

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

J. Derham Cole, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DEXTER L. MYERS,

APPELLANT

APPELLATE CASE NO 2015-001881

RECORD ON APPEAL

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1 second bullet or that third bullet or the fourth bullet or
2 the fifth bullet, those are facts and circumstances that
3 you are allowed to take into consideration when determining
4 malice. Is there a single shot or is there multiple shots?
5 Is there a continuing attempt to do injury or does it cease
6 and desist? Those are all factors when considering malice.
7 Malice may be inferred when conduct showing a total
8 disregard for human life.

9 Now the State also must prove that malice existed at
10 the time the act was done, it must be aforethought, and
11 what does that mean? Listen carefully to the judge because
12 we don't have to prove motive. If you listen to his
13 charge, he is never gonna say it's the responsibility of
14 the State to prove what motive this Defendant has, although
15 I submit we have. We don't have to prove premeditation
16 for this to be murder, although I submit that this was
17 something that was thought about beforehand, but what we
18 must prove is that malice existed at the very time the act
19 occurred. The judge will charge you it need not exist for
20 any appreciable period of time before the commission of the
21 act occurs. Malice may be conceived at the very moment the
22 blow was given. It is sufficient in law where there is a
23 combination of the evil intent and the act producing the
24 result.

25 Now in murder cases there are what's called lesser

1 included offenses and very simply, ladies and gentlemen,
2 if you think that the State has not proved malice, then
3 you may consider lesser included offenses of voluntary
4 manslaughter and involuntary manslaughter, and I want to go
5 over those definitions in this case. What is voluntary
6 manslaughter? Voluntary manslaughter, most simply, can be
7 defined as the intentional killing of another without
8 malice, but more directly the judge may define it in this
9 manner. The State must prove beyond a reasonable doubt
10 that the Defendant took the life of another in a sudden
11 heat of passion based on sufficient legal provocation.
12 Both heat of passion and sufficient legal provocation must
13 be present at the time of the killing to constitute
14 voluntary manslaughter. A sudden heat of passion may for a
15 time affect a person's self-control or temporarily disturb
16 a person's reason. It must be the type that would make an
17 ordinary person unable to coolly reflect on his actions and
18 would produce an uncontrollable impulse to do violence.
19 Sufficient legal provocation must be the type that would
20 make a person of ordinary and reasonable caution to become
21 enraged and lose control temporarily. If the heat of
22 passion has cooled or if there's enough time between the
23 provocation, if any, and the killing for the passion of a
24 reasonable person to cool, the killing would not be
25 voluntary manslaughter. In deciding whether they had a

1 reasonable period to cool off, you should consider all
2 the circumstances. You may consider the nature of the
3 provocation, if any, the Defendant's mental and physical
4 state, and the circumstances and relationships between the
5 parties. Very simply, voluntary manslaughter, a typical
6 example is if someone is in a bar and they're playing pool
7 and someone comes up and grabs a pool stick and starts
8 beating them mercifully on the head, the person being
9 beaten reacts and pulls out a knife and stabs the other
10 person immediately, that's a type of legal provocation.
11 It's not that the person who does the stabbing is there
12 with the intent to shoot or to kill or to stab, but because
13 of acts by the victim, that would reduce murder to
14 manslaughter.

15 Now in addition to that the judge will charge you that
16 another lesser included is involuntary manslaughter and
17 it's kind of akin to a reckless accident. Involuntary
18 manslaughter is the unintentional killing of another
19 without malice while engaged in an unlawful activity that
20 is not a felony, but does not naturally intend to cause
21 death or great bodily harm, or the unintentional killing of
22 another without malice while engaged in a lawful activity
23 with a reckless disregard for the safety of others.
24 Unintentional means the Defendant did not intend for anyone
25 to be killed or seriously injured. So it is an

1 unintentional killing. I'll give you an example of this.
2 There's a wooded area next to, say, Carowinds and someone's
3 out there shooting for deer and they don't consider that
4 the bullet can travel further than the parameters of that
5 wooded area and it goes into Carowinds and kills someone.
6 That was not an intentional act, it was an unintentional
7 act, but because the shooter acted with reckless disregard,
8 he was reckless in his actions, he would be accountable
9 for that homicide. In other words, his recklessness makes
10 what's an accident and elevates it to a crime.

11 Now the judge will also charge you in this case the
12 defense has brought up several defenses. At one point
13 it's self-defense, at one point it's accident. Those are
14 actually separate and distinct defenses, albeit they've
15 become commingled based on what the Defendant testified to.
16 What is the law for a crime of accident? And these are
17 going to apply to both charges. I'm just bringing them up
18 now and I'll get to attempted murder in a minute. The law
19 recognizes that the Defendant has raised the defense of
20 accident. An act may be excused on the grounds of accident
21 if it is shown that the act was unintentional, that the
22 Defendant was acting lawfully and that reasonable care was
23 used by the Defendant in the handling of the weapon. The
24 burden is on the State to prove beyond a reasonable doubt
25 that the act was not an accident. Ladies and gentlemen,

1 by any stretch of the imagination this is not an accident.
2 This wasn't an accidental one shot. He shot multiple
3 times. Mahogany had two to three bullet wounds in her, in
4 her. The victim had three separate, one to the back, and
5 I'll get to self-defense in a minute, all distance shots.
6 I ask you, I beg you, to look at the physical evidence in
7 this case to try to corroborate what the Defendant said
8 because, ladies and gentlemen, when you look at these facts
9 either it's murder or he's not guilty in law based on the
10 evidence before you, so you must determine which evidence
11 is credible.

12 And speaking of self-defense, the judge will charge
13 you that the Defendant has raised a self-defense type of
14 claim, although he says the gun went off accidentally. I'm
15 not sure how that works. To prove self-defense -- and the
16 burden is, again, on the State to disprove self-defense.
17 Self-defense typically has four different parts that must
18 be met because it's a complete defense. All four parts
19 must be there for a person to be excused on self-defense.
20 The State must disprove at least one of these elements I'm
21 getting ready to go through. We don't have to disprove
22 every other one, although I submit in this case, ladies and
23 gentlemen, it's not a close call, but we must disprove at
24 least one of these and if any one of these we can prove
25 that the Defendant did not meet, then self-defense is not

1 an available defense in the same way that accident is not
2 an available defense if we disprove it.

3 Self-defense, number one, that the Defendant was
4 without fault in bringing on the difficulty; that he
5 actually believed he was in imminent danger of losing his
6 life or sustaining serious bodily injury, or he actually
7 was in imminent danger of losing his life, and if the
8 defense is based on his actual belief of imminent danger,
9 that a reasonable, prudent man of ordinary firmness and
10 courage would have entertained the same belief. Now if his
11 defense is based on being in actual and imminent danger,
12 the circumstances were such as would warrant a man of
13 ordinary prudence, firmness and courage to strike the fatal
14 blow in order to save himself from serious bodily injury or
15 losing his life.

16 And, finally, ladies and gentlemen, and this was the
17 victim's home. He had taken in these young men. They had
18 been there for months because Mahogany was trying to help
19 out. That he had no other probable means of avoiding
20 danger, a duty to retreat, than what he did. His testimony
21 is incredible, not believable. Think about all of the
22 different stories he came up with starting as soon as he
23 left and got in that car with that young woman who he paid
24 money to take him across town to get away from the scene,
25 continuing when he's first confronted, I wasn't there.

1 Well, maybe you have evidence I was there. Okay, change
2 it. Maybe change it again, change it again, change it
3 again. I beg you, why does his story have to change?
4 Because the truth makes him a murderer. One, without
5 fault, that he believed he was in danger, that a normal --
6 a reasonable person would have believed the same thing,
7 and that he had a duty to retreat. I submit, ladies and
8 gentlemen, he hasn't met any of those elements.

9 The judge will also tell you though a person cannot
10 be required to make an exact calculation of the degree or
11 amount of force that may be needed to avoid death. The
12 Defendant has a right to use the force needed to avoid
13 death and serious bodily harm. The force used in
14 self-defense does not have to be limited to the degree and
15 amount of force used by the victim. The Defendant has the
16 right to use so much force which appears to be necessary
17 for complete self-protection and which a person of ordinary
18 reason and firmness would have believed to be needed to
19 prevent death or serious bodily harm. Self-defense doesn't
20 apply here because that means that he intentionally shot
21 and according to this Defendant's last couple of stories,
22 it went off accidentally. In fact, the common theme in
23 this case when he finally admitted to being there after
24 denying any knowledge, after saying he went to buy
25 marijuana, doesn't know what happened, is the gun did him

1 in. It just kept going off and if the gun didn't go off by
2 itself, well, then why not just blame Dajuan Harris. He's
3 gone. Self-defense means the person intentionally acted in
4 order to protect himself. That is not what we have here.

5 The Defendant also has a right to act on appearances.
6 If it appeared that he was in danger, then he has a right
7 to defend himself. If he believed he was in imminent
8 danger or a reasonable, prudent person of ordinary firmness
9 and courage would have the same belief. He has a right to
10 act on appearances even though they may have been mistaken.
11 It is for you to decide. The Defendant doesn't have to
12 wait until an assailant gets the drop on him. He has a
13 right to act under the law of self-preservation and prevent
14 his assailant from getting the drop on him. The Defendant
15 doesn't have to wait before acting in self-defense. Again,
16 according to this Defendant he was merely tussling and the
17 gun went off accidentally because of Dajuan.

18 The issues in this case, ladies and gentlemen, pretty
19 much -- the lesser includes and everything, but pretty much
20 either this is murder and it happened like Mahogany told
21 you, it is corroborated by the evidence, or he should be
22 free because he didn't do anything wrong. As he told you,
23 he's the victim in this case.

24 On attempted murder, what's the definition of that? A
25 person who, with intent to kill, attempts to kill another

1 person with malice aforethought -- and I'm not gonna go
2 back over malice aforethought and express or inferred;
3 again, all those terminologies apply to attempted murder as
4 well -- either express or implied commits the offense of
5 attempted murder. Now the judge will charge that in
6 attempted murder the State must prove a specific intent
7 to kill and the law he will charge will say that a
8 specific intent to kill is an element of attempted murder.
9 Specific intent means the Defendant consciously intended
10 the completion of acts comprising the attempted offense.
11 Intent means intending the result which actually occurs,
12 not accidentally or involuntary. The law always recognizes
13 that accidents -- say if I'm lawfully carrying a gun and
14 the guns falls out of my pocket and it goes off and shoots
15 someone, that is an accident. Not what we have here. The
16 law recognizes that no one shall be culpable for that if
17 it's a true accident. Intent may be shown by acts and
18 conduct of the Defendant and other circumstances which you
19 may naturally and reasonably infer intent. Intent may
20 also be inferred when it is demonstrated the Defendant
21 voluntarily and willfully commits an act, the natural
22 tendency of which is to destroy another's life.

