.  
25 He didn't pull the trigger, but it was his plan. It was his

1 idea. It was his will that made it happen. Just as if he'd  
2 gone into that house, he's guilty of burglary first. He's  
3 guilty of the murder of Matthew Milhouse.

4 What were their roles. When you have a plan and you're  
5 going to do something, there are roles that everybody has to  
6 fill. There can be one person doing everything. There  
7 could be two, it could be three or whatever. In this case  
8 you have Patrick Larry. He was the scout. He went to go  
9 see who was in the house.

10 You're going to have to look at the credibility and  
11 believability of every single witness that was on that  
12 stand. Patrick Larry, Justin Washington, everyone else.  
13 It's your decision if they're telling the truth. You can  
14 believe all of it, you can believe part of it, or you can  
15 believe none of it.

16 There are inconsistencies in Patrick Larry's story and  
17 Justin Washington's story. If they were going to lie to  
18 help themselves to get off these charges, don't you their  
19 stories would have matched perfectly? But then that  
20 wouldn't have been the truth because everybody remembers  
21 things differently. Everybody forgets pieces and parts.  
22 The truth comes when you look at it and you judge, when you  
23 make the decision what the truth is.

24 You're not going to hear about DNA. Justin Washington,  
25 it was his gun and he said he shot him. You're not going to

1 hear about fingerprints, nobody says that Henry Johnson ever  
2 put his hands on that gun. You're not going to hear, you  
3 didn't hear that he shot Matthew Milhouse.

4 But the Judge is going to tell you about the law. And  
5 the law in South Carolina says that the hand of one is the  
6 hand of all. It says that if the three of them got together  
7 and had a plan, and each and everyone of them had a role in  
8 that plan, the hand of the shooter and the hand of the  
9 planner are the same hand. It was just as if Henry  
10 Johnson's finger was on that trigger when it got pulled.  
11 Just as if he was standing in Justin Washington's footsteps  
12 when that door was pushed open and he went in with that  
13 shotgun to rob Matthew Milhouse in that drug house.

14 The Judge will tell you that if it's a natural  
15 consequence or probable outcome, that somebody would be  
16 killed, you can infer malice. And he's going to talk to you  
17 about what malice is. Malice is what you have to have to  
18 have murder. It's the unlawful killing of another with  
19 malice aforethought. I don't think there's any question  
20 that it was an unlawful killing. Malice means an evil  
21 heart, a depraved heart. It can also be inferred from the  
22 use of a deadly weapon, in this case a shotgun.

23 So if Henry Johnson planned it, if he's the one that  
24 asked for the shotgun to be got, if he's the one that drove  
25 them over there and that's what you believe, then he's

1 guilty of murder. He has malice because you can infer from  
2 the use of the shotgun that he chose to be there. That  
3 malice exists. You can believe from the description of  
4 Justin Washington what his actions were, that malice exists.  
5 You can believe that if you take a gun to a home invasion,  
6 that it's likely that somebody might get killed, he's guilty  
7 of murder just as if he was there.

8 What do we know about this case and how it developed?  
9 You've got a drug house, people using drugs there. Matthew  
10 Milhouse gets killed. No surprise, the people who are in  
11 there with him flee. And not only do they flee, they steal  
12 from him. They take his gun that was there, they steal the  
13 drugs from the house and they run. No surprise. But there  
14 was a lead that developed from that. She remembered in her  
15 crack using brain that night a name. I think it was  
16 Spider's brother, Spider's cousin, Shannon. The police knew  
17 who that was. They pursued that lead. Shannon said it  
18 wasn't me. The word on the street, it's Patrick Larry and  
19 Henry Johnson. And now they have suspects and the  
20 investigation begins and the journey begins.

21 They go do a photo lineup and prepare one for Patrick  
22 Larry and she picks him out. Don't know whether she  
23 testified to that was the man who shot or that was the man  
24 who was in the house. And they go talk to Patrick Larry and  
25 he says, I don't know anything. I wasn't there. They go

1 search his house. They arrest him. He said I don't know  
2 anything. And he starts to drive off and he gets in a car  
3 and he goes -- he's saying I don't know anything and they're  
4 saying I've been picked out of a photo lineup as the  
5 shooter, that isn't going to work. I wasn't the shooter.  
6 I'm not going down for this. He calls the police back.  
7 When he talks to him, does he confess? No, he doesn't  
8 confess, of course.

9 Do you expect somebody accused of these crimes, who did  
10 these crimes, to tell the whole truth the very first time?  
11 Wouldn't you expect the truth to come out in pieces and  
12 parts over time? What he does do is tell the police that  
13 Justin Washington went in. He doesn't know why Justin went  
14 in. Heard a gunshot, Justin came out. He said he might  
15 have shot somebody. Never saw the shotgun. But my cousin  
16 can vouch for me. My blood can vouch for me. He can tell  
17 you that I wasn't the shooter. The police go talk to him.  
18 He said, I don't know anything about this. I don't know  
19 nothing. I was at home. And remember that. That's what he  
20 said and that's what he's always said. And if you believe  
21 that, then it's your job to find him not guilty. If you  
22 believe he's telling the truth, then he's not guilty. He  
23 said he was at home. That's what he told the police. He  
24 doesn't know anything about it. He was at home playing on  
25 video games.

1           They confront him with the fact that Mary Porter said,  
2           well, I heard his voice that night. He was in my son,  
3           Patrick's, room. He's a relative of mine. I've known him  
4           forever. He was there. And they confront him with it. And  
5           he says it must have been that I was on speaker phone. But  
6           you that house had no land lines, all it's got is cellphones  
7           and you've got the records, the records that came from  
8           Patrick Larry's phone. And so if it was going to be on the  
9           speaker phone, it would be here. And you've got the report  
10          that tells you what contact happened. You're going to see  
11          that there are no calls during that time frame. Ms. Porter  
12          told you, it wasn't speaker phone. I know him. I know his  
13          voice. He was in that room. Patrick Larry told you he was  
14          in that room. Justin Washington told you he was in that  
15          room for they were planning to go do a robbery.

16               Whose car were they in? What's the only car that  
17               you've heard about? You've heard about his dark-colored  
18               four-door, tinted-window Honda Accord. Same car maybe that  
19               Melissa Carr said was driving around, acting suspicious that  
20               night. Is there any evidence that anyone else had that car,  
21               other than Henry Johnson? Any evidence that it got loaned  
22               to anybody? How did Patrick Larry and Justin Washington end  
23               up together? What testimony do you have that they were  
24               friends, that they hung out? What you have is they only  
25               knew each other through Henry Johnson. The spider at the

1 web of this case. They weren't friends, they didn't hang  
2 out. Justin didn't even have a cell phone.

3 When you look at the phone report, you're not going to  
4 see it on here but you heard crime scene Investigator  
5 Phipps, he's the one that talked about the phones. And he  
6 told you that Justin's home number didn't show up anywhere,  
7 anywhere on Patrick Larry's phone calls from January 20th, I  
8 believe, to February 15th. So how did they get together?  
9 They got together through him and because of him.

10 We know that shotgun, Justin Washington's dad's shotgun  
11 is the shotgun that killed Matthew Milhouse. That's no  
12 question. It's undisputed. The shell and gun matched.  
13 There's no question who pulled the trigger. The question is  
14 who all's responsible. Who's going to be held accountable.  
15 That's your job. And if you think we haven't proved our  
16 case, you give him the benefit of the doubt and you let him  
17 go. You say you're not guilty. But if you believe we've  
18 proved our case, it's your duty and your job to find him  
19 guilty of burglary and guilty of murder.

20 During this case, either myself or Mr. Bell should have  
21 done anything to make you believe that Justin Washington  
22 isn't responsible for the murder, he pulled the trigger and  
23 nobody put a gun to his head, nobody made him pull the  
24 trigger, nobody made him go in the house. He is a murderer  
25 and he is a burglar and he told you that. He didn't try to

1 excuse it. Nobody's made him any promises. Nobody's cut  
2 him any dirty deals behind the scenes. He testified to what  
3 he told you was the truth today. Did he lie in the past?  
4 He did lie in the past. He lied to protect himself at  
5 times. And he often lied to protect his best friend, his  
6 brother, the only friend who ever told him he loved him.  
7 But when he figured out that he was being used and that he  
8 was being manipulated and that he wasn't anything more than  
9 a fly in Mr. Johnson's web of manipulation, maybe that  
10 lightbulb went off. I don't need to cover for him any more.  
11 Is he hoping to get help? He is. Does he know he's going  
12 to get it? He does not. You decide whether he's telling  
13 the truth. You heard him, you looked at him. That's your  
14 decision. But you don't have to believe him alone. You  
15 have Patrick Larry as well and you have to come to that same  
16 decision with him. Do you believe him. Did he tell the  
17 truth?

18 What do we know about Justin Washington? What have you  
19 heard? He's a country boy. He grew up in the country. He  
20 lived with his mom and dad in a house they have had in  
21 Denmark for thirty-three years, all of his life. He was  
22 born and raised there. Here close is Denmark to Swansea?  
23 It's a forty-minute drive. Any evidence that Justin  
24 Washington had ever been to that house and knew that  
25 location or knew any of those people? No, he didn't. Who

1 knew it? Patrick Larry knew the place. He did. Henry  
2 Johnson knew the place. Both of them have been to that  
3 house before. Both of them knew where it was. But it was  
4 Henry Johnson's idea. Henry Johnson knew they were going to  
5 a concert. Henry Johnson called and said, J-Dub get that  
6 shotgun. Do you have a tool? Do you have a weapon, some  
7 kind of weapon? I've got my dad's shotgun. Well, go get  
8 it. He said he didn't want, but he did. He does it because  
9 of his friend wanted him to do it.

10 Why do you take a shotgun -- how does a shotgun go from  
11 his house without Henry Johnson being involved all the way  
12 to Patrick Larry's house and all the way to the drug house  
13 in Swansea without Henry Johnson being involved. There's no  
14 phone contact, they're not friends, they don't know each  
15 other, except through Henry. You saw him testify. You  
16 decide. No offense, but did he look like the brightest  
17 bulb? He dropped out of school when he was in eighth grade.  
18 He couldn't get into the military because he couldn't pass  
19 the ASVAB test. He had to have somebody take that test for  
20 him before he could get in and he got kicked out. He says  
21 he gets his GED. He says he goes to Denmark and Voorhees  
22 College and taking classes. I think it was in plumbing, a  
23 good vocation, but he's not a rocket scientists. He never  
24 worked as a plumber. He didn't sound like he had a job. He  
25 didn't have any money. He didn't have a car. He didn't

1 have a cellphone. He was an unpaid trainer on a girl's  
2 basketball team. He was from the country. He hadn't had a  
3 lot of friends and he met Henry Johnson. And that's where  
4 the story begins.

5 Henry Johnson was a high prospect basketball player.  
6 He had cars. He had cellphones. He had money and went to  
7 parties. He had women. Justin liked him. Justin was glad  
8 to be his friend because he gave him access to a life that  
9 he, as a country boy, didn't have. Who's the follower and  
10 who's the leader? Whenever you get people together,  
11 somebody's going to be the leader. Somebody's going to say  
12 here's what we're doing. Here's where we're going to go.  
13 Could Justin have said, I don't want to go? No question.  
14 But who put him there? It's the leader. The one  
15 responsible. You saw him testify. If you think he's the  
16 leader of this, find him not guilty and let him go. Do what  
17 you think is right.

18 What we know about him not being a leader, you heard  
19 testimony of people who know him, his own father. Sure,  
20 it's his dad. Maybe he'd lie for him. You saw him testify.  
21 That's your choice. He said his son was a follower. He  
22 told you about the bond he had with his son and his son was  
23 with him and how his son would help people, would do what  
24 was asked. And then he told you how he changed when he met  
25 the Defendant, Henry Johnson. And it wasn't a change for

1 the better.

2 You heard from Patrick Larry's father. He said he  
3 loves J.R. like a son, had known him for years. He  
4 recognized his voice on that tape. He met Justin several  
5 times over at his house and said Justin was quiet and just  
6 sat there.

7 Who's the leader; who is the follower? How does this  
8 happen without the leader being involved?

9 What else do we know about Justin Washington? Well, it  
10 come from the very lips of Henry Johnson. Mary Porter got  
11 up on that stand. She said I heard J.R.'s voice in  
12 Patrick's room that night. She also talked to you about  
13 another incident, the one and only time that she saw Justin  
14 in her house. Again, Justin and Patrick aren't connected,  
15 except through Henry Johnson. She tells me that time that  
16 she was playing spades with her family at the table, Patrick  
17 was there. And that J.R. came in. She calls him Jay. Jay  
18 came in. He's waiting his turn to play cards. And whatever  
19 time period, ten, fifteen, twenty minutes, Justin comes in  
20 from outside. He's such a follower that he can't even come  
21 in. And he doesn't come in until he's thirsty because he  
22 does what he's told to do. When he says can I have  
23 something to drink, I'm thirsty? And who takes control of  
24 that situation? Is it Ms. Mary Porter or is it Henry  
25 Johnson. Henry Johnson takes control and says get something

1 out of the refrigerator. Ms. Mary says she don't like that.  
2 That's her house. And he gets on to J.R. and she said that  
3 to him. Don't be telling him what to do in my house. Don't  
4 be telling him to go in my refrigerator. And what was is  
5 response, his words? Justin would jump off a bridge if I  
6 told him to. The words of a leader or the words of a  
7 follower? The words of a manipulator or the words of  
8 someone being manipulated.

9 What else do we know about that relationship?  
10 Domonique Duckson, drug dealer. That's what he is, what he  
11 was, his house, playing gambling games, taking money off of  
12 it. Selling drugs, marijuana and crack cocaine and Matthew  
13 was there helping him. And none of us like that. None of  
14 us wish that it would happen. We don't want that in our  
15 community. But that's for the police. It doesn't make it  
16 right for people to go rob drug dealers, to bust into their  
17 houses, rob them at gunpoint, shoot them and kill them.  
18 That's not the law and it's not justice. But what did  
19 Domonique tell you and what motive does he have to lie?  
20 What single reason does he have to come lie? Doesn't have  
21 anything to do with this. He knows that somebody he cared  
22 about was killed. He didn't say that he saw Henry Johnson  
23 do it or Henry Johnson confessed to him or anything like  
24 that. What he did though was tell you about who'd been at  
25 that house before. And he also told you that the times that

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1 he was in trouble, that he was talking with Henry Johnson,  
2 and he said Henry Johnson offered up Justin as trained to  
3 go. Meaning, if you need him to do something, I can tell  
4 him and he'll take care of it.

5 Two times, two people telling you who's the leader and  
6 who's the follower and how that relationship was.

7 Did Justin Washington lie? Of course he did. What he  
8 lied about and when he lied about and why he lied, you know,  
9 that's what you all have to consider. He testified today,  
10 telling you whose plan it was and how it happened. Did he  
11 lie to the police? Yes. Did Patrick Larry lie to the  
12 police? Yes. Nobody wants to say they're guilty of  
13 anything. Nobody wants to be arrested. Nobody wants to be  
14 held accountable for their lies, their actions, their  
15 choices in life.

16 What do we know else about the relationship? You've  
17 got four letters, five letters, five letters to read. The  
18 evidence is that this is the handwriting of Henry Johnson,  
19 the only testimony you have. It talks about the  
20 relationship they have. You heard him read that letter.  
21 Friend or manipulator? What's his purpose in writing that  
22 letter? I mean, he's still asking, get me off of this. And  
23 you'll read the other ones back there. There's -- it would  
24 have taken up too much time. But what you'll see is those  
25 lies that Mr. Screen talked with and I talked with Justin

1 Washington about, the other stories, well, you see where  
2 they came from because you're going to see them in there, in  
3 the letters that Henry Johnson wrote. Still manipulating  
4 the situation after the murder, after Justin's arrest, and  
5 Justin's still in jail trying to get him off. You don't do  
6 that to your friend. Justin lied to protect himself at  
7 times and he lied to protect J.R. at times. But all those  
8 letters talk about from J.R. is get me off. Don't get it  
9 wrong. Be a hundred percent loyal. Two phone calls out of  
10 a hundred and twenty-seven. You all have them. Multiple  
11 have identified this to be -- Justin said it was him and  
12 J.R. And Lee Edmonds, the man who worked at Zeus, he said  
13 he loved J.R., Henry Johnson, like a son. He could  
14 recognize his voice. You'll have these back there if you  
15 want to listen to them, you can do that.

16 What you're going to hear and what you heard in Court  
17 is Justin and J.R. talking. J.R. says -- pardon my language  
18 here -- he's talking about Pat. Pat was going to mix up our  
19 shit. And they're talking about this case. And you can  
20 tell that from the conversation. It starts off where Justin  
21 is going to go to prison. They're talking about Kirkland,  
22 which is a correctional facility here. Talks about other  
23 people there. But it wouldn't have happened if Pat wasn't  
24 in the mix of our situation. Our situation, not yours, not  
25 you're on trial Justin because of Pat, but because of our

1 situation, what we did together. Our choices. My  
2 leadership, your following. Ours.

3 The second call, they couldn't mess with me until you  
4 threw my name in the mix. Obviously taking about this case.  
5 Because that's the only thing that Henry Johnson thinks he's  
6 got him in trouble, is Justin. They couldn't mess with me  
7 until you threw my name in the mix. It is what it is. And  
8 he says according to the translation that Justin gave us, I  
9 still love you, though. How could that be true. If Henry  
10 Johnson wasn't involved and wasn't the leader in this group  
11 and Justin Washington pulled him into this situation and  
12 it's not true, how could he say he still loved him.

13 If somebody accused you and tried to pull you into a  
14 murder that you didn't do, I still love you, though. If you  
15 think that makes sense, find him not guilty and let him go.

16 They couldn't mess with me until you threw my name in  
17 the mix. It is what it is. I still love you, though. But  
18 we didn't know that it was going to play out like that.

19 What else were they talking about? We didn't know.  
20 Not you didn't know. I'm really sorry for you Justin, bad  
21 for you. We didn't know that it was going to play out like  
22 that. Our plan.

23 A hundred and twenty-seven phone calls over one year  
24 between Justin and the number that the records and testimony  
25 associate with him. The voice is identified as being him

1 related to those. A hundred and twenty-seven phone calls  
2 for somebody who falsely accused you of murder and trying to  
3 bring you down or is that somebody you're still trying to  
4 manipulate, somebody you're still trying to control,  
5 somebody you're still trying to do your will. Because  
6 that's what Henry Johnson was doing. I still love you  
7 though. Get me out of this.

8 The cell phone, Patrick Larry's cellphone taken from  
9 his house. You're going to have this report back there and  
10 you can look at it. And like Phipps told you, there wasn't  
11 a single call to the only number that has ever been  
12 identified to Justin Washington. What you do have is  
13 between January 20th and February 15th calls and texts  
14 between Patrick Larry and the number identified, I believe  
15 in more than one place, of Justin Washington [sic]. You'll  
16 see on there that there's not much activity before February  
17 11th, before the night this all started. They were friends.  
18 They knew each other, but there wasn't a plan. The plan  
19 started on February 11th. And you'll see who's calling who.  
20 Is it Patrick reaching out for Justin, hey I need to get in  
21 touch with -- I mean -- excuse me. Is it Patrick reaching  
22 out to J.R. or is it J.R. reaching out to Justin? And this  
23 will tell you what's incoming and what's outgoing the whole  
24 length of time.

25 Who called the next morning? Henry Johnson called back.

1 the next morning. Who kept calling and calling and calling?  
2 Patrick Larry was involved in a burglary. He found out  
3 later that somebody died. He thought that J.R. was going to  
4 cover for him when he first told the police. Well, Justin's  
5 the one who went in. I was just in the car and J.R. was in  
6 the car with me. And, you know, we don't know anything.  
7 But he told the police he wasn't there. But who's  
8 initiating contact? Who's calling? Who continues to call?  
9 Look at the calls and look at the times. And it's going to  
10 tell you that J.R. was trying to stay on top of things.  
11 He's the one who worried because it was his man, the one he  
12 told to go in there and rob that house, that caused this to  
13 happen. In fact, if you look at the text which are on here  
14 between them, it said that on the 15th, the day Patrick  
15 Larry got arrested, they have a text conversation. And, of  
16 course, who starts it? Henry Johnson. What's up? Response  
17 from Patrick's phone, 'chillin. From Patrick to him, what's  
18 good with you? The response, shit cooling. Making sure  
19 everything is straight for now. From Henry Johnson to  
20 Patrick's phone, haven't heard nothing yet. What would he  
21 be having to hear? What would he be having to keep  
22 straight? The plan he put in place, the plan that  
23 backfired, the burglary and the murder of Matthew Milhouse.  
24 That's what he's got to keep straight. That's what he  
25 hadn't heard anything about.

1 Mr. Screen is going to get the last word. He's a great  
2 orator and a great speaker. He's going to say things that I  
3 would have addressed to you and I'm not going to have that  
4 opportunity to come back to address you. You've heard all  
5 the testimony over the last day and a half or so. You know  
6 what the evidence is. As you're going down that journey,  
7 the journey for justice, Mr. Screen's words, don't get  
8 distracted. Hold the markers, use your wisdom, and use your  
9 life experiences and follow the path.

10 I heard a quote I'm going to share with you. The dead  
11 do not cry out for justice. It's a duty of the living to do  
12 so for them.

13 Matthew Milhouse is dead. You're here to do justice.  
14 Convict the guilty, let the innocent go free, make the State  
15 prove its case.

16 Patrick Larry told you that he was guilty of burglary  
17 and murder. And he's going to get his justice. Justin  
18 Washington told you that he pulled the trigger, told you he  
19 was guilty of burglary and murder. And he's going to get  
20 his justice. But today we're here looking for justice for  
21 Henry Johnson in his role and his activity. Henry Johnson  
22 is guilty of burglary in the first degree. Henry Johnson is  
23 guilty of murder. Although his hands weren't on the  
24 trigger, although his foot and hands didn't push open that  
25 door, he planned it. He directed it. He put it together.

1 He made it happen. He manipulated Justin Washington. He  
2 manipulated Patrick Larry into doing his will. If Henry  
3 Johnson hadn't done what he'd done, Matthew Milhouse would  
4 be alive today.

5 Thank you.

6 THE COURT: Thank you, Mr. Graham.

7 Mr. Screen.

8 DEFENSE CLOSING

9 BY MR. SCREEN:

10 Thank you for listening. The big part of what I have  
11 learned to love and believe in my forty years of practice,  
12 this is the best system for justice on the planet. I don't  
13 like it sometime. I'm critical of it sometime, as I'm sure  
14 you are, but when it's all said and done, it separates us  
15 from the lower-class animals. Gives us a reason to believe  
16 that we can live together in harmony in the midst of our  
17 disagreements, we can do that. And it's lasted over two  
18 hundred years and I pray to God that it continues to move in  
19 that same direction.

20 Henry Johnson was a junior at Voorhees College in  
21 February of 2012, playing basketball. Henry comes from a  
22 good family. There's his father sitting there, a thirty-two  
23 year deacon and his mother is a minister. They sit there.  
24 They raised Henry, along with some other brothers. One's an  
25 ex-Marine, the other U.S. Army.