23 The judge will tell you that if you do not feel like
24 we have met the elements of malice or intent to kill or
25 attempted murder, then you may consider one lesser included

1 on attempted murder, and very simply, ladies and gentlemen,
2 the definition of that is assault and battery of a high
3 and aggravated nature. So simply if you do not think that
4 this was a malicious killing or attempted killing, then
5 you may consider whether a person commits the offense of
6 assault and battery of a high and aggravated nature if the
7 person unlawfully injures another person and the act is
8 accomplished by means that will likely produce death or
9 great bodily injury. Well, there's no question this was
10 death or great bodily injury. Shooting people does that.
11 So those are the laws on that.

12 Now in this case you're also allowed to consider the
13 Defendant's statements. Some of those were oral, some of
14 those were reduced to writing. And before considering any
15 of that, it's important, the judge may tell you, that you
16 must -- we must show that those statements were voluntary.
17 In this case, that's not hard because the Defendant said
18 they were voluntary, but in considering that you can
19 consider the age and mental condition of the Defendant, you
20 may consider whether or not he was deprived of any rights
21 and, most specifically, the judge may charge you that you
22 may consider whether or not he was advised of his Miranda
23 rights, and that's why we went over those with you.
24 Because every defendant's rights should be protected.
25 That's the Constitution and that's the way it should be.

1 In this case, there is no dispute that this defendant was
2 advised of his rights, that he waived those rights, that he
3 gave statements and even got the police to come back so he
4 could give another one when he started reading his own
5 statement and realized it wasn't gonna work. So that's why
6 we through that whole litany of questioning.

7 Now in every case we also must prove criminal intent.
8 In order to establish criminal liability or responsibility,
9 criminal intent is required. For these examples, the
10 mental state required to be proved by the State for a
11 particular crime may be purpose, intent, knowledge,
12 recklessness or criminal negligence. Criminal intent must
13 be proved by the State beyond a reasonable doubt. It's
14 always a matter that must be determined by the jury from
15 the circumstances surrounding the situation. There's no
16 way to prove intent to a mathematical certainty. There's
17 no way that medical science can dissect a person's brain
18 and determine what that person had in mind. So the law
19 says criminal intent may be inferred from the circumstances
20 shown to have existed. This is how you're to make a
21 determination whether or not the element that requires
22 intent was present. It is not necessary to establish
23 intent by direct and positive evidence, but intent may be
24 established by inference the same way as any other fact by
25 taking into consideration the acts of the parties and all

1 the facts and circumstances of the case. Criminal intent
2 is a mental state, a conscious wrongdoing. It is up to you
3 to determine what the Defendant intended to do based upon
4 the circumstances that are shown to have existed. Criminal
5 intent can arise from an action or a failure to act. It
6 may arise from negligence, recklessness or indifference to
7 duty or to the consequences that are considered by the law
8 to be equivalent of criminal intent. In other words, you
9 must look at all the circumstances, what the credible
10 evidence shows, and I beg you, judge Mahogany. What does
11 she have to gain or to lose? This is her brother that she
12 took in when no one else, his father or his mother, would.
13 This case is all about intent.

14 You also heard from experts in this case and the judge
15 will tell you that because of certain training or expertise
16 in a certain area some people can get up here and give
17 opinions. Lay witnesses such as myself can't. I'm not an
18 expert in any area, but they are allowed to get up there
19 because they have the training and to give opinions. And
20 remember the testimony of this pathologist, it's crucial,
21 as well as the crime scene, as well as everything else
22 Ms. Walker will talk to you about. The expert testimony,
23 you can believe an expert or you don't have to believe an
24 expert, but you can always look at the underlying reasons
25 for their expert opinion and do they make sense. Does it

1 all add up? And I submit, ladies and gentlemen, when you
2 consider all the evidence in this case the only possible
3 conclusion is it happened like Mahogany said it happened,
4 that this was murder.

5 Now, finally, I want to talk to you a little bit about
6 credibility because that's what this case boils down to
7 because, again, either this young man, Dexter Myers,
8 murdered or attempted to murder two people or he's not
9 guilty. Based on the testimony, his testimony, because
10 if you believe, I guess, his last story -- well, I guess
11 his latest version, then you should find him not guilty
12 because he's the victim, according to him, not Dajuan
13 Harris, who's in a grave, who was supporting him at the
14 time. Not Mahogany, who actually worked for a living.
15 Credibility. The judge will instruct you in some language
16 similar to this, I don't know if this is exact, credibility
17 simply means believability. It becomes your duty as jurors
18 to analyze and evaluate the evidence and determine which
19 evidence convinces you of its truth.

20 In determining the believability of the witnesses who
21 have testified in this case, you may believe one witness
22 over several witnesses or several witnesses over one
23 witness. You may believe part of the testimony of a
24 witness and reject the remaining part of that same witness.
25 You may believe the testimony of a witness in its entirety

1 or reject it in its entirety. You may consider whether any
2 witness has exhibited to you interest, bias, prejudice or
3 other motive in this case. You may also consider the
4 appearance and manner of a witness while on the stand or
5 their demeanor. Bias, prejudice. If this was an accident,
6 or the self-defense/accident combination. Why did Dexter
7 Myers flee the scene? Why did he not just drop the gun,
8 but hide the gun in the woods? Why did he tell his brother
9 not to talk? And I can go on and on and on.

10 I beg you, ladies and gentlemen, judge each witness's
11 credibility. The defense has absolutely no burden, but
12 once they put up witnesses you judge them the same way you
13 do any witness that takes the stand. And I submit, ladies
14 and gentlemen, that once you determine what evidence in
15 this case is credible or believable that you will have to
16 follow the law and apply that law and when you do that, the
17 law as the judge gives it to you, you must find him guilty
18 for what he did.. He murdered one person, Dajuan Harris,
19 and he tried to kill the only other surviving parent of
20 that one-year-old and that four-year-old. All we ask is
21 that you hold him responsible for his choices, his actions,
22 his decisions, but whatever reason he did it, we just ask
23 that you take the law as the judge gives it to you and
24 apply it to the facts, the credible evidence in this case.
25 Thank you.

1 **THE COURT:** Does the jury need a break before we
2 continue? All right. Ms. Pinnock.

3 **MS. PINNOCK:** Thank you, Your Honor. May it please
4 the Court?

5 Good morning. Nobody is going to tell you that
6 July 2, 2014, was not a tragic day. Nobody is going to
7 tell you that Dajuan Harris lost his life too soon. He was
8 twenty-three, he had two kids, he's married. He's a son,
9 he's a brother. Nobody's gonna try and tell you that's not
10 a sad thing, a tragic thing, to happen. Nobody's gonna try
11 and tell y'all that Mahogany's life didn't change forever
12 that day. The entire family's life changed forever that
13 day. But because it's sad and because it's tragic and
14 because it never should have happened does not make it
15 murder and it does not make it attempted murder. None of
16 that stuff has anything to do with the courthouse. The
17 emotions, the sadness, the loss, the anger, the tears from
18 the stand, none of that has anything to do with what your
19 job is in this courtroom. Your job is to take the facts
20 and apply the law.

21 And it sounds very difficult. It's a very difficult
22 thing to do because we're all human beings. We all
23 experience things in life, but you can't let your emotions,
24 you can't let any emotion you heard on the stand, any
25 emotion you heard in the back of the courtroom, none of

1 that matters. What matters is what's in evidence, what was
2 testified to and the law that the judge is gonna give you.
3 Because as Aristotle said, the law is reason free from
4 passions. You can't bring that in here. You can't take
5 that back there. When you go back there, when the judge
6 gives you the law, when it's time for you to decide if the
7 State has proven their case beyond a reasonable doubt,
8 leave your emotions in your chairs. Take the law, take the
9 evidence and take the facts as you heard them. That's all
10 you can do. Those are your tools.

11 A lot of people came and testified in this trial. And
12 I'm not gonna go back through everybody, but I do want to
13 talk about a few specific people that you heard from, and
14 I want to start with Mahogany, Dexter's sister, Dajuan's
15 wife, and she was in the apartment and something --
16 something Ms. Campbell kept saying is take the credible
17 testimony, take the believable testimony and apply it to
18 the law when the judge gives it to you. So she told you
19 her version of what happened here, but you judge her just
20 like you judge anybody else. She's got her own reasons for
21 coming in here and telling you what she told you and if you
22 really listened and think about what she said, what she
23 said happened doesn't make sense.

24 She told you she got up that morning, the baby woke
25 up. She's up, trying to get the child to go back to

1 sleep. As we know, babies don't care what their parents
2 want to do, so she was up. So she gets up and is cooking
3 breakfast. At some point she goes to get Dajuan.
4 Everybody is supposed to be sitting at the kitchen table
5 eating breakfast. She asked him about jelly on toast,
6 gives him the toast with jelly on it and then is either
7 leaning over or bending down, but she's making her plate
8 of food, and she says that's when she hears a pow, pow,
9 pow, and she looks up and she says she sees Dexter with a
10 gun. Dajuan had been shot. If you listen to what she
11 said, Dajuan had been shot, she looks up, Dexter has the
12 gun and Dexter then shot her. And she runs away. She
13 falls to the ground, jumps up and runs out of the house.

14 The State provided you the information you need to
15 show that Mahogany -- what she said doesn't make sense
16 because it did not happen that way. They showed you
17 pictures of the kitchen table, they showed you pictures of
18 the kitchen, they showed you pictures of the living room,
19 of the bathroom, but this is the kitchen table. They
20 showed you where the kitchen is compared to the kitchen
21 table. This is the stove. This is the stove that Mahogany
22 says she was standing at. This chair is where she said
23 Dajuan was sitting. Crime scene investigators didn't walk
24 in and sit the chair up. They didn't walk in and move the
25 table away from where she was standing. She was literally

1 standing right beside him and she says she doesn't see
2 anything. That did not happen. Dajuan Harris was not
3 sitting at the table when he was shot. He wasn't.

4 If you remember the testimony of Dr. Durso, she
5 described the shot to the neck, immediate distress. He
6 would have been at least losing consciousness within a
7 minute, but Mahogany says she hears pow, pow, pow. Dajuan
8 did not stand up, push his chair in, not knock over a
9 plate, a cup, nothing, and then walk to the bedroom and
10 lock the door. If you get shot, if you're sitting in a
11 chair, you're jumping up, not calmly standing and pushing
12 your chair in and leaving. What she said happened is not
13 how it happened and I don't know -- I don't know why. I
14 have no explanation as to why she was saying what she's
15 saying. I don't know why or what she's trying to minimize
16 or cover. I don't know. But the pictures that they
17 provided you, the crime scene investigators, that shows
18 you that that didn't happen. He was not shot at the table.
19 She would have seen it because she was there, so there
20 would be some evidence of it where there's not. So, yes,
21 judge credibility, consider the testimony with the evidence
22 that you have when you make your decision about whether or
23 not they've proven and reached their burden.