1 MR. GRAHAM: Objection, Your Honor, these aren't  
2 in evidence.

3 THE COURT: I'll sustain the objection as to those  
4 two family connections.

5 MR. SCREEN: I have no problem with him objecting  
6 to the Marine, Judge.

7 CLOSING CONTINUED

8 BY MR. SCREEN:

9 Let me tell you something, they brought a lot over  
10 here, going over to that jury box. And they want you to  
11 unscramble it for them. They brought in a lot of witnesses,  
12 but this is not a popularity contest. You don't hang your  
13 verdict on how many people one side put up or the other. As  
14 I told you when I opened, you are on a search for the truth.  
15 What I didn't tell you is what you know now. As on that  
16 journey, on the search for the truth, like any journey,  
17 there's some pitfalls. There's some bad places in the road.  
18 There's some ugly things that go on along the way to truth  
19 city. And one of them came from right there, Melissa Carr.  
20 A pitiful, young girl who's been turned into a junkie by her  
21 use of cocaine, crack, and other illicit drugs. And her  
22 testimony could not be relied upon to believe that seven is  
23 up, if she tells you that. If she tell you the sun shining,  
24 you better go out and look. Because she is crazed out of  
25 her mind with drugs. It's unreliable anything she tells

1 you. But if I was to fast-forward and go forward, the State  
2 allows a dope dealer, gives him a free hand with his  
3 behavior, to come up here and tell you a story. And his  
4 free hand has produced people like that, like Melissa Carr,  
5 from that poison he sells everyday. He was running a  
6 brothel, a bawdy house. 498 Calhoun Road, that's what they  
7 were doing over there. Drugs, cocaine, marijuana, maybe  
8 even some other little favors that you could imagine, was  
9 going on over there.

10 There's a lot you've got to consider but you know it.  
11 Let's cut to the chase. At the end of the day, you've got  
12 to decide whether you're going to believe a confessed  
13 killer, a confessed liar, Patrick Larry. A Ph.D., I wrote  
14 last night because I was thinking what I was going to say to  
15 y'all. And I say that Patrick Larry has a Ph.D. in  
16 slickology. He's as slick as a can of oil. And he's  
17 looking to slip out of this noose. He recognize he's in  
18 trouble. He jump right in the boat with Brother Graham  
19 here. Jumped in the boat with the Solicitor's office  
20 because he knew the trial that we are here today for. So he  
21 jumped over in there. He lied and lied and schemed until he  
22 found out he couldn't get no further. The current of truth  
23 was getting too swift around him, so he gets in the boat  
24 with the Solicitor. Take me to dry land. And that's what  
25 they do.

1 Now, if you want to believe, and you choose to believe  
2 whatever you want to. But common sense would tell you that  
3 he didn't get in that boat with the Solicitor. His fare to  
4 ride to the other side, to dry land, was to come up here and  
5 tell the story. Now, they know he's a liar.

6 This fine officer right here, Officer Collins, told you  
7 I interviewed him five, six, seven times. Why do you keep  
8 going back and put more sugar in the coffee if it's sweet  
9 already? Because it wasn't sweet. This boy was lying to  
10 you. It wasn't sugar he was giving up. It was salt.  
11 Patrick Larry lied to them every time they came, it couldn't  
12 run no further. I don't know if any of y'all go fishing.  
13 Sometimes they just run and run and try to tangle the line  
14 until he can't run no further. He lied about his  
15 involvement. He lied. He's a lazy hustler. A poor  
16 hustler, but a hustler nonetheless. He doesn't work. He's  
17 got no job. He lays around in his mama's house and every  
18 time he gets the urge, he goes down the road and get him  
19 some dope. Yeah. I smoke it in the house. Mama know I  
20 smoke it in there. Smoking dope in his mama's house, not  
21 working, laying around. Well, what do you expect from him?  
22 Not the truth. Not nearly the truth. Patrick Larry is  
23 unworthy to be believed. He's manipulative. He's  
24 optimistic. He was older than Henry and J-Dub, so he's the  
25 leader. He was the one that went to the house. How many

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1 times, he said ten, fifteen, he couldn't count. What you  
2 going over there for? Getting dope and to gamble. That's  
3 what I'm over there for and anything else that might come  
4 down the pipe while I'm over there. Patrick Larry knew that  
5 house. He set it up. Patrick Larry wasn't going to get  
6 Henry into this because that's his cousin. He got J-Dub.

7 Now J-Dub is a special kind of fellow. He's quiet.  
8 You know some people are extroverts, they talk all the time.  
9 Can't shut them up. And you got introverts, you can't get a  
10 peep out of him until he's ready to peep. Patrick Larry and  
11 J-Dub were in a union together. Both of them finally came  
12 in and confessed. And their performance here and the  
13 outcome of this trial, their future rest on it. And isn't  
14 it ironic that they say that night they were going to hear  
15 or see a group called Future.

16 On that fateful night Patrick Larry and Justin  
17 Washington took the future away from Matt Milhouse and they  
18 threw their own future away in the process. Now they come  
19 in here today as part of their hope for a deal, and want you  
20 to help them throw the future of Henry Johnson away.

21 Do you really want to hang your verdict on the word of  
22 a confessed liar? You know, sometime there was a record out  
23 one time that had some lyrics in it, sometimes the hunter  
24 gets captured by the game.

25 Henry Johnson wasn't using J-Dub, J-Dub was using Henry

1 Johnson. J-Dub drove his car all over the place, burnt his  
2 gas up, ate up his food. Bask in the energy of his  
3 popularity and friendship. He used him. And in spite of  
4 all of that, Henry Johnson got some kind of blind love for  
5 him. He still kept trying to maintain some kind of sensible  
6 relationship with him.

7 You heard me when I asked Justin Washington, did you  
8 think about suicide in jail? Yes, sir. And one of the  
9 letters that Henry, because he was trying to keep you  
10 strong, keep your head up? Yes, sir.

11 Who's using who? One of the slickest people you know  
12 is one that acts slow. You want to get taken advantage of,  
13 you let one of the slow-walking, slow-talking country boys  
14 get up to you. You think he's slow. He is as quick as a  
15 flash. And all they talking about city and country. Well,  
16 it's country all the way down once you get out of the sight  
17 of West Columbia. Henry grew up in the country. He's a  
18 country boy. That's just absolutely too much back and forth  
19 and lying and admitting and then lying about this. And they  
20 just drop a little piece out there, a little at the time.  
21 But it's a lot of lies in this case.

22 The State knew that these people lied, yet they brought  
23 them in here anyway. Now, they knew it. They're the ones -  
24 - they decided what they want to believe, the Solicitor, the  
25 State did. But they knew that they were bringing in some

1 liars. And they imported them in here anyway and they want  
2 you to believe them and bring back a verdict of guilty  
3 against Henry Johnson.

4 Well, I don't see it. I don't see how reasonable  
5 people like yourself would not have reasonable doubt about  
6 whether or not Henry Johnson is guilty.

7 Now, the Judge is going to instruct you in a few  
8 minutes on the law. Yes, and he's going to talk to you  
9 about the hand of one is the hand of all. He's going to  
10 talk to you about some mere presence. You listen to the  
11 Court. This is a learned Judge. You take the law from him.  
12 But when you get the law from him, you season the facts with  
13 the law. And when you put it all together and shake it up,  
14 you ought to have some questions about whether or not you  
15 want to wake up tomorrow or Saturday or Sunday and be able  
16 to look yourself in the face and believe you did the right  
17 thing here.

18 They've got two of them. The State's greedy. They're  
19 greedy. They've got two. They've already told you, they  
20 broke them and they confessed. But they ain't happy with  
21 that. They want to break this college boy down and they  
22 want you to find him guilty based upon two people that they  
23 know are recorded, confessed liars. They can't get around  
24 it. Yeah, they got telephone calls. Nowhere do they have a  
25 confession from Henry Johnson. If they had some

1 fingerprints they could put on that shotgun, they'd be  
2 running over here to you, the hand was on it. If they had  
3 fingerprints off the crime scene, Henry was there. They got  
4 no DNA. Henry wasn't there. Their case will rise or fall  
5 on the testimony of these two guys.

6 It is not my client's credibility pitted against this  
7 fine officer here or none of the rest of them. This is not  
8 a case calling the credibility of the police into question.  
9 This is a case that calls the credibility of the  
10 government's two primary witnesses, the only two who can  
11 talk about this.

12 When the police came on scene, it was already done.  
13 History in the making. They don't know nothing about it,  
14 other than what they found out from people. And the police  
15 chose to believe certain people and disbelieve others. But  
16 they at least been fair to some extent. They said we  
17 brought you some liars and they wasn't wrong.

18 It is unreasonable for you to believe that Henry  
19 Johnson is guilty. They put them together in a room. You  
20 heard me ask them. You bring two defendants in a room  
21 together, both of them with their lawyers. And you let them  
22 exchange statements. You let them read what another one has  
23 said about it so that they can then harmonize their  
24 statement for the one day when they come in here, it looks  
25 like they might be telling the truth this time because they

1 sound-alike. Let's play fair. That wasn't fair. That's  
2 generally not fair to do them like that.

3 Yes, old slick, Patrick Larry, thought his cousin was  
4 going to help him. And when Henry decided that I ain't  
5 going to help you, I'm not getting involved in that, then he  
6 got mad and he turned on his cousin. He turned on Henry,  
7 and that's why Henry sits right there today.

8 It's take the State three years, over three years, from  
9 February 2015 [sic] to now, to draw all of this stuff, get  
10 all these lies together, filter through them, and try to  
11 give them to you in a fashion that you might swallow the  
12 bait. I urge you not to do it. I urge you not to do it.  
13 They made deals with murders and liars and burglars and drug  
14 dealers and gamblers and operators of houses of ill repute.  
15 This is an eenie, meenie, miney, mo charge. Do I get this  
16 one? Do I get that one? You've got two chickens in the  
17 coop and now you trying to get another. That's greedy.  
18 It's mean. It's nasty, to try to get him based upon lies  
19 that came out of the mouth of two people that have already  
20 confessed.

21 I could walk you through these witnesses, but I trust  
22 you to have the memory of what each of them said. I'm not  
23 going to bore you. I'm not going to beat my tongue against  
24 the roof of my mouth any longer about that. I want you to  
25 come back with a verdict that speaks the truth. The word

1 verdict comes from the term veredicto, which is Latin, which  
2 means to speak the truth. If your verdict speaks the truth  
3 in here, ladies and gentlemen, it must be not guilty. If  
4 your verdict speaks the truth, you must not allow the  
5 testimony of a confessed killer and liars to cause you to  
6 find another man guilty. He might be. He could be. Where  
7 there's some smoke, there might be some fire. But that is  
8 not the standard. The Judge will tell you the standard is  
9 reasonable doubt and he's going to define it. My definition  
10 is a reasonable doubt is a doubt which a reasonable person  
11 might have, who is honestly seeking to find the truth. If  
12 you honestly seek to find the truth here, you can't miss a  
13 reasonable doubt. And if you have such a doubt, you must  
14 resolve it in favor of this Defendant. Thank you. Y'all be  
15 blessed and make a good verdict here, one that you can live  
16 with. You live with it and it's fair and the State will  
17 live with it, and the Defendant in part.

18 Thank you.

19 THE COURT: Thank you, Mr. Screen.

20 COURT'S CHARGE

21 THE COURT: Now, Mr. Foreman and ladies and  
22 gentlemen of the jury, give me your attention for a few more  
23 moments now. You have indeed been patient throughout the  
24 trial of this case. And you have listened very patiently to  
25 the arguments of our -- Mr. Graham and by Mr. Screen. And

1 it is now my responsibility under the law to instruct you or  
2 to charge you as to what the law is in this case. And it is  
3 your duty as jurors to accept and apply the law as I now  
4 state it to you.

5 As jurors, ladies and gentlemen, it is your exclusive  
6 duty to decide all issues of fact in this case. And for  
7 that purpose you have to determine the effect and the value  
8 and the weight and the truthfulness of the evidence that you  
9 have seen and heard. Both the State and the Defendant have  
10 the right to expect that you will conscientiously consider  
11 and evaluate the evidence, and that you will apply the law  
12 of the case to that evidence so that both the State and the  
13 Defendant will receive a fair and impartial trial at your  
14 hands.

15 Throughout the course of this charge, ladies and  
16 gentlemen, my use of the word defendant, I'm referring to  
17 Mr. Henry Norris Johnson, Jr. Mr. Johnson has been  
18 indicted, as you know, by the grand jury of Lexington County  
19 and charged in this first indictment with the crime of  
20 murder. And that indictment says that Henry Norris Johnson,  
21 Jr., along with Patrick Larry and/or Justin Washington, did  
22 in Lexington County on or about February the 12th, 2012,  
23 willingly and unlawfully killed one Matthew Milhouse, with  
24 malice aforethought, either expressed or implied by shooting  
25 him in the leg with a shotgun. And that he died as a result

1       thereof. Mr. Johnson is also accused in this indictment of  
2       burglary in the first degree. This indictment says that Mr.  
3       Johnson did, along with Mr. Larry and Mr. Washington in  
4       Lexington County on the same night, February 12th, 2012,  
5       knowingly and willfully enter a dwelling at 498 Calhoun  
6       Road, which was the dwelling of Matthew Milhouse, without  
7       his consent and with the intent to commit a crime there.  
8       And when going into the house or while there or while  
9       leaving, he, along with another participant in the crime,  
10      was armed with a deadly weapon and/or caused physical injury  
11      to someone who was not a participant in the crime. And/or  
12      threatened to use a dangerous instrument or display what  
13      appeared to be a shotgun or other firearm, all in violation  
14      of the law.

15           I remind you again folks that the indictments, which  
16      I've just read to you are not evidence, nor are they proof  
17      of the charges that they contain. They are charging  
18      documents, legal documents and they tell you or me or  
19      anybody else who reads them what the charges in this case  
20      are all about. And as you know, to those charges of those  
21      indictments, Mr. Johnson has entered pleas of not guilty and  
22      has asked for the jury trial, which he is receiving and is  
23      now still in the midst of receiving.

24           When a Defendant in a criminal case pleads not guilty  
25      to a charge, the effect of that plea is to place the burden

1 of proof on the State, to prove by evidence his guilty  
2 beyond a reasonable doubt before you can convict him and  
3 find him guilty.

4 Mr. Johnson is presumed in law to be innocent of the  
5 charges contained in the indictment. It is a fundamental  
6 rule of our law of evidence that a Defendant, regardless of  
7 the nature of the charges or the number of charges or the  
8 seriousness of the charges against him, will always be  
9 presumed innocent of the charges against him unless and  
10 until his guilt has been prove by evidence, evidence that  
11 satisfies you of that guilt beyond a reasonable doubt.

12 Now, the presumption of innocence is not a mere legal  
13 theory. It's not an empty legal phrase. The presumption of  
14 innocence has been likened to a robe or righteousness and it  
15 rest about the shoulders of a Defendant. And it assigns to  
16 that Defendant the class known as the innocent. And that  
17 presumptive robe of righteousness continues to rest on the  
18 shoulders of a Defendant until it has been stripped from his  
19 person by evidence that satisfies you of his guilt beyond a  
20 reasonable doubt. The presumption of innocence accompanies  
21 a Defendant from the time of his arrest. It follows him  
22 throughout every stage of these proceedings. It even  
23 follows him as you go into your jury room to deliberate and  
24 to reach a verdict in this case. The presumption of  
25 innocence continues to exist for the benefit of a Defendant

1 unless and until you, the jury, reach the conclusion that  
2 the State has proven his guilt beyond a reasonable doubt.  
3 So that is the burden on the State, proof beyond a  
4 reasonable doubt.

5 Some of you may have served as jurors in civil cases  
6 before. And if you did, you were told by the judge that it  
7 is only necessary that the party who has the burden of proof  
8 present evidence on that side of the issue that is more  
9 convincing to you than the evidence is on the other side of  
10 the issue. But in criminal cases the State's proof has to  
11 be more powerful than that. Here it has to be proof beyond  
12 a reasonable doubt.

13 So what do we mean by proof beyond a reasonable doubt?  
14 Proof beyond a reasonable doubt is proof that leaves you  
15 firmly convinced of the Defendant's guilty.

16 Now there are very few things in this world that you  
17 and I know with absolutely certainty. And in criminal cases  
18 the law does not require proof that overcomes every possible  
19 doubt. And so if based on your consideration of the  
20 evidence you are firmly convinced that the Defendant is  
21 guilty of the crime charged, you must find him guilty. If on  
22 the other hand you think there's a real possibility that he  
23 is not guilty, you must give him the benefit and the doubt  
24 and find him not guilty. Reasonable doubt might arise from  
25 evidence in the case or it could arise from a lack of

1 evidence in the case. But you folks have to decide whether  
2 or not reasonable doubt exists as to the guilt of Mr.  
3 Johnson. I tell you that the Defendant is entitled to every  
4 reasonable doubt which arises in the case. And so if on any  
5 issue of fact, which is necessary to a conviction and a  
6 verdict of guilty, you have a reasonable doubt as to how  
7 that issue should be resolved, it is your duty to resolve  
8 that reasonable doubt in the favor of the Defendant.

9 I remind you the Defendant is not required to prove his  
10 innocence. But the State is required in law to prove ever  
11 essential element of the offense charged against him by  
12 evidence that satisfies you as a jury of his guilt beyond a  
13 reasonable doubt before you can convict him and find him  
14 guilty.

15 And I instruct you now and I emphasize to you that the  
16 fact that this Defendant did not himself testify, is not a  
17 factor to be considered by you in any way in your  
18 deliberation and in your consideration on the question of  
19 his guilt or innocence. It must not be considered by you in  
20 any manner whatsoever against him. It must not militate  
21 against him in any respect whatsoever. The Defendant has a  
22 constitutional right to remain silent. And if he assert  
23 that constitutional right cannot and must not be considered  
24 by you in your deliberations. And so under your oath, you  
25 are to reach no inference and draw no conclusion whatsoever

1 from the fact that this Defendant did not himself testify.  
2 That should not even be discussed by you in the jury room.  
3 The burden of proof, as I have said, is on the State. The  
4 Defendant has no obligation to prove his innocence. And the  
5 burden remains upon the State to prove guilt beyond a  
6 reasonable doubt. And the fact that the Defendant did not  
7 testify is not a factor to be considered by you in  
8 determining his guilt or his innocence.

9 So, if then upon the whole case you have a reasonable  
10 doubt as to the guilt or the innocence of the Defendant, he  
11 is entitled to that reasonable doubt and would be entitled  
12 to an acquittal and a verdict of not guilty. But on the  
13 other hand, if upon the whole case you find that the State  
14 has proven by evidence that satisfies you as a jury of his  
15 guilt beyond a reasonable doubt, then in such circumstances  
16 it is equally your duty to convict him and to find him  
17 guilty.

18 Now, during this trial ladies and gentlemen, each of  
19 us, you and I, have our separate duties to perform. As the  
20 trial judge, it's my responsibility to preside over the  
21 trial of this case. And I also have a duty to rule upon or  
22 pass upon the admissibility of the evidence, which has been  
23 offered during the course of this trial. And you're to  
24 consider only the competent evidence before you. That is  
25 the testimony offered from this witness stand here and the

1 items or documents that have been offered into evidence  
2 during the course of this trial. I have the additional duty  
3 as the Judge to charge you or instruct you as to what the  
4 applicable law in this case is. As the presiding Judge, I  
5 am made the sole Judge of the law of the case. And it is  
6 your duty to accept and apply the law as I now state it to  
7 you. You might have brought with you this week into your  
8 service as jurors, some preconceived ideas about what you  
9 think the law is. Or you might have a preference about what  
10 you would like for the law to be. But I tell you if your  
11 preconceived ideas about the law or if your preferences  
12 about whether you like the law to be or don't agree with me  
13 about what I'm telling you now the law actually is, you are  
14 obligated under your oath to forget what you think the law  
15 is or what you would like for it to be. Because under your  
16 oath you are sworn to accept the law precisely as I state it  
17 to you now.

18 Since you're the judge of the facts, ladies and  
19 gentlemen, and I'm the Judge of the law, you're not to  
20 gather from anything that I have said that during this trial  
21 or anything that I'm saying to you now during this charge,  
22 that I have an opinion about the facts of this case. The  
23 law does not allow me an opinion about the facts of the  
24 case. As I've told you, that's solely a matter for you to  
25 determine. And so as jurors then, it is your duty as I have

1 told you to decided the effect and the value and the weight  
2 and the truth of the evidence that you've seen and heard.

3 Now, as you determine what the facts of the case are,  
4 you necessarily are called upon to pass upon the credibility  
5 -- and that's just another word that means believability --  
6 of the witnesses who have testified. And you have to decide  
7 the value or the weight that you will give to the testimony  
8 that you've heard. You and you alone have to decide the  
9 force and the effect and the truth of the testimony that has  
10 been offered here in this courtroom. Now, as you make this  
11 decision about credibility and believability, there are a  
12 lot of things that you can take into account. For example,  
13 you can take into account the appearance, the manner of the  
14 witness as he or she testified here from the witness stand.  
15 We sometimes call that the demeanor of the witness. In  
16 other words, how did the witness appear to you as he or she  
17 was testifying? You have the right to ask yourself whether  
18 the witness was forthright or was the witness hesitant. You  
19 can consider whether the witnesses' testimony was consistent  
20 or did it contain discrepancies. You can ask what was the  
21 ability of that witness to know the things that he or she  
22 was telling us about. If you have a reason to ask whether a  
23 witness was biased or prejudiced in favor of the testimony  
24 that that witness was giving. You can ask whether the  
25 testimony of a witness was made stronger by other evidence

1 or was it made weaker by other evidence.

2 You've heard the testimony from persons in this case  
3 described as expert witnesses. Lay witnesses, that would be  
4 people like me and you, can testify about what they saw and  
5 what they heard, but they can't tell you what their  
6 conclusions are about that or what their opinions are about  
7 what they saw and heard. But people who have been qualified  
8 as experts because they have been trained or they've had  
9 experience in certain fields, are allowed to render their  
10 opinions in those matters in which they have been qualified  
11 as experts. But you judge expert opinion testimony just  
12 like you do any other testimony. You can accept it or  
13 reject it. You can give it the weight you think it should  
14 receive according to the witness's education and the  
15 experience and the reasons that they gave you for the  
16 opinions that they have.

17 There's also been admitted into the record of this case  
18 evidence of prior criminal records of witnesses who have  
19 testified. And that evidence was offered for a limited  
20 purpose, as I told you during the trial, and you can  
21 consider it only for that limited purpose. You can consider  
22 that evidence if you conclude it to be true, only for the  
23 purpose of evaluating the credibility or the believability  
24 of the testimony offered by that same witness and for no  
25 other purpose at all. You can't give it any weight, other

1 than that. Other than the sole issue of the credibility or  
2 believability of the testimony offered by that witness  
3 himself or herself.