24 And it was said that in this case, in any case, the
25 State welcomes their burden of proof. The truth of the

1 matter is they don't have a choice. They can't reject
2 it, they can't lessen it. The burden is on them and is
3 always on them to prove every case beyond a reasonable
4 doubt. And the judge, he will give you the definition
5 of reasonable doubt. When I explain reasonable doubt --
6 because as lawyers we just make words up and then spend a
7 lot of time trying to explain it, so when I talk about
8 reasonable doubt, it's hesitation. It's that simple. If
9 you hesitate for a split second, that's all it takes. That
10 is reasonable doubt. And every single one of y'all are
11 reasonable people and I know y'all have been paying
12 attention, we've been watching. Some of this stuff is
13 hard to listen to and hard to see in others, but every
14 single one of you has been paying attention. So hold
15 them to their burden. Don't get lost in everything else
16 they're going to try and tell you. How many times did we
17 hear about the one-year-old and the four-year-old? How
18 many times did the children come up? The children are of
19 no consequence to what happened when the shots were fired.
20 None. That's the emotion they want you to get lost in.
21 That's the only reason the children keep coming up.
22 Nothing to do with what happened when the shots went off.
23 Don't get lost. Don't let them cloud your judgment. Don't
24 do it. Hold them to their burden, what the law demands
25 that you use as your tools.

1 You heard from investigator Bouknight. He talked
2 about blood spatter. I think I got it right that time.
3 Blood spatter. And what he said, there's -- there's some
4 drops on the door, there's some drops on the wall. He said
5 first that it was moving in a direction away from the point
6 of origin. I completely agree with that. I'm not gonna
7 disagree with him, he knows what he's talking about, and
8 that's considered like an impact pattern. You know,
9 impact. But impact does not mean something hitting. It
10 does not mean a physical contact. He told you that
11 (coughing) that's impact. The air, the pressure behind the
12 air leaving my lungs, is impact and that can create the
13 pattern that was on those walls. I completely agree with
14 that.

15 Dr. Durso told you the same thing and the way that
16 she described, you know, through her autopsy, the injury,
17 the internal injuries that Dajuan had, it completely
18 explains what happened and why there's blood on the wall
19 and on the door in that bedroom. Dajuan Harris was in
20 the bedroom, he was there, and unfortunately as he was
21 succumbing to his injuries the blood exited his mouth when
22 he coughed. He would have been struggling and that is
23 horrible. I cannot imagine what that must feel like. I
24 don't ever want anybody to have to try to imagine that,
25 but that explains it. It makes sense.

1 You heard from Investigator Beeler. He's another
2 crime scene investigator who took the swabs of the gun.
3 I'm not gonna pick up the gun again, but he took two swabs.
4 He told you one from the top barrel area and one from the
5 grip, the trigger, hammer area, right? So one from up here
6 in this general area and one from down here. He told you
7 that he submitted those for DNA and then when Agent Grant
8 testified, she's the DNA analyst, she got two swabs, one
9 labeled top cylinder, the other one labeled from gun.
10 Dexter's DNA, his blood, is on the top of that gun. We
11 know that Dexter had the gun in his hand, we know that, but
12 what we also know is that Dajuan's DNA is on that gun.
13 Dexter didn't put it there. You can't do that. Dajuan's
14 DNA on the other swab that was submitted to Agent Grant is
15 on this gun. It was this swab that matched Dajuan Harris.
16 His hands were on the gun.

17 We were also able -- we were also able to establish
18 that Dexter submitted his clothes for DNA testing and he
19 had blood on his clothes. A lot of it was his blood
20 because he had injuries. He had a pretty gaping, bleeding
21 injury to his right hand. They also photographed the
22 injury to his left hand. So, yes, Dexter Myers' DNA was
23 on his clothes. We know this. There's was also a spot of
24 Dajuan Harris' DNA on his clothes. Dexter didn't put it
25 there. They had to be close enough for that DNA to be

1 transferred to his shirt and they were struggling over
2 that gun. That's when the DNA was transferred.

3 Now I spoke with -- I can't remember if it was
4 Investigator or Agent Metz, the ballistics tester, and we
5 talked about, you know, just the general makeup, the
6 properties of the gun, and with revolvers, you know, they
7 are very different from automatic weapons. They've got a
8 barrel that has to turn, so there's that space in the front
9 and the back and on top that lets the barrel turn. That
10 gap is important and I got into it a little bit with
11 Investigator Metz, then I spoke more about it with Agent
12 Sturkie for the GSR, gunshot residue, because they both
13 explained to you guys that when the hammer of the gun hits
14 the primer of the bullet there is a -- I don't want to say
15 a small explosion, but it ignites, and then the gas expands
16 and that pushes the bullet out of the barrel. But all the
17 gas and all the powder has to go somewhere, it's got to get
18 out, so the powder and the gas leaves that gun with the
19 openings. Any opening it can find it leaves the gun. Now
20 the majority of the powder on the gun tries to get through
21 the barrel, it tries to go forward, but because of the way
22 bullets -- I guess the way they're made, not everything can
23 go forward, sometimes powder is pushed back, and generally
24 the powder that's pushed back is called primer powder. And
25 primer powder is important because the primer on the bullet

1 is what's facing the person with the gun. That's what the
2 hammer hits to shoot the bullet. So that powder, it moves
3 back out of the gun. It's got to go somewhere.

4 And when they did the GSR testing, when they tested
5 Dexter's hands, when they tested Dajuan's hands, Dexter
6 had GSR on his hands on the back of both because we know
7 he fired the gun, but Dajuan, Agent Sturkie couldn't say
8 he had GSR on his hands because he only had two out of
9 the three elements, but two of those elements that are
10 consistent with primer powder, the one in the back, that
11 exits the back, were on his hands and he knew it was primer
12 because they're shaped differently. So three ways to
13 transfer gunshot residue. You fire a gun, you're in the
14 vicinity of the gun or you touch something that has it on
15 it. He grabbed the back of that gun. It's on his palm and
16 it's on the back of his hands. They tested it after they
17 collected it and they found it. Two out of the three
18 particles. It doesn't just jump on you from ten feet away
19 or however far they're gonna say this marksman, Dexter this
20 marksman shooter, is from him. It got on his hands when he
21 grabbed the gun. That's what happened.

22 And then we have Dr. Durso. Dr. Durso performed the
23 autopsy. You know, she came in and told us there were
24 three gunshot wounds. She cannot say which shot happened
25 first, but we definitely know which one was the fatal one.

1 That was the one through the neck and nobody is disagreeing
2 with that. But she told you when she did her external exam
3 there were other injuries that she -- that she noted; on
4 the neck, on the head, a busted lip, on the arm. One of
5 those she said yes, that looked postmortem, but the other
6 ones she gave an opinion that those could have been caused
7 in a number of different ways. She could not say that it
8 was caused if he fell, she could not say that they were not
9 caused before the shots were fired, they could have been
10 caused after the shots were fired. We don't know because
11 she cannot tell you that. So don't let anybody try and
12 tell you that she is certain, that she's giving you the
13 cause, the timing or anything else of when those other
14 injuries occurred because she told you that she can't. She
15 can't. Because they were postmortem, she had seen the
16 patterns before in fall victims, does not mean that it did
17 not happened before that. So if you're struggling, if
18 you're fighting, you can get scratches on your neck. If
19 you're fighting and you get punched, you can get a busted
20 lip. All of those things can cause those injuries.

21 They're not proof that it didn't happen. They're there.
22 It's up to you to decide when do you think those happened.

23 There was also talk about defensive wounds. Defensive
24 wounds she said you typically look for on the hands and on
25 the arms. Dajuan didn't have any injuries on his hands.

1 Defensive wounds she described as being wounds that are --
2 that are done if somebody is being attacked. You would see
3 them put their hands up, arms up, trying to cover their
4 face, trying to protect themselves. Dajuan Harris didn't
5 have any injuries on his hands. Dexter did. He had
6 injuries on both of his hands. One of them he had to get
7 stitched up. They had pictures of both of them. We're not
8 making this up.

9 And yesterday Dexter took the stand and we all know,
10 we have heard from -- I lost count of how many witnesses
11 were called to tell you that when Dexter Myers was first
12 interviewed he lied and he lied badly. Anybody who has
13 half -- half -- any kind of sense about -- who doesn't
14 have any knowledge about guns, knows a gun can't shoot by
15 itself. We know that. They called witness after witness
16 after witness to tell you what we told you at the beginning
17 is that Dexter Myers lied. We told you that. And he got
18 on the stand yesterday and admitted to you that he did it
19 himself and he told you what he told law enforcement when
20 he gave that last statement. I can't change what he said,
21 I can't make it go away. He acknowledged that he said it
22 and he acknowledged that it was a lie and the reason he
23 said he lied was because he thought they wouldn't believe
24 him. Now I don't know if we all would be in this room, if
25 we would have spent the last week together, if Dexter had

1 just told them what happened. I don't know if they would
2 have arrested him or not. I don't know. He should have
3 just told them what happened, but he didn't. So I don't
4 know if we'd all be sitting here. I don't know if we'd be
5 arguing in front of you trying to show you this is not
6 murder if Dexter had just told them what happened, but what
7 we do know is that the arrest warrants for Dexter were
8 taken out before he was even found. Nobody -- nobody cared
9 what Dexter had to say, so I kind of believe the fact that
10 he believed that nobody would believe him. I kind of
11 understand that. They spoke to one person, walked through
12 an apartment and took out an arrest warrant. Nobody cared
13 what he had to say. So I can't say I don't kind of
14 understand. They were gonna arrest him anyway.

15 Now Dexter has been charged with murder. I'm not
16 gonna go through all the definitions. That's the judge's
17 job. After I finish talking, my one and only time to talk
18 to you guys directly, Ms. Walker is gonna get up and she's
19 going to address y'all on what they believe the evidence
20 shows and then the judge will give you the law. So I'm not
21 gonna go back through every definition of everything, but
22 the State has to prove malice. The State has to prove that
23 there is no legal justification for what happened. They
24 have to. They have to prove that to you. It's called
25 disproving. The State has to disprove self-defense, so

1 they have to prove to you with the same standard, the
2 highest standard in our legal system, beyond a reasonable
3 doubt, that Dexter was not justified in what he did. And
4 there can be sarcasm, there can be ugly looks, there can be
5 finger points, none of that matters. They have to prove to
6 you from the evidence in this case that there's no legal
7 justification for what happened. And when Dexter saw
8 Dajuan go for that gun, the law allows him to protect
9 himself. The law allows him to try and stop him from
10 getting that gun. That is the self-defense. There is no
11 question about it. If you believe somebody is going to get
12 a gun and potentially kill you, you have the right to act,
13 and that is what he did. That is why this is self-defense
14 and not murder. That is why this is self-defense and no
15 intent to kill Mahogany. None. Because you have a right,
16 everybody has a right, to not let somebody get a gun first
17 and then see what they're gonna do later. Law enforcement
18 hesitantly but finally agreed when -- if you walk into a
19 scene not knowing what you're going to, you have the right
20 and they are trained to pull their weapon at the ready.
21 If there's a threat, they neutralize the threat. If they
22 are put in a position where they feel as though they are
23 in danger to the point of justifying deadly force, then
24 they neutralize the threat. It is the right to protect
25 yourself. It applies to them, it applies to Dexter, it

1 applies to everybody. It is our right to do that. You
2 don't have to wait to see what somebody else does. You
3 don't.