4 You've also heard testimony from witnesses who  
5 indicated that they're guilty of a crime arising out of the  
6 same events, for which the Defendant is on trial. This is  
7 not evidence against the Defendant. And you can consider it  
8 only in determining the credibility of the witness himself.  
9 Because ladies and gentlemen, as jurors, you've got the  
10 right to believe a small portion of the witness's testimony  
11 and disbelieve the larger portion of the testimony of that  
12 same witness or the other way around. Or you can believe  
13 all of what a witness tells you or none of what a witness  
14 tells you. But you don't exercise these considerations of  
15 determining truthfulness arbitrarily. There's got to be  
16 some reason in the record for you to do so. Because what we  
17 ask you to do is what I told you we were going to ask you to  
18 do before we began this trial a couple of days ago. We're  
19 going to ask you to exercise your mental process. And as  
20 you determine what you consider to be true, we require that  
21 you exercise your own good judgment, your sense of logic and  
22 reason and your own experiences in life. And then you'll  
23 find these abilities that each of you has, that you bring in  
24 separately into this courtroom from your own individual  
25 walks of life and for your own experiences, and you apply

1 you separate abilities of what you've heard in this case,  
2 and you'll decide then the truth of the case. And then you  
3 will apply the law to that truthfulness as I've just told  
4 you. And those two things come together to reach a verdict,  
5 which speaks the truthfulness of this case.

6 Now, ladies an gentlemen, let me instruct you about the  
7 elements of the offenses charged in these indictments. As  
8 you know, the Defendant is charged in one indictment with  
9 the crime of murder. So I define for you now the crime of  
10 murder and I tell you what the elements of that charge are,  
11 reminding you that the State has to prove every element of  
12 every charge beyond a reasonable doubt before it is entitled  
13 to a verdict of guilty as to that particular charge.

14 Murder is defined as the killing of any person with  
15 malice aforethought, either expressed or implied. And so in  
16 order for the State to prove the Defendant guilty of murder,  
17 it must be proven beyond a reasonable doubt that the  
18 Defendant killed a person, and that the killing was done  
19 with malice aforethought. The State doesn't have to prove a  
20 motive for the killing, but it does have to prove malice.

21 So what then is malice? Malice is the intentional  
22 doing a wrongful act without just cause or excuse and with  
23 an intent to inflict injury. Malice aforethought is a  
24 deliberate and willful and purpose to do the unlawful act.  
25 Aforethought means that the intention to do the unlawful act

1 was conceived or planned sometime before the actual  
2 commission of the unlawful act, but it doesn't have to exist  
3 for any particular length of time prior to the act to render  
4 the killing murder.

5 Malice is a word that suggest a wickedness or a hatred  
6 or a determination to do what one knows to be wrong without  
7 just cause or excuse or legal provocation. As I've said,  
8 malice need not be on the mind of the one doing the killing  
9 for any particular length of time in order to render the  
10 killing murder. If it is present in the mind doing the  
11 killing any length of time before the act, then its presence  
12 is sufficient to render the killing murder.

13 Malice can be expressed or it can be inferred. Malice  
14 is said to be expressed where there is shown a violent,  
15 deliberate intention to unlawfully take away the life of  
16 another human being. Malice may be inferred when no excuse  
17 or legal provocation for the killing appears and when  
18 circumstances surrounding the killing show an abandoned  
19 heart, a malignant heart, fatally bent upon mischief. The  
20 law says that if one intentionally kills another with a  
21 deadly weapon, the inference of malice may arise.

22 Now, a deadly weapon is any object or substance which  
23 reasonably could be used to cause bodily harm. Malice may  
24 be inferred from the use of a deadly weapon. You're  
25 permitted to infer malice from the conduct of the Defendant

1 and the use or the handling of a deadly weapon, if such  
2 conduct results directly in the death of another. And if  
3 that conduct was so inexcusable, so aggravated and so  
4 grossly reckless as to show an actual intentional disregard  
5 of the consequences to human life, a conduct sufficient to  
6 show a deliberate, intentional desire to use or employ or  
7 handle a deadly weapon, as to endanger the life of another  
8 or others without just cause or excuse is sufficient to  
9 raise an inference of malice. I tell you the law also says  
10 if one intentionally kills another during the commission of  
11 a felony, the inference of malice may also arise.

12 I tell you, ladies and gentlemen, that if facts are  
13 proven beyond a reasonable doubt, sufficient to raise an  
14 inference of malice on either of these crimes, then this  
15 inference is simply an evidentiary fact. And you will take  
16 it into account with all the other evidence of the case  
17 bearing on the issue of malice. And you can give it the  
18 weight that you determine it should receive. The Defendant  
19 is not required to prove the absence of malice. The State  
20 is required to prove the presence of malice beyond a  
21 reasonable doubt.

22 Now, ladies and gentlemen, the Defendant is also  
23 charged with burglary in the first degree. In order to  
24 prove someone is guilty of burglary in the first degree, the  
25 State must prove beyond a reasonable doubt that the

1 Defendant entered a dwelling without the consent of the  
2 owner or the person who was in charge at the time. A  
3 dwelling, of course, is any household, any building or  
4 portion of a building where someone lives and occupies as a  
5 residence, either part-time or full-time. It is a dwelling  
6 even if the residents are temporarily absent from the  
7 building itself. Next, the State has to prove beyond a  
8 reasonable doubt that the Defendant intended to commit a  
9 crime at the time of going into the dwelling itself. Going  
10 into a dwelling without consent is not a burglary. If the  
11 intent to commit a crime is formed after the entry, it's not  
12 burglary. On the other hand, if the Defendant intended to  
13 commit a crime at the time of entry, it is a burglary.

14 Intent can be shown by acts and conducts of the Defendant  
15 and other circumstances, from which you may naturally infer  
16 or reasonably infer intent. And I'll instruct you later on  
17 criminal intent. So, the first two elements are that the  
18 State has to prove beyond a reasonable doubt that the  
19 Defendant entered the dwelling without consent. And, number  
20 two, entered the dwelling with the intent to commit a crime.  
21 That's burglary.

22 Now, what makes this burglary in the first degree, as  
23 alleged in the indictment? And what does the State contend  
24 makes this burglary in the first degree? Well, in addition  
25 to proving that the Defendant entered the dwelling without

1 consent and with the intent to commit a crime, the State  
2 also has to prove one or more of the following aggravating  
3 circumstances, which elevate a burglary into a burglary in  
4 the first degree. It doesn't have to prove all these other  
5 aggravating circumstances, but it does have to prove at  
6 least one of them. So what are the circumstances in this  
7 case that the State has alleged in the indictment make this  
8 burglary in the first degree. The indictment has alleged  
9 and the State has to prove beyond a reasonable doubt that  
10 the Defendant either when entering the dwelling or while  
11 there or when leaving, he was armed with a deadly weapon.  
12 And as I've said, a deadly weapon is any instrument that is  
13 likely to cause death or great bodily harm. Or the State  
14 has to prove that the Defendant while entering or while  
15 there or while leaving caused physical injury to someone  
16 else who was not a participant in the crime. Or while in  
17 the dwelling or when fleeing or while entering the Defendant  
18 or an accomplice used or threatened the use of a dangerous  
19 object or displayed what appeared to be a shotgun.

20 Now, ladies and gentlemen, the obligation upon the  
21 State, of course, is to prove at least those two elements  
22 2 and of the third. In other words, at least that the  
23 Defendant entered without consent and with the intent to  
24 commit a crime and that one of those other aggravating  
25 circumstances, at least one of them, was present during the

1 course of the crime. If it cannot prove those elements, all  
2 of those elements as I've instructed you, then the State has  
3 not met it's burden of proof and the Defendant would be  
4 entitled to a verdict of not guilty. If the State, of  
5 course, meet's its burden as to all those elements, then it  
6 has met its burden of proof and is entitled to a verdict of  
7 guilty.

8 I've told you about criminal intent. Criminal intent  
9 is a necessary element of these crimes and it has to be  
10 proven beyond a reasonable doubt. Criminal intent is always  
11 a matter that has to be determined by you from the  
12 circumstances surrounding the situation. We can't prove  
13 intent to a mathematical certainty. There's no way you can  
14 look down in somebody's brain and decide what they had in  
15 their mind. And so the law says that criminal intent can be  
16 inferred from the circumstances which were shown to have  
17 existed. And that's how you make a decision as to whether  
18 or not criminal intent was present. So it's a state of mind  
19 and it operates jointly with an act in the commission of a  
20 crime. It is a mental state. It is a conscious wrongdoing.  
21 And it is up to you as a jury to determine what the  
22 Defendant intended to do based on the circumstances which  
23 were shown to have existed. The State has to prove criminal  
24 intent beyond a reasonable doubt just as it has to prove  
25 every other element.

1           Now, ladies and gentlemen, as you know, the State has  
2 not alleged and has offered no proof that the Defendant in  
3 this case actually entered the dwelling or that he  
4 personally fired the shot that killed the victim in this  
5 case. The theory of the State, and the theory that the law  
6 recognizes if it can be proven beyond a reasonable doubt, is  
7 the theory called the hand of one is the hand of all.  
8 Because I tell you ladies and gentlemen, that when two or  
9 more persons aid, encourage and abet each other in the  
10 commission of a crime, all of them are present are  
11 principals and are equally guilty. When two or more persons  
12 combine together to commit a crime, and the crime is  
13 committed, all those who are present to aid and abet and  
14 assist in the commission of that crime are guilty. When two  
15 or more combine together to commit an unlawful act and in  
16 the commission of that criminal act a homicide is committed  
17 by one of the actors as a probable or natural consequence of  
18 the acts done in pursuing that common design, then all  
19 present, participating in the lawful undertaking are as  
20 guilty as the one who committed the fatal act. The common  
21 purpose may not have been to kill and to murder, but if it  
22 was unlawful and in the execution of the common purpose a  
23 homicide is committed by one as a natural or probable  
24 consequence of the acts done in furtherance of that common  
25 design, then all present, participating in the unlawful

1 common design, are as guilty as the one who fires the shot.  
2 Because the act of one becomes the act of all. The hand of  
3 one becomes the hand of all. It makes no difference by  
4 whose immediate hand the crime is committed. All are  
5 principals. However, mere presence at the scene of the  
6 crime, even with knowledge of the commission of the crime,  
7 but without an intent to aid, abet and assist in its  
8 commission, would not constitute guilt. And so the burden  
9 is upon the State then to prove beyond a reasonable doubt  
10 that the Defendant was there with others, present. And that  
11 he and they were there with criminal intent, that is to say  
12 with the intent to aid, encourage and abet one another in  
13 the commission of the crime of murder and burglary in the  
14 first degree.

15 Now, ladies and gentlemen, the State offers different  
16 types of evidence in support of the charges that it's  
17 brought in this case, both direct evidence and  
18 circumstantial evidence. Direct evidence is evidence that  
19 directly proves the existence of a fact, and it doesn't  
20 require any deduction or conclusions on your part.  
21 Circumstantial evidence, however, is a proof of a chain of  
22 facts and circumstances, which indicate the existence of  
23 another fact. Crimes can be proven by circumstantial  
24 evidence. The law doesn't make any distinction between the  
25 weight or the value to be given either to direct or

1 circumstantial evidence. However, to the extent that the  
2 State relies on circumstantial evidence all of the  
3 circumstances must be consistent with each other, and taken  
4 together, they must point conclusively to the guilt of the  
5 accused beyond a reasonable doubt. If these circumstances  
6 merely portray the Defendant's behavior as suspicious, then  
7 the proof has failed. So the State has the burden of  
8 proving the Defendant guilty beyond a reasonable doubt. And  
9 the burden rests upon the State regardless of whether it  
10 relies upon direct evidence or circumstantial evidence or  
11 some combination of the two.

12 Ladies and gentlemen, you've heard reference during the  
13 course of this trial to statements allegedly made by this  
14 Defendant. You, ladies and gentlemen, have to decide  
15 whether or not those statements were made and whether or not  
16 they were freely and voluntarily made by the Defendant. You  
17 have to determine whether the statements made by the -- the  
18 alleged statements made by the Defendant were essentially  
19 the free and unconstrained choice of the Defendant himself.  
20 The State has to prove the voluntariness of the statement  
21 beyond a reasonable doubt. And if you determine beyond a  
22 reasonable doubt that the Statement was freely and  
23 voluntarily given, then you can give it the weight you think  
24 it should receive. But if you determine that it was not  
25 free and voluntary, then you would not consider it at all.

1 And if you decide whether the Defendant's statements were  
2 free and voluntarily made, you have to determine whether or  
3 not his will was overcome in obtaining the statement. And  
4 the law requires you to consider what is known as the  
5 totality of the circumstances. In other words, you consider  
6 the characteristics of the Defendant and the circumstances  
7 surrounding any questions or interrogation of him. You can  
8 consider his educational background, mental ability, his  
9 background, along with all the circumstances which exist  
10 surrounding the making of this statement. And as you  
11 determine whether a statement was voluntarily made, you have  
12 to consider whether or not he was advised by and understood  
13 his constitutional rights.

14 Under our law, if a person is in custody and being  
15 asked questions by law enforcement, he must first be advised  
16 of his constitutional rights, that is the right to remain  
17 silent, the right -- the fact that any statement can be used  
18 against him in law, that he has a right to have a lawyer  
19 present. If he can't afford one, one will be appointed to  
20 represent him. That he can stop making the statement any  
21 time he wants to. You have to consider all those  
22 circumstances surrounding the weight to be given to any  
23 alleged statement. And if you are satisfied beyond a  
24 reasonable doubt that he made the statement and it was  
25 uninfluenced by any fear or threat or promise, well then you

1 can consider it. You can give it the weight you think it  
2 should receive. If you find that the State has not proven  
3 the statement was freely and voluntarily made, then you  
4 would not consider it for any purpose at all.

5 Now, ladies and gentlemen, finally -- there's a word  
6 you've been hanging on for a while waiting to hear.  
7 Finally. Finally, ladies and gentlemen, let me tell you  
8 that you don't serve as jurors in this or any case as  
9 partisans or advocates for the State of South Carolina or  
10 for this Defendant. You don't serve as jurors to punish  
11 your enemies nor to reward your friends. Obviously, such a  
12 perverted system wouldn't be justice at all. You have been  
13 selected by both the State and this Defendant to be fair and  
14 impartial jurors. It is your duty then by your joint  
15 deliberation to determine the truth of this case, giving to  
16 this Defendant the benefit of every reasonable doubt on each  
17 and every issue as I have instructed you. And then to the  
18 facts, which you determine to be true, apply the law that  
19 I've just given you. As I've told you before, those two  
20 things will come together. The truth that you find and the  
21 law that I give you to result in a verdict which will speak  
22 the truth of this case. And once you have done that, you  
23 have satisfied the oath that you took before you began the  
24 trial of this case, to well and truly try this case and to  
25 render a true verdict according to the law and the evidence,

1 so help you God. We have every right to believe that you  
2 will do nothing less than that.

3 Now, ladies and gentlemen, I'm going over the forms of  
4 the verdict in this particular case. There are two possible  
5 verdict forms as to each of these charges. I'm going to --

6 Mr. Davis, would you give this to the foreperson,  
7 please?

8 (Documents passed to foreperson)

9 THE COURT: The order in which the forms of  
10 verdict are written on that sheet has no significance at  
11 all. You're not to reach any inference or draw any  
12 conclusions whatsoever from the order that I've written  
13 them. I simply write them down there in the order that I  
14 find easiest to explain. There are two charges, murder and  
15 burglary in the first degree. So you will write two  
16 verdicts in this case, one as to each of those two charges.  
17 Your verdict on one charge does not necessarily determine  
18 your verdict on the other. The Defendant can be convicted  
19 or acquitted on either or both of the charges contained in  
20 these indictments. And you will consider the evidence on  
21 each charge independent of that on the other in deciding  
22 your verdicts in this case. There are two possible verdict  
23 forms as to each of the two charges and they're the same.  
24 The verdict form reads: We, the jury, by unanimous consent  
25 find the Defendant as to indictment number 2012-GS-32-1247,

1 charging the Defendant, Henry Norris Johnson, Jr., with the  
2 crime of murder. The first possible verdict form that you  
3 may arrive at is guilty. That's a verdict that you will  
4 arrive at if you find that the State has met its burden of  
5 proof as to each of the elements of the crime of murder, as  
6 I have defined that to you. And if that's the verdict form  
7 that you arrive at, Mr. Foreman, you will indicate that by  
8 putting an X or a checkmark in the space that you see we've  
9 provided on that verdict form. The other possible verdict  
10 form as to that charge is not guilty. That's a verdict that  
11 you will arrive at if you find that the State has failed to  
12 meet its burden of proof as to any of the elements of the  
13 charge of murder as I have instructed you. If that's the  
14 verdict that you arrive at, Mr. Foreman, likewise, you will  
15 indicate that by putting an X or a checkmark in the space  
16 provided by that verdict form. As to the crime of burglary  
17 in the first degree, the possible verdict forms are the  
18 same. Guilty if the State has met its burden of proof, not  
19 guilty if the State ha failed to meet its burden of proof.

20 I've given the verdict form to the foreman because he's  
21 the one that's got to fill it out. But obviously, it's not  
22 going to be his verdict alone.

23 Mr. Foreman, the verdict has to be unanimous, all  
24 twelve of your number have to agree as to what that  
25 verdict's going to be. And you're not authorized to fill

1 out that form nor to sign it until all twelve of your number  
2 have agreed as to what that verdict should be.

3 I'm going to send you all to your jury room right now  
4 and I ask that you wait just a minute before you finally  
5 start talking about this case among yourselves. I've got to  
6 talk to the lawyers to see if I left out anything or if I  
7 have misstated anything in my instruction on the law. And  
8 if I have, I'll have to bring you back out to correct that.  
9 But if I do not have to bring you back out to correct it, we  
10 will send in the items of evidence. And once the items of  
11 evidence have been delivered, that will be your signal to  
12 begin your deliberations. Please not until then. And once  
13 the items of evidence have been delivered, you will begin  
14 your deliberations. And you will deliberate until you have  
15 reached the verdicts in these case. And at that point, Mr.  
16 Foreman, you will fill out the verdict form and sign it,  
17 knock on the door. We'll bring you out to receive the  
18 verdict at that time. So please retire to your jury room.

19 Mr. Jordan, Ms. Kent if you will stay right where you  
20 are for the time being, please.

21 All right. If you'll retire to your jury room. Please  
22 wait just a few moments before you begin the deliberations.  
23 Wait until the evidence comes in.

24 (Jury out at 3:45 p.m)

25 THE COURT: Mr. Graham, any exceptions or requests

1 for additional charge from the State?

2 MR. GRAHAM: No, Your Honor.

3 THE COURT: Thank you.

4 Mr. Screen any exceptions or request -

5 MR. SCREEN: None, Your Honor.

6 THE COURT: All right. Gentlemen if you will all  
7 come and make sure all the evidence is together. And once  
8 it's together we can send it back to the jury.

9 (Counsel reviews exhibits)

10 THE COURT: Mr. Jordan, Ms. Kent, your role as  
11 alternate jurors, of course, is obvious to you now. If any  
12 of these other jurors had not been able to survive this  
13 trial, if they had emergencies or illnesses in their lives  
14 or their families that had prevented them from coming, and  
15 if you all had not been there, we'd have to start this whole  
16 trial over from scratch. We had to have twelve people go  
17 into that jury room at the conclusion. And so when I saw  
18 you here everyday and especially when I knew that you were  
19 here today, I knew we were going to be able to this trial.  
20 And so to some extent we have wasted your time, but you have  
21 not wasted ours. You have given us the peace of mind and  
22 the assurance that we were going to be able to complete this  
23 trial and not have to start it over at some time in the  
24 future. You're just as capable as any of those folks in  
25 that jury room to deliberate this case and to reach a

1 verdict in this case if you had to do it, but you don't have  
2 to. And so I'm going to ask that you --

3 Do we have an alternate jury room I can keep these  
4 folks in for just a few minutes.

5 THE CLERK: We can put them in the grand jury  
6 room, but you're using that aren't you?

7 MR. GRAHAM: I believe they are.

8 THE CLERK: I have another jury room on the third  
9 floor, Your Honor.

10 THE COURT: Let's take them in there for just a  
11 few minutes please. I'm going to ask you to stay around for  
12 just a few moments. I want to make sure that everything  
13 gets off and running down here, that nothing happens before  
14 they begin deliberation. I'd hate to get to this point and  
15 then somebody have something come up. But we're not going  
16 to forget about you. Just because you're on another floor  
17 somewhere. I mean, you know, if somebody doesn't come in  
18 there by 7:30 or 8:00 tonight, you're knock on the door.  
19 We're not going to forget about you. But I do hope, even  
20 though you don't get a chance to deliberate that you have  
21 gained some appreciation by your service in this case as to  
22 how important you folks are and what we have to do in this  
23 case and cases like this. You've earned an exemption. You  
24 don't have to serve as jurors in the next three years if you  
25 get called again to this courthouse. If you get called

1 during the next three years and you don't want to serve,  
2 just tell the folks you served your duties in 2015.  
3 Although, if you'd like to have another shot at it, I'm sure  
4 that they would like to have you. You'll get a check in the  
5 mail some time in the next few days or a week. So it's not  
6 going to begin to pay you for the full time that you've  
7 spent with us and for the value of your services. But  
8 please add our appreciation to what you've done. Thank you,  
9 folks. If you'll follow -- one of the bailiff's or  
10 somebody's going to take you downstairs to another jury  
11 room.

12 THE CLERK: Excuse me, Your Honor. We've got a  
13 key to the chambers beside you.

14 THE COURT: Oh, yeah. That'll be -- we're going  
15 to put you in a judges chamber.

16 THE CLERK: I'll take them.

17 THE COURT: Okay. Good.

18 (Alternates exit)

19 COURT REPORTER: As soon as Hope comes back we'll  
20 send the evidence back. I just wanted to make sure that you  
21 agree this is all of it?

22 MR. GRAHAM: I agree.

23 MR. SCREEN: I agree.

24 (Evidence to Jury at 3:54 p.m.)

1 THE COURT: We will be in recess until we have a  
2 verdict.

3 (Court in recess awaiting verdict  
4 at 3:54 p.m.)

5 (Court in session for verdict at  
6 5:36 p.m.)

7 THE COURT: Thank you, folks. Please be seated.  
8 Ladies and gentlemen, we're advised that the jury has  
9 reached a verdict. And will the State and the Defense ready  
10 to receive the verdict?

11 MR. GRAHAM: The State's ready, Your Honor.

12 THE COURT: Defense ready?

13 MR. SCREEN: The Defense is ready, Your Honor.

14 THE COURT: Thank you.

15 Ladies and gentlemen, I appreciate those of you who've  
16 watched this case with considerable interest on either side  
17 of the courtroom. I appreciate the courtesy and attention  
18 that you've given through this trial. When the verdicts are  
19 announced in this case, and none of us yet know what they're  
20 going to be, obviously, there will be relief on one side of  
21 the courtroom and perhaps some disappointment on the other.  
22 I don't know where those feelings will fall. I simply  
23 remind you that we expect you to exercise the same decorum,  
24 and dignity and restraint after the verdicts are announced  
25 that you have shown throughout this trial. And if you feel

1 that you might have some difficulty in controlling your  
2 emotions when the verdicts are announced, whatever they  
3 happen to be, I'll give you this opportunity to leave the  
4 courtroom. Because if you stay here we'll, of course,  
5 expect you to continue to conduct yourselves just as you  
6 have throughout this trial.