4 Attempted murder is specific intent. The State has to
5 show you that Dexter intended that he was trying to kill
6 Mahogany Harris. That's just not true. If you think about
7 it, it was briefly mentioned, and I'm sure Ms. Walker is
8 going to discuss it, they're going to tell you that Dexter
9 and Dajuan were not close to each other, they were not
10 struggling when the shots went off. He's shooting at a
11 range. If he is this good of a marksman and if he is not
12 engaged, struggling with Dajuan when the shots are being
13 fired, then Mahogany would not have been shot in the leg.
14 If he was aiming to shoot her, to kill her with the aim
15 that they're saying he has, it would not be an attempted
16 murder. There is no intent to kill. He didn't walk up,
17 point a gun at her and pull the trigger and miss and hit
18 her in the leg. That didn't happen. What happened is the
19 gun went off while they were fighting over it. That is
20 what happened. That makes sense. Being shot at a kitchen
21 table does not make sense. Waking up at 8:20 in the
22 morning and deciding I'm gonna blow my family away doesn't
23 make sense. They've been living there for five months,
24 they lived together when they were kids, so on this day I
25 just wake up and I decide I'm going to just kill everybody?

1 Over what? Being told to leave the apartment? That
2 doesn't make sense. It doesn't allow you to live there
3 longer. That makes no sense.

4 So what we're asking you, all we can ask you to do, is
5 the same thing that Ms. Campbell just asked you to do, the
6 same thing the judge is gonna ask you to do. Take the
7 facts as they've been given to you in this case, free from
8 emotions, free from passion, apply the law. You're gonna
9 have a lot of stuff to discuss. Apply the law and you will
10 see that this is not murder. You will see that there is no
11 intent to kill. It's not attempted murder. Dexter acted
12 in the way the law allows him to act. When Dajuan went for
13 that gun and he went to stop him from getting it, that is
14 acting in self-defense. That's what that is. Dexter is
15 not guilty of murder and he's not guilty of attempted
16 murder. Thank you.

17 **THE COURT:** Anyone need a break before we continue?
18 All right. Ms. Walker.

19 **MS. WALKER:** May it please the Court, Your Honor?

20 Good afternoon. Before I talk to y'all about facts of
21 this case, I want to join Ms. Campbell and thank y'all for
22 your attention and time this week. I know as you were
23 driving to the courthouse on Monday in preparation for your
24 jury duty, you may have been anticipating, you know, what
25 sort of case you were going to be on. Was it going to be

1 some sort of drug dealing, maybe a car wreck? At that
2 point in time as you were driving here, there was no way
3 for you to anticipate that you would be hearing about a
4 man's final moments as he was eating breakfast with his
5 family. There was no way for you to anticipate that and
6 as you were anticipating what type of case you would be
7 sitting on, Ms. Campbell, Mr. Shellenberg and I were
8 sitting around and we were anticipating what type of
9 defense would used in this case because Mr. Myers is not
10 bound by facts, he's not bound by truth. He's bound by
11 what's convenient for him at the moment, so it was hard to
12 anticipate what his defense would be. Would it be the
13 initial defense of I wasn't even there, I have no idea what
14 you're talking about? Or would it be the, I guess, third
15 or fourth story that he told? I had the gun in my hand, my
16 palm was open and the gun just kept going off. Magically
17 it didn't hit Shamaray, magically it didn't hit him, but
18 that magic gun just kept going off. Or would it be his
19 third story? He had to do it, he had no other choice. He
20 was attacked, he had to act in self-defense. And as he
21 took the stand yesterday amid bouts of amnesia it became
22 clear that his story was a combination of the gun
23 accidentally went off and I had to act in self-defense,
24 and I will talk to you about his testimony and about his
25 statements, but before I talk to you about what this

1 Defendant said, I want to talk to you about the credible
2 evidence in the case.

3 In order to prove to you the crimes of murder and
4 attempted murder beyond a reasonable doubt, in order to
5 leave you firmly convinced of Dexter Myers' guilt, we
6 brought forth evidence and witnesses to testify. We
7 started with the next door neighbor. Do you remember
8 Ms. Brown on Monday? She heard shots and then she heard
9 someone banging on her door and when she opened the door,
10 it was her neighbor Mahogany. And Mahogany came in and she
11 was excited, she was scared, she was nervous. She was
12 trying to get back to her children who were still in that
13 apartment, and they placed that 9-1-1 call. And in that
14 moment she says my brother shot my husband and my brother
15 shot me. His name is Dexter Myers. Right when it just
16 happened she doesn't come up with some sort of story. She
17 tells what just happened to her. It wasn't that there was
18 a struggle over a gun, it wasn't that the gun accidentally
19 went off. Judge her credibility. At this point what would
20 be the purpose of her coming in here and sending her little
21 brother to prison for murder? What's the purpose in that?
22 What's her motive in that? It's not gonna bring her
23 husband back. Why would she do that unless it's the truth?

24 You heard from the responding deputies. They were the
25 first two to arrive on the scene, deputies David Fairbanks

1 and Zachary Brunson. They tell you they went in there,
2 they made contact with Ms. Brown, they made contact with
3 Mahogany. They were both upset. There were two children
4 in the home. And we're not talking to you about the
5 children to make you feel sympathy for them, to make you
6 feel sorry for them. We're talking to you about the
7 children because they were there. They're a part of the
8 story. You don't ignore children because Ms. Pinnock wants
9 you to. The evidence of the children is everywhere in that
10 apartment. But they went in to clear the house. And,
11 remember, this is when she started going on about, you
12 know, when you went into that apartment did you have your
13 guns drawn? Were you at the ready? They said yes, we
14 didn't know what we were going into. They were clearing
15 an apartment because someone had just shot two people.
16 Yes, they had their guns drawn. And when they get back to
17 that back bedroom, and they can open every door in the
18 house except for that one, that's the one that they have
19 to kick in, remember? Because the victim has gone back in
20 there. He's become scared and is running in his own house
21 and barricading himself in his own bedroom because is he
22 shooting people. He's fallen face down and they find him
23 in a pool of his own blood. Because, remember, no matter
24 how much they want this to be a struggle, the only blood
25 that's found in that hallway, that's found in that bedroom,

1 no blood in the living room, that blood belongs to Dajuan
2 Harris. Dexter himself told you in one -- in his statement
3 to police officers that he cut his hands when he was
4 running through the bushes. He wasn't fleeing the scene,
5 he was just trying to get out of there. His blood isn't in
6 the apartment. His blood is on the gun because he had it
7 with him when he was running through the woods, as he was
8 getting rid of evidence. Or actually he wasn't getting
9 rid of evidence. He saw a cop car and then his gun just
10 slipped out of his hand at that point in time.

11 In order to introduce you to the crime scene, we
12 brought in crime scene investigators. They were the ones
13 who went in and collected and documented the evidence
14 and they took the pictures of the crime scene. And
15 Ms. Pinnock wants you to believe that the crime scene is
16 not corroborated, it does not corroborate Mahogany's
17 testimony. Remember she said he was sitting there at
18 breakfast. He had the one-year-old on his lap, he hasn't
19 started eating his breakfast yet, but that he had started
20 feeding her. Do you see the little Dora the Explorer plate
21 there? Grits have been eaten. He was sitting at that
22 table. He was feeding his daughter. She was sitting on
23 his lap. This is his plate that he hadn't started eating
24 yet and this is the one-year-old's plate. Her testimony
25 is corroborated. She wants to say, you know, those chairs

1 should be knocked over. The door beside the chair has been
2 knocked over. And I don't know what Mr. Myers did in that
3 house after everyone had fled, what he got out of that
4 closet -- he definitely went over there to get his shoes --
5 what chairs he moved around or what he moved around on that
6 table, but what Mahogany says happened at that kitchen
7 table is corroborated by those pictures. And that there's
8 another thing that you can -- you can see here. The living
9 room is on this side. There's a wall here that separates
10 the living room and the kitchen. You can see the wall
11 clearly in this picture. She's shot in the kitchen.
12 There's a projectile under the refrigerator. There's a
13 bullet under the refrigerator. It's corroborated by her
14 being shot in the kitchen. Do you remember there were
15 projectiles collected that we can account for in this case?
16 Here's where she was fixing her own breakfast, do you
17 remember? Toast she was making for her husband, it's on
18 the floor. Her shoe where she fell backwards is still
19 there. She was shot in the kitchen. The projectile was
20 found over here under the refrigerator. She wasn't coming
21 at Mr. Myers as he would have you believe. She was still
22 in the kitchen fixing breakfast for everybody in the house,
23 including him.

24 And in addition to the kitchen, they also documented
25 the living room. They took pictures of the living room

1 where this great struggle took place. Where the Defendant
2 is struggling for his life. He's in a fight for his life.
3 They're on the couch. They're wrestling. He has to
4 wrestle to get from up under the victim in this case.
5 They're fighting over a gun. This living room should be
6 in absolute disarray. This is where the fight's taking
7 place. The bassinet is still upright, the TV hasn't been
8 knocked over, and this is where Shamaray is sleeping,
9 remember? Because Shamaray didn't wake up according to
10 Dexter Myers while they're fighting over this gun and this
11 struggle for survival in this living room. Shamaray should
12 have been trampled. Not only that. There should be blood
13 all over that living room and there isn't. The struggle
14 didn't happen in the living room. They didn't even knock
15 the remote control off the couch they were struggling on.
16 It's still there.