7 Bring us the jury.

8 (Jury in at 5:36 p.m. with verdict)

9 THE COURT: Madam Clerk?

10 THE CLERK: Mr. Foreman, have you reached your  
11 verdicts?

12 FOREMAN: Yes, we have.

13 THE CLERK: Please pass them up by the bailiff.

14 THE COURT: You may publish the verdict.

15 THE CLERK: Indictment 2012-GS-32-01247 and 01248,  
16 the State of South Carolina versus Henry Norris Johnson, Jr.

17 We the jury unanimously find the Defendant, as to the  
18 indictment number 2012-GS-32-01247, charging the Defendant,  
19 Henry Norris Johnson, Jr., with the crime of murder, guilty.

20 As to indictment number 2012-GS-32-01248, charging the  
21 Defendant, Henry Norris Johnson, Jr., with the crime of  
22 burglary in the first degree, guilty.

23 So signed by the Foreman, October 22nd, 2015.

24 Mr. Foreman, ladies and gentlemen of the jury, if this  
25 is your verdicts, please indicate each of you by raising

1 your right hand?

2 (All jurors' right hand was  
3 raised.)

4 THE CLERK: All hands raised, Your Honor.

5 THE COURT: Thank you.

6 Mr. Screen, does the Defense desire polling the jury?

7 MR. SCREEN: I do, Your Honor.

8 THE COURT: Thank you.

9 Ladies and gentlemen, you're going to be pulled by your  
10 juror numbers. As your juror numbers are called, you'll be  
11 asked to stand in place where you are. The clerk will ask  
12 you was this your verdict -- were these your verdicts and  
13 are they still your verdicts. You'll give her the  
14 appropriate answers to that question, please.

15 Madam Clerk.

16 THE CLERK: Number 224. As to the verdicts, were  
17 these your verdicts and are they still your verdicts?

18 JUROR NO. 224: Yes, ma'am.

19 THE CLERK: Thank you, ma'am.

20 Number 74. As to the verdicts, were these your  
21 verdicts, are they still your verdicts?

22 JUROR NO. 74: Yes.

23 THE CLERK: Thank you.

24 183. As to the verdicts, were these your verdicts, are  
25 they still your verdicts?

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JUROR NO. 183: Yes, ma'am.

THE CLERK: Thank you.

81. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 81: Yes, ma'am.

THE CLERK: Thank you.

100. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 100: Yes, ma'am.

THE CLERK: Thank you.

17. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 17: Yes, ma'am.

THE CLERK: Thank you.

96. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 96: Yes.

THE CLERK: Thank you, ma'am.

13. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 13: Yes, ma'am.

THE CLERK: Thank you.

55. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 55: Yes, they are.

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THE CLERK: Thank you.

123. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 123: Yes.

THE CLERK: Thank you.

106. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 106: Yes, ma'am.

THE CLERK: Thank you.

Number 98. As to the verdicts, were these your verdicts, are they still your verdicts?

JUROR NO. 98: Yes, ma'am.

THE CLERK: All jurors polled, Your Honor.

THE COURT: Thank you, ma'am.

Mr. Screen, is there anything further before the jury is dismissed?

MR. SCREEN: No, Your Honor.

THE COURT: Thank you.

Ladies and gentlemen, I'm going to excuse you now with our thanks for the time that you've spent with us and for your efforts in this regard. I don't comment upon the verdict that you have reached. I am glad that you are the folks who have to make the difficult decisions in cases like this. So I comment upon the quality of your service, for the fact that you have been punctual. You have been very

1 attentive throughout the trial of this case. You have been  
2 deliberate in your consideration of the decisions you've had  
3 to make. And that's what we ask of you and that's what  
4 you've done. And we appreciate that. You are free to talk  
5 with anybody that you want to about this case now. If you  
6 want to talk to somebody about it. And if they ask you  
7 about it and you care to discuss it, you can. But you don't  
8 have to. If someone should ask you about this case and if  
9 you tell them you don't want to talk about it, that should  
10 end the matter right there. Let me tell you, ladies and  
11 gentlemen, that you only have to answer to your own  
12 conscience for the decisions that you make in cases like  
13 this. You have no reason to fear your conscience for the  
14 decisions that you've made in this particular case. You  
15 have earned an exemption that will not require you to serve  
16 as a juror for the next three years. If you should get  
17 called, just tell the Judge that you've served on this term  
18 of court. They will excuse you if it was in the last -- in  
19 the next three years. You'll get a check in the mail some  
20 time in the not too distant future, I trust. It's not going  
21 to begin to pay you for the time that you've spent with us  
22 and for the attention that you've given. And for the fact  
23 that we have had to expose you to a side of life that most  
24 of you hopefully have never had a chance to be exposed to.  
25 You have seen the seedier side of life, what happens when

1 drugs enter society and take a hold was largely the driving  
2 force in this particular case. Lives ruined by it, either  
3 directly or indirectly. In this particular case, one life  
4 lost, three other lives ruined. I'm sorry that we had to  
5 expose you to that. I wish that none of us had to be  
6 exposed to that. And I'm sure the folks in this courtroom  
7 on either side wish that they were not exposed to it either.  
8 But it is a fact of our society and we have to deal with it.  
9 And we cannot deal with it except for the involvement of  
10 people like you to come in and help us deal with these  
11 distasteful responsibilities that we have. I sometimes tell  
12 jurors like you that have worked long and hard all week and  
13 have been the real soul of what makes our jury system work,  
14 that I hope you never get caught up in the system like these  
15 folks are. I hope you never find yourself where Mr.  
16 Johnson's parents are or where he is or where Mr. Milhouse's  
17 folks are. I hope you never find yourself on either side of  
18 a courtroom like this. But let me tell you, you don't have  
19 to volunteer to get caught up in the system. You can get  
20 caught up here whether you want to or not. And I hope that  
21 never happens to you. But if it ever does happen to you,  
22 when you come to court on the Monday morning of the week  
23 that your case is going to be disposed, whatever it is, you  
24 or a family a victim, you or a family member a defendant,  
25 when you find yourself seated where these folks are seated

1 today and the jury comes into the courtroom like you all did  
2 on Monday, when you turn around to look into the faces of  
3 those jurors that will be here to try your case, you're  
4 going to hope to high heavens to look into the faces of  
5 folks just like yourself. The last thing in the world that  
6 you want us to do, to get jurors to try your case, is to  
7 scrape around the streets of Lexington and see if we can't  
8 find twelve people who don't have a better thing in the  
9 world to do than to spend three or four days with us  
10 deciding your case. That's not the kind of jury that you  
11 want. That's not the kind of jury that these folks want.  
12 They wanted folks like you. Folks who have better things to  
13 do, would much rather have been doing them, but were willing  
14 to put aside those things for a while and help us do the  
15 things that we have to do. You have given us that type of  
16 jury. We appreciate your service. We still have motions  
17 and we have sentencing to take care of here. You're free to  
18 stay if you want, but you don't have to stay. And you're  
19 free to go. Y'all are excused. Thank you.

(Jury out at 5:44 p.m.)

20  
21 THE COURT: Mr. Screen, I'll be glad to hear  
22 additional motions from the Defense?

23 MR. SCREEN: Judge, on behalf of the Defendant  
24 Henry Johnson, I move to set the verdict aside against the  
25 weight of the evidence in this case. I'd ask you to

1 consider a set it aside to that --

2 THE COURT: All right. Thank you, sir. Once  
3 again, Mr. Screen, as you know, the standard is the same as  
4 it was for the directed verdict motion. I have to take the  
5 evidence in the light most favorable to the State. And this  
6 as quintessentially a jury issue. It was as you said, it  
7 was a matter of credibility, whether they chose to believe  
8 the two gentlemen who testified against Mr. Johnson or not.  
9 It was a decision that they had to make and they obviously  
10 chose to believe them. And there is nothing in the record  
11 that would support me upsetting that decision or setting it  
12 aside or granting a new trial. I find that there decision  
13 was well within the evidence and for that reason, I must  
14 respectfully deny your motion.

15 Is the State ready to proceed on the matter of  
16 sentencing?

17 MR. GRAHAM: Yes, Your Honor.

18 THE COURT: Is the Defense ready, Mr. Screen?

19 MR. SCREEN: Yes, sir.

20 THE COURT: All right. Come around, please.

21 (Counsel and Defendant approach the  
22 bar.)

23 THE COURT: Mr. Graham, Mr. Bell, I'll be glad to  
24 hear from the State now.

25 MR. BELL: May I approach, Your Honor.

1 THE COURT: Yes, sir.

2 MR. GRAHAM: Behind me, Your Honor, throughout the  
3 course of this week have been Matthew's family and a few  
4 friends. They wanted you to know that they were here. They  
5 don't have anything to say about the sentence in this case.  
6 What happened was a terrible tragedy. We tried to work this  
7 out short of trial. And here we are. Mr. Johnson has no  
8 prior record. You've heard the facts and we just ask that  
9 you sentence appropriately.

10 THE COURT: Thank you, sir.

11 Mr. Screen, I'll be glad to hear from you now for Mr.  
12 Johnson and anybody on his behalf.

13 MR. JOHNSON: Judge, Henry Johnson, as you know.  
14 I want to just apologize for having my name in this type of  
15 thing and also bringing shame upon me and my family. I just  
16 ask for some leniency and that's all I can do here, you  
17 know. We all make mistakes in life but we don't want to  
18 live with them for them for the rest of our life, you know.  
19 I appreciate it. Thank you, sir.

20 THE COURT: Thank you.

21 MR. SCREEN: Judge, I'd ask, if you will, hear  
22 from Mr. Johnson, Sr. His father, Henry, Sr.

23 THE COURT: Sure, I'll be glad to hear from him.

24 MR. JOHNSON, SR.: Good afternoon, Your Honor.

25 THE COURT: Mr. Johnson.

1 MR. JOHNSON, SR.: We are here on behalf of my  
2 son, Henry Johnson. And like I've always instructed him and  
3 other boys, do the best they can in your life and you stay  
4 away from trouble. Because we always try to protect them  
5 from all kinds of trouble, but we know in own neighborhood  
6 there are drugs and all kind of rampant things are going on.  
7 And like we said earlier, the oldest son is leaving out.  
8 The next one's in the army and the next one is going to  
9 college. And I told him a lot of times, sometimes now I  
10 wish you'd have gone on to Marquette University in Milwaukee  
11 instead of staying around here. Because sometime you got to  
12 get away from your neighborhood. Sometimes folks just going  
13 to hang onto you because you try to go somewhere. And like  
14 my wife, we been married thirty-seven years. She's  
15 embarrassed now. I've been a Deacon in the church down  
16 there for thirty-two years. I'm a truck driver. And then  
17 since he got in trouble, he was going to Iowa to get his  
18 truck driving license and after he got his truck driving  
19 license, drive a company truck. And now he's able. He's  
20 got his own truck too. We try to establish some business  
21 and try to move forward. But I tell him sometime in life,  
22 some things going to cost you. Even the young men that  
23 testified against him, they at my house, they set at my  
24 house in eat. I told him I didn't like that but he said,  
25 I'm your cousin or your friend. But they would -- you know,

1 it is what it is. But I tell him sometime in life you have  
2 to be careful of the friends you hang around with because  
3 some folks just hang around with you for what they can get  
4 off of you. But we love him. We always tell him sometime  
5 you learn from, learn who your friends really are sometime  
6 in your life. And I know that was a tragic thing that  
7 happened. But like I say, just to see a young man who  
8 testified today with all the drug problems all over the  
9 world. You know, just mind boggling how a person can take a  
10 -- get immunity for and just got all this crime behind him  
11 in his background. It's just mind boggling. But sometime  
12 you trust God and you move forward because it's important to  
13 me because drugs is rampant all over this neighborhood and  
14 when you try to get these things off the street, you know.  
15 Anyway, I just pray that everything would work out. And I  
16 also pray that folks would do more with this drug problem or  
17 this -- it's just bad the way things are. We thank God for  
18 the opportunity to have a chance to speak today. And I say,  
19 I wish this was a well-paid lesson for him to learn that  
20 sometimes you can't always -- when you try to go forward in  
21 your life, you got to go by yourself sometimes. You can't  
22 have friends. We tried to raise our children to be  
23 faithful, trust in God, know God and try to love one another  
24 and be loving to other folks. It's a hard time for us and  
25 we're going to trust God to try to move forward. And we

1 pray that this would be a learning lesson to him, that you  
2 don't need friends sometime when you try to make a forward  
3 step in life. That's all I have to say.

4 We want to thank Lawyer Screen for representing him.  
5 And I'd like to say this, -- say that you take folks that  
6 witnessed that, to me there was no credible witness came up,  
7 you know. But this is the way it is. We all going as  
8 society go, but, you know. To me the witness wasn't  
9 credible and then also, like I say again, with the man with  
10 all the drug got caught with, he walk free and go home.  
11 Thank you, sir.

12 THE COURT: Thank you, Mr. Johnson.

13 Mr. Screen.

14 MR. SCREEN: Judge, briefly. It is always a  
15 difficult and a tragic journey when young people squander  
16 opportunities and their life by making decisions and  
17 exercising judgments that leave them in positions of needing  
18 to be rescued. When I got this case, it appeared to me as a  
19 veteran lawyer to be a rescue mission. And in the last few  
20 weeks, particularly, I must give this Solicitor's office  
21 credit. They say I'm hard on them but, you know, you try  
22 cases, you know, we play hard ball some time.

23 THE COURT: Right.

24 MR. SCREEN: But at the end of the day, they  
25 offered us opportunities to get out of this quagmire that we

1 find ourselves in and my client and I discussed them  
2 thoroughly, even along with his father. And I gave them the  
3 unvarnished benefit of my knowledge and experience.

4 THE COURT: Right.

5 MR. SCREEN: If you go to the doctor and he give  
6 you some medicine and you don't take the medicine, it's hard  
7 to cry about not getting any better. That having been said,  
8 I am reminded of a statement made by a theologian who  
9 visited these shores and spoke to a joint session of  
10 Congress not many weeks ago. And he said that a just and  
11 necessary punishment must never exclude the dimension of  
12 hope and the goal of rehabilitation. I trust that your  
13 sentencing will take that into account. My client  
14 understands the legislative prescription that he faces in  
15 terms of what the penalty is, particularly in the murder  
16 case. I am always baffled when people don't take good  
17 advice. And I am never shy about telling my clients what I  
18 think. And that's an over-characterization of what I do  
19 probably in private.

20 THE COURT: Right.

21 MR. SCREEN: But nevertheless, Judge, we find  
22 ourselves here. We stand before you now facing a life,  
23 thirty to life sentencing. And, of course, the minimum  
24 fifteen on the burglary first. He understands all of that.  
25 He made his decision with both eyes wide open. So in that

1 regard, I submit him to this Court for an appropriate  
2 sentence that I am sure, from my knowledge of years with  
3 this Court, that it will be in accordance with the law and  
4 within the bounds of fairness, that serves both sides of  
5 this problem in the best possible way. I thank you and I  
6 appreciate being in front of you.

7 THE COURT: Thank you, Mr. Screen.

8 MR. JOHNSON: Judge, I just --

9 THE COURT: Yes, sir.

10 MR. JOHNSON: Your Honor, I apologize, but I'm  
11 here now and we can't run from it, so I want to at least  
12 have a chance to not let this break me and at least  
13 rehabilitate and come back and be successful in this world.

14 THE COURT: All right. Mr. Johnson, thank you.

15 Mr. Johnson, I'm sorry that you didn't follow the good  
16 advice that you got from Mr. Screen. He and I have been in  
17 court on many occasions on the past and I know he does not  
18 sugarcoat things. He gave you the unvarnished and hard  
19 truth as he sees it. He's been doing this a long time and  
20 he has a pretty good feel for how these things are going to  
21 turn out once he gets into them and looks around. But  
22 that's water under the bridge at this point. And so we have  
23 to deal with what we've got.

24 As you know, you have to serve a minimum of thirty  
25 years on a murder case. That's day for day. Because you

1 have no prior record, I give the minimum sentence serious  
2 consideration.

3 I agree with what the Pope said, Mr. Screen. I ascribe  
4 to that type of sentencing whenever I can.

5 I recognize that there's a shooter out there to be  
6 sentenced at some point in time. I don't want to box a  
7 sentencing Judge into a corner in that regard in having to  
8 deal with him. And if I were to give you more than the  
9 minimum, he might feel that the shooter had to get a good  
10 bit more than that. I'm not sure how that's going to go.  
11 That's beyond my purview. But I sentence you to what I  
12 sentence you to because primarily that you have no prior  
13 record and that you have been raised in a good family. But  
14 you jumped into something real serious real quickly. A best  
15 case scenario for you, if you make it, and I hope you do,  
16 you'll be fifty-seven years of age when you get out of jail.  
17 Fifty-seven looks like the end of the world to you. I can  
18 tell you, fifty-seven, I'd love to be fifty-seven again, but  
19 it's going to be a long time. And you deserve it quite  
20 frankly, under the law. The sentence on the murder charge,  
21 Mr. Johnson, is that you be committed to the State  
22 Department of Corrections for a period of thirty years. On  
23 the burglary first, the sentence of the Court is you be  
24 committed to the State Department of Corrections for a  
25 period of thirty years. The murder charge is day for day

1 and the thirty years on the burglary is eighty-five percent.  
2 Those sentences run concurrent to each other with credit for  
3 any time that you may have served already. Good luck to  
4 you. Thank you.

5 All right. Mr. Solicitor, anything else we got?

6 MR. GRAHAM: No, Your Honor. Thank you.

7 THE COURT: Thank you all. Thank you gentlemen  
8 for the way in which both of you, both sides tried this  
9 case. I appreciate it.

10 MR. BELL: Thank you, Judge.

11 (Court in recess October 22, 2015

12 at 6:05 p.m. )  
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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE TRIAL IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR LEXINGTON COUNTY, SOUTH CAROLINA, ON THE 10/19/15 THROUGH 10/22/15.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

---

Hilda M. Jordan, CVR-M

February 15, 2016

**WITNESSES**

Lexington County Sheriffs Department

Stephen M. Collins

Law Enforcement Case #: 12002650

DSG

**ARREST WARRANT NUMBER**

**M303992**

**ACTION OF GRAND JURY**

**THE FULL**

*[Signature]*

Foreperson of Grand Jury

Date: 6-4-2012

**VERDICT**

Foreperson of Petit Jury  
Date:

DOCKET NO. 2012GS3201247

**The State of South Carolina**

**County of Lexington**

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2012**

**THE STATE  
vs.**

**Henry Norris Johnson Jr**

**CDR #: 0116**

**Indictment for**

**Murder**

**§ 16-03-0010**

**DONALD V. MYERS, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Murder  
§ 16-03-0010

At a Court of General Sessions, convened on June 2012, the Grand Jurors of Lexington County present upon their oath:

**That Henry Norris Johnson Jr along with Patrick Larry and/or Justin Washington did in Lexington County on or about February 12, 2012, willingly and unlawfully kill one Matthew Millhouse with malice aforethought, either express or implied, by shooting the victim in the leg with a shotgun, and the victim died as a proximate result thereof, in violation of § 16-3-10, Code of Laws of South Carolina, 1976, as amended.**

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

  
DEPUTY SOLICITOR

**WITNESSES**

Lexington County Sheriffs Department

Stephen M. Collins

Law Enforcement Case #: 12002650

DSG

**ARREST WARRANT NUMBER**

**M303993**

**ACTION OF GRAND JURY**

**TRUE BILL**

*Signatures*

Foreperson of Grand Jury

Date: *6-4-2012*

**VERDICT**

Foreperson of Petit Jury  
Date:

DOCKET NO. 2012GS3201248

**The State of South Carolina**

**County of Lexington**

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2012**

**THE STATE  
vs.**

**Henry Norris Johnson Jr**

**CDR #: 0079**

**Indictment for**

**Burglary First Degree**

**§ 16-11-0311**

**DONALD V. MYERS, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Burglary First Degree

§ 16-11-0311

At a Court of General Sessions, convened on June 2012, the Grand Jurors of Lexington County present upon their oath:

**That Henry Norris Johnson Jr along with Patrick Larry and/or Justin Washington** did in Lexington County, South Carolina on or about February 12, 2012 did knowingly and willfully enter a dwelling, to wit: 498 Calhoun Road being the dwelling of Matthew Millhouse, without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, he/she or another participant in the crime, was armed with a deadly weapon or explosive, and/or caused physical injury to a person who is not a participant in the crime, and/or used or threatened the use of a dangerous instrument, and/or displayed what was or appeared to be a knife, pistol, revolver, shotgun, machine gun, or other firearm, in violation of § 16-11-311 of the Code of Laws of South Carolina, 1976, as amended.

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

  
DEPUTY SOLICITOR

**COPY**

STATE OF SOUTH CAROLINA  
In the South Carolina Court of Appeals

2015 OCT 28 PM 3:21

APPEAL FROM LEXINGTON COUNTY  
GENERAL SESSIONS COURT

BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

Thomas W. Cooper, Presiding Judge

**RECEIVED**

OCT 29 2015

Indictment Nos.: 2012-GS-32-01247 & 2012-GS-32-01248 SC Court of Appeals

The State of South Carolina..... Appellant

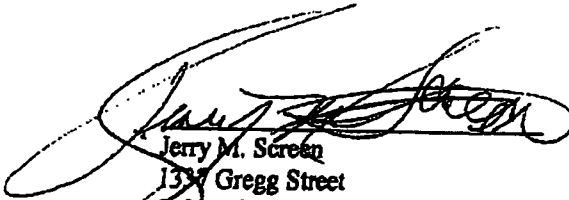
vs.

Henry Norris Johnson, Jr..... Respondent

**NOTICE OF INTENT TO APPEAL**

Henry Norris Johnson, Jr., Appellant, appeals from the conviction, and, sentence in this case. The sentence was imposed by the Honorable Thomas W. Cooper, Jr., Presiding Judge on October 22, 2015. This appeal is taken from the Order of the Honorable Thomas W. Cooper, Jr. on October 22, 2015, which denied the appellant's motion for a new trial.

October 28, 2015

  
Jerry M. Screen  
1347 Gregg Street  
Columbia, S.C. 29201  
(803) 252-7757 O  
Attorney for Appellant

**Other Counsel of Record:**

**Shawn Graham, Deputy Solicitor  
Lexington County Judicial Center  
205 East Lake Drive  
Lexington, South Carolina 29072**

**2015 OCT 28 PM 3:21**

**BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

DEC 01 2016

**SC Court of Appeals**

APPEAL FROM LEXINGTON COUNTY  
Court of General Sessions

The Honorable Thomas W. Cooper, Jr., Circuit Court Judge

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Case No. 2015-002242  
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Henry Johnson, Jr. ....Appellant,

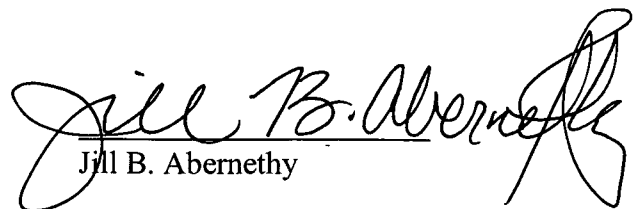
v.

State of South Carolina. .... Respondent.

-----  
**CERTIFICATE OF SERVICE**  
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The undersigned hereby certifies that a copy of Record on Appeal was served by first class United States mail, postage prepaid, this 1<sup>st</sup> day of December, 2016, upon the following:

Caroline Scranton  
South Carolina Attorney General  
P.O. Box 11549  
Columbia, SC 29211

  
Jill B. Abernethy