17 Ms. Pinnock said I was gonna get up here and tell
18 you that there was no struggle. There was a struggle over
19 the gun. The victim's blood is on the gun, which tells
20 reasonable, sensible people with common sense that he was
21 shot before he ever touched that gun. He's shot and he's
22 trying to protect his children and his wife who are in the
23 home and there's a struggle over that gun. It's in the
24 pictures, but the struggle doesn't take place in the living
25 room. The struggle takes place as the victim in this case

1 is trying to barricade himself in this bedroom. Remember,
2 he's still bleeding down there. He eventually gets that
3 door locked and collapses, but look at the door handle
4 on the outside? Do you see how it's bent down, it's
5 indented? Because he's still trying to get in to make
6 sure he finished the job. There's a struggle over that
7 gun. He's already been shot. He's bleeding on the door,
8 he's bleeding on the wall and he's bleeding on the gun,
9 and the Defendant is trying to get into that room. That's
10 what the pictures in this case show. That's what the
11 evidence in this case shows.

12 Out of the six bullets that were fired from that gun,
13 we have the projectiles from five of them. Remember, two
14 of them were found in the victim at autopsy, two of them
15 were found in the home. Remember, one of them is found
16 under the refrigerator that we talked about, and one of
17 them is found out in the hallway in that breezeway that's
18 leading to Ms. Emma Brown's apartment because as his sister
19 is fleeing he's still trying to shoot her. It went right
20 in the direction that she went and luckily in this case it
21 didn't go into another apartment where another family was
22 eating breakfast. It fell harmlessly on that breezeway
23 floor. In this case, no matter how much Ms. Pinnock wants
24 to wish it away, the pictures corroborate what Mahogany
25 says happened.

1 You heard from Investigator Cavanagh. She's the one
2 who went to the location where the victim was -- where
3 Dexter Myers was found hiding out, that Charles Street
4 location. She found the towel and the napkin that he used
5 to wrap his hand that he admitted he cut not in a struggle
6 but as he was running through the bushes and trees to get
7 rid of the gun. She took those pictures and she documented
8 that. And you also heard from the investigator who took
9 pictures of Dexter that day because the investigators
10 wanted to -- to document what he looked like, remember? He
11 should be a mess. He should be bloody, bruised, battered.
12 According to him, he's getting hit repeatedly in the face.
13 That's his testimony yesterday. His shirt should be torn.
14 It's not even wrinkled. No injuries to his face. No one
15 was hitting this man. A close-up of his face. He is in a
16 fight for his life and comes out of it with a cut on his
17 hand and he told you how he got that cut and it wasn't in
18 any struggle inside of the apartment.

19 You heard from Shamaray and I guess -- Shamaray loves
20 his brother. He gave a statement to law enforcement
21 officers, and that statement you will have back there with
22 you as you deliberate, and in that statement he said that
23 his brother was holding the gun and that the gun just kept
24 going off. And what's interesting about that statement
25 that Shamaray gave is that it's the exact same thing that

1 Dexter said that Dexter is now admitting that's a lie.
2 It's either a huge coincidence or after Mahogany fled the
3 scene and Dajuan was dying in the back bedroom they got
4 together on the story, which I'll submit to you is what
5 happened because two people don't come up with the exact
6 same admitted lie. And now like his brother Dexter,
7 Shamaray really doesn't remember what happened. According
8 to Dexter he shouldn't because while this grand struggle
9 is going on he's asleep on the living room floor. Judge
10 Shamaray's credibility.

11 You heard from Roshaunda Dumas. She's the young lady
12 that gave him a ride away from the scene across town. She
13 patted him down, checked his ID and gave him a ride, and
14 he told her that he got into a fight with his girlfriend.
15 And that's not because of some fear of law enforcement.
16 She's not law enforcement. That's because he can't tell
17 her I just blew away my brother-in-law and killed my
18 sister. I got into a fight with my girlfriend. That was
19 the first lie that he told that day and there's no fear
20 of law enforcement that can explain that lie away.

21 You heard from Mahogany. She took her brothers in
22 when their own parents wouldn't. She told them at some
23 point, it was after that text message she received from
24 her husband, I think your brothers are trying to bring a
25 gun in here, that they needed to get out of that house by

1 July. This happened July 2nd. I'm sure she regrets not
2 having kicked them out before that. Judge her credibility.
3 See what reason she has to lie to try to frame her own
4 brother, whom she clearly cared about and loved and took
5 into her home, for murder. She has no motive to make
6 anything up. She had no motive to lie to the 9-1-1
7 operators or to lie to Ms. Brown. Her story has been
8 consistent from July 2nd until now. There haven't been
9 six iterations of her story like there has been of Dexter
10 Myers.

11 You heard from experts in this case. Rachel Grant,
12 the DNA expert. The victim's blood is on the gun. He's
13 shot before he ever touches the gun. The victim's blood is
14 strewn throughout the house and there is a faint part of
15 blood on the inside of the shirt the Defendant was wearing
16 that day. Had it come from this struggle, it would have
17 been on the outside. He wasn't wearing the shirt inside
18 out. I don't know when that blood got there, she said she
19 can't date it, but they were all living in that same house
20 and that drop of blood was on the inside of his shirt.
21 Don't be confused by insinuations that it was somewhere
22 else.

23 You heard from Amanda Metz. She's the ballistics
24 expert in this case. The gun was working properly, that it
25 would likely not eject a bullet when pulled -- when that

1 trigger was pulled as opposed to anything else. He -- he
2 got six bullets out of that gun. Imagine how many times he
3 had to fire, how many times he had to pull the trigger.
4 That blue shirt that she examined that the victim had on,
5 it didn't have any gunpowder on it, that shot to the back.
6 They were not in close proximity at that point in time. I
7 submit that's when he was running down the hallway and he
8 got shot in the back. And that shot in the back is key,
9 right? Because Ms. Pinnock wants to make this about law
10 enforcement and self-defense and how law enforcement reacts
11 when they are in danger. When law enforcement shoots
12 people in the back as they're running away, they get
13 arrested and charged with murder, too. Just like this
14 Defendant did in this case. He shot him in the back at a
15 distance. That's not self-defense. That is malice.
16 That's murder.

17 You heard from Dr. Durso. And I think there was a
18 question from Mr. Bailey during his cross-examination,
19 you know, you meet with the prosecutors and they tell you
20 what they want you to say. I think she made it very clear
21 that she does not care about my opinion when giving hers.
22 Not only did she meet with us, she met with the defense
23 attorneys in this case, and she does not base her findings
24 on passion, on preference for one side or the other. She
25 says she bases them on science and they are not refuted in

1 this case. The Defendant shot the victim at a distance in
2 the back, shot him in the head, and that wound -- and that
3 wound did not penetrate the skull, but that the fatal shot
4 was the one through the throat and it would have been
5 spewing blood out. And you can see that blood as he's
6 running down the hallway. That means he would have had a
7 minute and a half to struggle and you see the struggle at
8 that door. That there is no soot or stippling on the
9 victim in this case, which means that it was not close
10 contact. Mr. Bailey tried to get her to say you could wipe
11 away stippling and soot and that's just not true. She
12 refuted that. Had it been close contact, you would have
13 seen those things on the victim's body. This was at a
14 distance. And he had gunpowder -- or gunshot residue,
15 particles of gunshot residue, on his hands. Tyler Sturkie
16 from SLED said that that can happen up to eighteen feet
17 away from a victim of a gunshot wound and the Defendant
18 in this case, despite wrapping his hands in towels and
19 wrapping his hands in shirts, still had GSR on him. It's
20 undisputed who fired the shots in this case.

21 And you heard from Justin Britt, who was the arresting
22 officer in this case. You want to start talking about
23 motive? Ms. Pinnock wants to know why he would wake up one
24 morning and decide to kill his family. Justin Britt told
25 you he said I have no love for Mahogany, I don't owe an

1 explanation of this to my family, I am God, were his words.
2 Motive? And the motive became blindingly clear when he
3 took the stand. Do you remember when I asked him about his
4 relationship with his sister? And he went on and on about
5 how his mother put her on a pedestal and no matter what she
6 did was right, no matter what he did was wrong, that his
7 mother preferred his sister over him. This is the oldest
8 motive for murder known to man. It's a sibling rivalry.
9 The motive in this case was to kill his sister. He shot
10 her three times. Dajuan Harris was collateral damage. He
11 tried to kill her, he just didn't succeed. He attempted to
12 murder her, he was just unsuccessful.

13 You heard from Scott McDonald, Captain Scott McDonald
14 with the sheriff's department, and he was involved in the
15 interviews of the Defendant, and you're going to have
16 those, and the first thing that the Defendant says is that
17 he wasn't there because at that point in time he doesn't
18 know that there's a survivor. He knows Shamaray's not
19 gonna tell on him. He knows the four-year-old and the
20 one-year-old aren't talking, so he says he wasn't there.
21 Then he says he was there, but he went to go buy weed. He
22 didn't need to leave the house to buy weed, his weed is in
23 this jar that was found in the living room. And once he
24 decides that he can't go with I wasn't there because
25 there's a surviving witness, he starts talking to the

1 police on a written statement. He signs that he
2 understands his rights and that he wants to waive them.
3 He went to Eau Claire High School, twelfth grade slash GED,
4 and that he can read and write. They told him that before
5 they ask him any questions that they needed to understand
6 -- that he needed to understand his rights. You have the
7 right to remain silent. Anything you say can be used
8 against you in court. You have the right to talk to a
9 lawyer for advice before we ask you any questions and have
10 a lawyer with you during any questioning. If you cannot
11 afford a lawyer, one will be appointed for you before any
12 questioning if you wish. If you decide to answer questions
13 now without a lawyer present, you still have the right to
14 stop answering at any time. You also have the right to
15 stop answering at any time until you talk to a lawyer. He
16 signed there. I have read the statement of my rights and
17 understand what my rights are. I am willing to talk and
18 answer questions. I understand and know what I am doing.
19 No promises have been made to me and no pressure or
20 coercion of any kind has been used against me. And then
21 he started giving -- so the first version was that he got
22 in a fight with his girlfriend, the second version was that
23 he wasn't there, the third version was that he was there
24 but he left to go buy weed, so we're on his fourth version
25 of events in this written statement.

1 The truth doesn't usually change four times, or six in
2 this case, but here we go. Do you know where you are right
3 now? Some business with the sheriff's department. What
4 did you eat prior to this interview? Arby's. A roast beef
5 sandwich, curly fries and Sprite. How do you feel and do
6 you know what you're doing? I feel scared and nervous.
7 Yeah, I know what I'm doing. Please explain what occurred
8 this morning in the apartment at Brook Pines. I first woke
9 up and the gun was on the living room floor. The gun is
10 always kept on the floor when someone is home or under the
11 couch when no one is there.

12 So under his version of events, there's a one-year-old
13 and a four-year-old in this house and they always just keep
14 a gun that's very dangerous and magically goes off on the
15 living room floor. They have the gun for protection.
16 White Boy, is what he calls his brother-in-law, picked the
17 gun up off the floor because he thought one of the kids
18 might get it. That's what I am figuring. He never said
19 it. When he picked it up, I told him to be careful because
20 the hammer was cocked back on it. The gun is either broke
21 or something because the hammer is always back. When I
22 told him to be careful, and he knew to be, and said yeah,
23 yeah, right, and then put the gun back in my hand. I had
24 already gotten up and was standing up in the living room.
25 White Boy then put the gun back in my right hand and as

1 soon as it hit my hand and before he could turn completely
2 around, it went off.

3 All I heard was White Boy yell ahh, ahh, and put
4 his hands up over his head. The gun went off a few more
5 times and my sister was hit and I saw her fall on the
6 counter and then to the ground. My brother then put his
7 arms around me and the gun fell on the floor. I don't
8 know where Bro went, but my sister was yelling. My
9 brother started yelling that I had just fucked my life up.
10 Excuse my language, but I'm just reading this Defendant's
11 statement. The babies were crying and screaming and now
12 everyone was screaming. I then panicked and my brother
13 picked the gun up off the floor and was going to put it in
14 his pocket. I told him to give it to me and I knew I had
15 to get rid of it. Everyone is still screaming and my
16 brother was still freaking out.

17 I then left with the gun and was walking down Broad
18 River when I saw a CPD car coming. Once the CPD car passed
19 me and turned into Brook Pines, it dropped out of my hand,
20 so I just left it there. So not only does the gun -- does
21 the gun just randomly go off at points, but the gun knows
22 when law enforcement is around and decides to drop out of
23 the Defendant's hand. I then walked back down to the Brook
24 Pines and went and got a girl, Shaunda, to give me a ride.
25 She was driving a black Jeep and we left over to

1 El Cheapo's. Shaunda then drove me to [REDACTED] [REDACTED] [REDACTED]
2 and dropped me off. I bought her a pack of cigarettes for
3 the ride. As we were leaving the apartment complex, she
4 asked what the fuck was going on.

5 Can you describe the gun that was used in this
6 incident? It was black and the hammer was cocked back. It
7 was a revolver. Did you have an argument with White Boy or
8 your sister this morning? No, sir. Did you intentionally
9 shoot White Boy and your sister? No. All I remember once
10 was he shot -- once he was shot he was running all into
11 stuff in the apartment, which is also not true because
12 stuff in the apartment should be knocked over and tossed,
13 and it's not, unless he put that back together before he
14 left the crime scene. Why did you run from the scene and
15 not call for help? Because I watch the First 48 and know I
16 cannot get around this. Nobody will listen to me that this
17 is an accident. I'm not playing the racist card, but I'm
18 black. Was the clothing that you had on when you were
19 arrested the same as you were wearing when this incident
20 occurred? Yeah. There was a blue shirt and paper towel
21 with blood on it at Charles Street. Was that yours? I
22 used the blue shirt and the paper towel to clean up the
23 blood from the cut on my left hand. I cut my hand running
24 through the woods. What were you thinking after White Boy
25 and your sister was shot? I was scared. I was thinking

1 this gun has fucked my life up. I was thinking I had a
2 career. I don't even know -- I didn't even know they were
3 dead. I even said to God what he got me into. Because at
4 this point and at every point throughout his defense, it's
5 been everybody else's fault except his. It's Dajuan's
6 fault for picking up the gun, it his sister's fault for
7 coming at him. It's law enforcement's fault because he
8 couldn't tell them the truth because they wouldn't believe
9 him. It's the gun's fault because it magically went off,
10 it's the gun's fault because it slipped out of his hand,
11 and it's God's fault because what had God gotten him into.
12 Blame everybody but the murderer is Dexter's theory of this
13 case.

14 What do you think should happen to you for this? I
15 don't think I should get off for this. My family has
16 always been dysfunctional and this gun has fucked my life
17 up. Is there anything else you'd like to add? That it was
18 an accident. I didn't mean to do this. I know the judge
19 is going to burn me. I submit to you he burned himself.

20 But once he goes back to the holding cell and once he
21 starts thinking about it, and even Dexter realizes that
22 this story ain't gonna add up, that guns don't just go off
23 on their own, he decides to come back with -- I think we're
24 at the sixth version of events. Did you tell the full
25 truth during the statement that you provided? No. What

1 happened this morning inside the apartment? I was asleep
2 and I woke up. When I woke up, I was getting my day
3 started. I was going to get my moped. I was still lying
4 on the couch and still had the cover over my head. I could
5 hear my sister in the kitchen slamming cabinets doors and
6 drawers and I knew she was mad. I took the white covers
7 off my head when she walked into the room. When she came
8 back out of the room she started slamming plates on the
9 kitchen table. That's when White Boy came out and said
10 "Yeah" and he looked at her and then looked at me. By this
11 point all he's done is look at him. And I said "Man" back
12 to him, meaning get the fuck on. When I said "Man" -- and
13 this has harsh language in it, but, again, I apologize.
14 When I said "Man", this nigger said "What's up?", and he
15 was going for the shit. When he was reaching for it, I
16 grabbed it and my finger went through the loop and his hand
17 was on the nose.

18 And, remember, he -- he agreed with that yesterday
19 when he testified. He said he had his hand through this
20 loop and that the victim's hand was on the nose of the gun
21 and that's when the first shot went off. Dajuan Harris'
22 hand should have been blown off, but according not only to
23 this statement, but what he verified from the witness stand
24 yesterday. Now Ms. Pinnock tried to get up here and get
25 him to walk the statement back, but he was very certain

1 on cross-examination, it's one of the only things he
2 remembered and was certain about, the victim's hand on the
3 nose of the gun when that shot goes off. The victim's hand
4 should have been blown off and it wasn't. When he was
5 reaching for it, I grabbed it and my finger was through the
6 loop and his hand was on the nose. That's when the gun
7 went off. I saw him hold his face and he was still coming
8 at me. I was able to get him from under him -- I was able
9 to get from under him and when I got off the couch, I shot
10 him again and that's when my sister came at me and she got
11 shot, too. She didn't come at him. She's in the kitchen.
12 You see where her shoes are where she's fallen backwards.
13 The pictures and physical evidence, despite Ms. Pinnock's
14 biggest wishes, hopes and dreams, corroborate Mahogany's
15 story and they absolutely refute what the Defendant says
16 happened.

17 Why did you shoot your sister? She was coming at me
18 after I shot him. Why did you shoot White Boy, Dajuan
19 Harris, the second time? That nigger had been on me.
20 Remember he was on top of him, they were on the couch, but
21 according to Dr. Durso she can't tell you exactly how far
22 away, but she knows it was more than eighteen inches away.
23 He wasn't on top of him. There was no struggle on the
24 couch. The Defendant isn't fighting for his life on that
25 couch. The victim's blood isn't streaming down from those

1 gunshots on that couch. Do you think he was on you because
2 he was shot already? No, he was still talking to me. He
3 was mad still. He was mad when he came out the room. Were
4 you asked to move out recently by your sister? No, not
5 recently. That shit happened in April. Do you feel that
6 White Boy and your sister were mad that you were going to
7 buy a moped? Yeah, the moped, and there was more shit.
8 Have you ever had any altercations with White Boy? No, I
9 have known him since we were young. You have never had
10 any problems with White Boy? No, we have never had any
11 problems. There are only problems when my sister Mahogany
12 is mad. When she is mad, everyone is mad. He kind of hit
13 on that resentment he had for her despite everything she's
14 done for him. Mahogany's good deed in taking him in did
15 not go unpunished.

16 How long have you lived with your sister and White Boy
17 and the answer to that question is ever since February.
18 That's when I came home from Job Corps. Is she the only
19 family member that will allow you to live with her? She
20 took us in because of my brother's SSI check. Have you
21 had any problems with your sister recently? No, I don't
22 put my hands on my sister. Why were you not truthful in
23 your first statement? Because I felt as if y'all were not
24 going to believe me. What would you like to say to White
25 Boy and your sister? I'm very sorry. What happened was

1 not my intention. When did you get the gun? It had been
2 in the house for more than a week. What kind of gun was
3 it? It was a revolver. I don't know what caliber it was.
4 It was black with the hammer already back on it. Why did
5 you run from the apartment? My thought process, that I
6 was going to be looked at wrong. I was living in these
7 people's house. Did you talk to your brother after you
8 left the apartment? No. Did your brother witness the
9 incident? He caught the ending of it. He was sleeping on
10 the floor of the living room. Because, remember, he still
11 has him asleep during this massive struggle that takes
12 place in the living room. When they're fighting over a
13 gun Shamaray just sleeps through that whole thing. The
14 living room was where this incident occurred, correct?
15 Yeah, the living room. Is there anything you'd like to
16 add to this statement? My intention was not to kill
17 nobody. My intentions were not to kill nobody. Is this
18 statement the truth to your knowledge? Yeah, this is the
19 real one.

20 But even that changed when he took the stand because
21 he had kind of a selective cross-examination-induced
22 amnesia. Because he can remember everything pretty
23 clearly on direct examination when Ms. Pinnock is asking
24 him questions, but when I began to ask him questions his
25 memory became sluggish. He admitted to lying in the first

1 statement. He said that everything that he said in the
2 second statement was the truth. But, remember, when he
3 was up here he couldn't really remember -- he couldn't
4 tell you where the struggle was, he couldn't tell you who
5 was standing where. He wouldn't even necessarily say it
6 was in the living room. He wouldn't say the closet was
7 the closet. And then his own mouth got him in trouble
8 because I asked him about the things that he said on those
9 recordings from the jail. That he didn't have to threaten
10 people anymore because he had been on the news. His name
11 was patent in the streets. That he acknowledged to having
12 slumped that nigger, talking about his brother-in-law. He
13 doesn't have to play games with people anymore because he
14 caught a body. Everything would be good from now on
15 because people knew who he was, they had seen him on the
16 news.

17 Like I said, ladies and gentlemen, this is the oldest
18 motive in the book. Jealousy causing one sibling to try to
19 kill another. He failed at that, but he did succeed in
20 killing Dajuan Harris. He shot him three times. He shot
21 at his sister three times. So this case does come down to
22 credibility as every other attorney who's talked to you
23 today has said. You either believe the evidence in this
24 case, you believe Mahogany, or you believe one of this
25 Defendant's six or seven versions of events. If you

1 believe the evidence, if you believe the investigation,
2 if you believe Mahogany, then you find him guilty. You
3 hold him accountable for what he did. If you believe his
4 evolving story, then you let him go and you find him not
5 guilty. I submit to you that in this case when you
6 accidentally leave behind a surviving witness who can come
7 in and testify against you and tell you what happened and
8 that when that evidence is corroborated by the physical
9 evidence, that the State has met its burden. We ask you
10 to hold this Defendant accountable for what he did and to
11 find him guilty of the murder of his brother-in-law and
12 the attempted murder of his sister. Thank you.

13 **THE COURT:** We're gonna take just about ten minutes
14 and then I'll give you instruction and you can go back and
15 have lunch and begin deliberations, okay? So please go to
16 your jury room right now, but don't begin any discussions.
17 I'll bring you back in just a few minutes.

18 (Whereupon, the jury retires to the jury room at
19 12:47 PM.)

20 **THE COURT:** We'll take ten minutes.

21 (Recess taken.)

22 **BAILIFF:** Court come to order. Remain seated.

23 **THE COURT:** All right. Bring the jury in, please.

24 (Whereupon, the jury returns to the courtroom at
25 1:00 PM.)

1 **BAILIFF:** Jurors seated, Your Honor.

2 **THE COURT:** Thank you. Ladies and gentlemen, you
3 have heard and seen all of the evidence to be presented in
4 the case, as well as the final summations of the lawyers,
5 and, therefore, it now becomes my duty and obligation to
6 instruct you on the law that's applicable.

7 If we can get everybody seated, I'll continue. Nobody
8 else is to come in or leave.

9 It's now my obligation and duty to instruct you on
10 the law that's applicable in the case and then you'll be
11 asked to go back and begin with your deliberations, and
12 through that process you will examine all the evidence,
13 decide the facts, apply the law and arrive at a fair and-
14 just decision, whatever that decision may be.

15 It is your exclusive duty to determine what the facts
16 are. You do that through your own common sense examination
17 and evaluation of all the testimony and the other evidence
18 received during the course of this trial. And you twelve
19 jurors alone will decide what weight, value and effect to
20 give to any particular witness's testimony or even portions
21 of that testimony, but your sole objective it is to
22 consider all of the testimony and evidence presented during
23 the case, to fairly decide the facts, apply the law and
24 arrive at a fair and just decision, whatever that decision
25 may be.

1 Now as you know in this case, the Defendant has been
2 accused of two separate and distinct offenses, although
3 they are alleged to have arisen out of one particular
4 event or course of events, which the State alleges
5 occurred on July the 2nd of 2014, but there are two
6 separate indictments and you'll be rendering two separate
7 and distinct decisions as it relates to those indictments
8 and your verdicts may be the same and they may be
9 different, and that will depend obviously upon your
10 determination of the facts as it relates to that charge
11 and then your application of the law as I'll have provided
12 it to you.

13 But the Defendant is charged in one indictment with
14 the crime of murder. The State alleging that he did kill
15 Dajuan Harris with malice aforethought by means of a
16 gunshot and that Mr. Harris died as a proximate result of
17 that gunshot wound. And he's also charged with attempted
18 murder and that he did with intent to kill attempt to kill
19 Mahogany Speech-Harris with malice aforethought.

20 As you know, as to each of those indictments and the
21 charges contained therein, he's entered a plea of not
22 guilty and that plea of not guilty has placed upon the
23 State the burden of proving the allegations that they have
24 made in each of those indictments, the burden of proving
25 each of the essential elements of the crime that they have

1 alleged against the Defendant and, therefore, the burden
2 is upon the State to establish the Defendant's guilt to the
3 satisfaction of you twelve jurors beyond a reasonable doubt
4 before any verdict of guilty could be returned.

5 The indictments are not evidence in the case. They
6 don't establish anything, they don't prove anything. I
7 think I told you at the trial's beginning they're simply
8 the means by which any person charged with a crime is
9 brought into this court and put on notice as to what that
10 crime is by way of the indictments. The indictments,
11 however, will be in the jury room with you, but as I say
12 they're not evidence, they don't prove anything, but they
13 will be in the jury room because it's on the back of each
14 of those indictments, Madam Forelady, that you're gonna be
15 asked to indicate the jury's unanimous decision as relates
16 to that particular charge, but other than serving as the
17 verdict form, the indictment serves no purpose so far as
18 you jurors are concerned.

19 The burden is never upon a defendant to prove that he
20 or she is not guilty or to prove that he or she is innocent
21 because in many cases it might not be possible. The burden
22 is always upon the State because they brought the charge to
23 establish the Defendant's guilt to your satisfaction beyond
24 a reasonable doubt. It is a vital, important and cardinal
25 rule of law that every defendant in a criminal trial, and

1 it does not matter how serious the offense might be for
2 which that person stands charged, a person charged with a
3 crime is always presumed innocent of that charge and that
4 presumption of innocence remains with any defendant as it
5 does with this defendant from the time that he is placed
6 under arrest and throughout the course of the criminal
7 process and even throughout the course of the actual trial
8 in the case. That presumption of innocence will be with
9 Mr. Myers even as you go back into your jury room to begin
10 your deliberations in this case and that presumption of
11 innocence will be with him in that jury room and it will be
12 with him forever unless you twelve jurors determine that
13 he's no longer entitled to that presumption of innocence.
14 In other words, after you've considered all of the evidence
15 in the case and you've determined the facts and after
16 determining the facts you apply the law that I will have
17 provided you, if you twelve jurors unanimously determine
18 that his guilt as to a particular charge has been proven
19 beyond a reasonable doubt, then he would no longer be
20 entitled to that presumption of innocence as it relates to
21 that charge, but it is only if, unless and until you are
22 satisfied of his guilt beyond a reasonable doubt that the
23 presumption of innocence would no longer be applicable.

24 Now while the State does have the burden of proving
25 the Defendant's guilt to your satisfaction beyond a

1 reasonable doubt, that doesn't mean that the State has to
2 prove his guilt beyond all doubt or beyond any possible
3 doubt, but it does require the State to prove his guilt to
4 your satisfaction beyond a reasonable doubt. And the term
5 reasonable doubt should be given its plain and ordinary
6 meaning. A reasonable doubt is the kind of doubt that
7 would cause a reasonable person to hesitate to act upon the
8 information provided. Proof beyond a reasonable doubt is
9 proof that leaves you firmly convinced of the Defendant's
10 guilt. There are very few things in the world that we know
11 with absolute certainty and in criminal cases the law does
12 not require proof that overcomes every possible doubt. If
13 based on your consideration of the evidence in this case
14 you are firmly convinced that the Defendant is guilty of a
15 crime proven by the State, then you must find the Defendant
16 guilty of that crime. If, on the other hand, you think
17 there is a real possibility that the Defendant is not
18 guilty, you must give the Defendant the benefit of the
19 doubt and find him not guilty of that particular charge.

20 The Defendant is entitled to any reasonable doubt that
21 arises from the evidence or a lack of evidence in the case
22 and if upon any factual issue essential to a finding of a
23 verdict of guilty you have some reasonable doubt as to how
24 that issue should be resolved, it would be your duty to
25 resolve that reasonable doubt in favor of the Defendant.

1 And, therefore, if upon your consideration of the whole
2 case you have a reasonable doubt as to his guilt as it
3 relates to a particular charge, it is your duty and
4 obligation to find him not guilty of that charge. And
5 at the same time after you've considered the evidence,
6 decided the facts and applied the law if you have no
7 reasonable doubt as to his guilt as it relates to a
8 particular charge, then it would be your corresponding
9 duty to find him guilty of that charge where it has been
10 proven to your satisfaction beyond a reasonable doubt.

11 The same law that provides that you are the judges of
12 the facts also provides that I am the judge of the law.
13 That simply means that nobody's going to tell you how to
14 arrive at your determination of the facts in this case.
15 You do that, as I've already stated, through the exercise
16 of good judgment and common sense conscientiously applied
17 to the testimony and evidence received during the course
18 of the trial. You must, however, under your oath as a
19 juror accept the law as I provide it to you as being the
20 law that you are to apply in the case. In other words,
21 you're never to concern yourself with what you thought the
22 law was before you came to serve as a juror this week or
23 what you think the law ought to be. Under your oath as a
24 juror, you must accept the law as I provide it to you as
25 being the law that you are to apply in the case. Then you

1 take that law and you apply it to the facts as you twelve
2 jurors determine those facts to be in order to arrive at
3 your ultimate decision in the case.

4 Now as I've told you, you are the sole judges of the
5 facts in this case. You are the finders of the facts. You
6 make that decision based upon your common sense evaluation
7 of the testimony and evidence received during the course
8 of the trial and it is your sole obligation and duty and
9 function to determine what the facts are. Because you are
10 the judges of the facts you are, therefore, necessarily the
11 sole judges of the credibility or the believability of each
12 witness that has testified during the course of the trial.
13 And so there are several factors which you should consider
14 in arriving at your determination or assessment as to a
15 witness's credibility and believability, and I'm going to
16 go over those factors with you.

17 You should consider the demeanor of the witness.
18 That is how the witness appeared to you when the witness
19 testified from that witness stand. Was the witness
20 straightforward in responding to questions or was the
21 witness hesitant or evasive in responding to questions that
22 were asked of that witness? Simply put, did the witness
23 appear to you to be telling the truth and to have knowledge
24 of the facts to which that witness has testified. You
25 should also consider whether or not the testimony of a

1 witness is consistent or is it inconsistent with that
2 witness's own testimony provided on the witness stand or
3 is it consistent or inconsistent with other statements
4 made by that same witness, whether it be in court or
5 outside of court. You should also consider whether or not
6 the testimony of a witness is consistent or inconsistent
7 with other witnesses' testimony or other evidence received
8 during the course of the trial. You should also consider
9 how the witness came to know the facts to which a
10 particular witness has testified to. In other words, what
11 was that witness's opportunity and ability to perceive the
12 existence of those facts to which that witness has
13 testified by having previously used his or her senses, and
14 then what is the ability of that witness to be able to come
15 into court and to accurately recollect to you as to what
16 they had previously perceived. You should also consider
17 any bias or prejudice or interest that a witness might have
18 with respect to a case. In other words, do you find some
19 reason that a particular witness would come into court and
20 would testify one way or another to help or hurt one side
21 or the other? And you may also consider any interest that
22 the witness might have in the outcome if you determine that
23 a witness does have such an interest and you find that
24 that interest would bear upon that particular witness's
25 credibility. You should also consider whether or not the

1 testimony of the witness is strengthened or whether it's
2 weakened by other testimony or other evidence received
3 during the course of the trial.

4 Now during the course of this trial you've heard some
5 testimony that has been received from persons who were
6 qualified as experts in a particular field. Understand
7 that I have an obligation to determine whether or not a
8 person can testify as an expert, but the fact that I
9 qualify an expert and allow them to testify in an opinion
10 form should not be taken by you as any indication by me
11 as to how I think you ought to consider that witness's
12 testimony. You've got to judge the credibility and the
13 believability of an expert witness just as you do any
14 other witness. And so when a witness is qualified as an
15 expert. If you think that their testimony is not based
16 upon sufficient qualifications or education, training,
17 experience, skill or a proper consideration of the facts
18 that relate to this particular case, then you can reject
19 that expert's opinion in its entirety or you may choose to
20 believe some portion of it and reject some other portion
21 just like you do any other witness that has testified
22 during the course of the trial. Because you are the
23 finders of the facts and because you are the judges of the
24 credibility of each witness, you are permitted to believe
25 as much or as little of what a witness has testified to

1 as you deem appropriate and, therefore, you may believe
2 everything that a witness has testified to, you may choose
3 to believe none. You may believe one portion of a
4 witness's testimony and reject some other portion of that
5 same witness's testimony. You may believe one witness as
6 opposed to several or several as opposed to one, but
7 whatever your good judgment and common sense tells you is
8 the most believable and credible testimony is the testimony
9 you should accept and you should reject any testimony or
10 other evidence that you find not to be credible or
11 believable. Again, your sole objective in this case is
12 to render a fair and impartial decision based upon your
13 consideration of the evidence, your determination of the
14 facts and the application of the law that I will have
15 provided you.

16 Now in this case, as you know, the Defendant is
17 charged in two separate indictments with the crimes of
18 murder and with attempted murder. I'm gonna begin my
19 instruction on the law as it relates to the crime of
20 murder. That's just -- I just chose it that way. It's
21 just a random choice. You don't have to consider the
22 offenses in that way. You can consider the indictments in
23 any order which you'd like to, but I've got to give them
24 to you in some order. And it helps me, quite frankly, to
25 shorten the instruction up a little bit doing it this way.

1 But the Defendant is charged in one indictment with
2 the crime of murder. And murder is a statutory offense,
3 as is attempted murder, and statutory offense just means
4 that they're codified in the Code of Laws which are these
5 number of blue binders you see behind me on the bookshelf.
6 Every year the Legislature meets in session from January to
7 June. When they meet, they pass a number of laws and rules
8 and regulations that govern our conduct in a variety of
9 ways. Some of those laws they pass are criminal penalty
10 statutes. In other words, they define a crime, they
11 prohibit us from engaging in certain types of conduct, and
12 where we are found to have engaged in that conduct in
13 violation of that statute, then it subjects us to some
14 sort of punishment or penalty for a violation of the
15 statutes. Please understand, however, that you are never
16 to be concerned with punishment or penalty. That's not
17 something that you decide and that's not to enter into
18 your deliberations. Your sole obligation and duty under
19 your oath as a juror is to determine whether or not the
20 Defendant has been proven guilty of the crime alleged in
21 the indictment that is defined in the statute and you do
22 that without any consideration for any punishment, penalty
23 or other consequence of your decision.

24 Murder is defined in Section 16-3-10 of the South
25 Carolina Code of Laws as the killing of any person with

1 malice aforethought, either express or implied. Express
2 or implied means how you determine whether or not malice
3 exists. But murder is the killing of any person with
4 malice aforethought, either express or implied. In order
5 for you to find the Defendant guilty of the crime of
6 murder, it would be necessary that the evidence in this
7 case establishes to your satisfaction beyond a reasonable
8 doubt that the Defendant did commit some act or acts which
9 proximately caused the death of the decedent. In this
10 case, that would be Dajuan Harris, and that that killing
11 was done with malice aforethought.

12 Malice aforethought is an essential element of the
13 crime of murder. Malice as an essential element of the
14 crime of murder is a state of mind connoting an ill will
15 and having the intent to do harm. Intent means the state
16 of a person's mind which directs his actions towards a
17 specific object or goal, and intent would include those
18 consequences which represent the very purpose for which an
19 act is done, as well as those consequences which are known
20 to be substantially certain to result whether actually
21 intended or not. Malice is a technical term importing
22 wickedness and excluding just cause or legal excuse. It
23 is something which springs from depravity, from a heart
24 devoid of social duty and fatally bent on mischief. It is
25 a state of mind indicating an extreme disregard for or an

1 extreme indifference to human life. Malice may be likewise
2 defined as a state of mind which indicates a formed purpose
3 and design to do a wrongful act under circumstances that
4 exclude any legal right to do it.

5 The words express and implied malice do not mean
6 different finds of malice, but simply the manner in
7 which malice may be shown to have existed, that is to say
8 either by direct evidence directly proving malice or by
9 circumstantial evidence, that is proof of facts or
10 circumstances from which you might reasonably infer the
11 existence of malice. And, of course, an inference is
12 simply a deduction of fact that may logically and
13 reasonably be drawn from the proof of some other fact or
14 set of facts. In other words, you may infer that a
15 particular event occurred or that a particular fact exists
16 based upon the proof of sufficient factual circumstances
17 which would reasonably warrant your arriving at a
18 particular conclusion. Malice may be expressed as where
19 there is an express threat to kill or a lying in wait or
20 where the circumstances show directly that an intent to
21 kill was entertained by the killer. Malice may be
22 inferred, but though no express intent to kill is proven
23 by direct evidence where the facts and the circumstances
24 which have been proven by the evidence in this case
25 satisfying you beyond a reasonable doubt that malice was

1 present in the mind of the Defendant at the time that
2 the killing took place. The existence of malice may be
3 inferred from acts, declarations and conduct of the
4 Defendant, as well as from any other circumstances shown
5 to have existed at the time of the event and from which
6 you might reasonably infer the existence of malice, as
7 often the state of a person's mind can only be proven by
8 circumstances.

9 Malice as an essential element of the crime of murder
10 does not necessarily require proof of an ill will or a
11 hatred toward the particular individual that is killed,
12 nor does it necessarily require proof of an actual or a
13 specific intent to take human life, but rather it means a
14 state of mind accompanying conduct signifying a general
15 malignant recklessness and an extreme disregard for or an
16 extreme indifference to human life. Even if the facts
17 proven are sufficient to give rise to an inference of
18 malice, such an inference is simply an evidentiary fact
19 to be taken into consideration by you twelve jurors along
20 with all of the other evidence in the case and you may give
21 those inferences such weight, if any, that you determine
22 they should receive, if any. The State is required to
23 prove malice just as it must prove any other essential
24 element of the crime of murder and it is for you twelve
25 jurors to determine if it has been proven based upon your

1 consideration of the evidence in the case.

2 It's also essential that there not only be malice,
3 but that it be malice aforethought. The law does not,
4 however, require that malice must exist for any appreciable
5 length of time before the commission of an act which causes
6 a fatal result. Indeed, it might be conceived at the very
7 moment the fatal act is committed. It is sufficient in the
8 law so long as the State does prove beyond a reasonable
9 doubt both the existence of malice and the commission of an
10 act or acts by the Defendant which causes the fatal result.

11 While the State must prove beyond a reasonable doubt
12 that a killing did occur accompanied by the element of
13 malice aforethought in order for you to find the Defendant
14 guilty of murder, it is not necessary for the State to
15 prove any motive for such a killing. Motive is not an
16 essential element of the crime of murder which must be
17 proven, although there may be evidence relating to such a
18 fact introduced during the trial of the case.

19 Now an indictment for murder may also include a lesser
20 included offense, and in this case I will be charging you
21 on two lesser included offenses of the crime of murder,
22 and those two lesser included offenses are voluntary
23 manslaughter and involuntary manslaughter. I have to
24 instruct you on the law that's applicable depending upon
25 what you determine the facts to be and where those facts

1 are susceptible to more than one determination, then I have
2 to provide you the law on each of those and then you make
3 the determination as to whether or not the Defendant has
4 been proven guilty of any of those particular offense,
5 whether it be the charge set forth in the indictment itself
6 or some lesser or included offense to that charge. So you
7 may find the Defendant guilty of the lesser included
8 offense where the evidence in the case warrants it. In
9 other words, the Defendant who's been charged with the
10 crime of murder may also be found -- or may be found
11 guilty of only the lesser included offense of voluntary
12 manslaughter or of involuntary manslaughter whether or not
13 those offenses are actually set forth in the indictment
14 itself.

15 So now I'll instruct you on the law it as relates to
16 manslaughter and what is manslaughter. Manslaughter is
17 defined as an unlawful killing of a human being without the
18 element of malice, either express or implied. While the
19 element of malice must be proven in order for the Defendant
20 to be found guilty of the crime of murder, malice is not
21 an element of the offense of voluntary manslaughter or
22 of involuntary manslaughter. Voluntary manslaughter is
23 defined in the law as the unlawful killing of another human
24 being which is committed in a sudden heat of passion,
25 provoked by a sufficient legal provocation. It is an

1 unlawful killing committed in the sudden heat of passion
2 provoked by a sufficient legal provocation. The law
3 recognizes that a sudden heat of passion arising out of
4 exasperation, rage, anger, sudden resentment, fear or
5 terror, may for the time being affect the self-control
6 of an individual temporarily disturbing the ability to
7 properly reason creating an uncontrollable impulse to do
8 violence and, therefore, the law reduces the crime from
9 that of murder to that of voluntary manslaughter provided
10 that the sudden heat of passion arose from a sufficient
11 legal provocation. The law does not reduce from murder to
12 voluntary manslaughter every homicide that is committed in
13 the heat of passion. It must be the heat of passion justly
14 excited by a sufficient legal provocation. If a sufficient
15 legal provocation does not exist, then the killing even
16 committed in the heat of passion is murder and is not
17 voluntary manslaughter. The sudden heat of passion
18 arrived by a sufficient legal provocation which may
19 reduce a homicide from that of murder to that of voluntary
20 manslaughter need not be something which dethrone reason
21 entirely or shut out knowledge and volition, but it
22 must be such heat of passion provoked by such facts or
23 circumstances as would naturally disturb the sway of
24 reason and the ability of an ordinary, reasonable and
25 prudent person to properly reason rendering his mind

1 incapable of cool reflection and producing what according
2 to human experience may be described as an uncontrollable
3 impulse to do violence.

4 You are further instructed that no mere words alone,
5 however insulting or offensive, would ever constitute a
6 sufficient legal provocation or justify the use of deadly
7 force in retaliation. If, however, such words are
8 accompanied by overt threatening or hostile acts or by a
9 physical encounter, then such conduct may give rise to
10 a sufficient legal provocation depending upon the
11 circumstances of the case and reduce the offense from
12 that of murder to that of voluntary manslaughter.

13 In determining whether an act resulting in the death
14 of another was impelled by a heat of passion aroused by a
15 sufficient legal provocation or by malice, you should take
16 into consideration all of the surrounding circumstances
17 and conditions which accompanied the event. And,
18 therefore, as I have stated, voluntary manslaughter is an
19 unlawful homicide committed in the absence of malice but
20 in a sudden heat of passion aroused by a sufficient legal
21 provocation.

22 The crime of involuntary manslaughter is also a lesser
23 included offense of the crime of murder. Involuntary
24 manslaughter is defined as an unintentional killing of
25 another person without malice while engaged in a lawful

1 activity with a reckless disregard for the safety of
2 others. Unintentional means that the Defendant was acting
3 without malice and did not intend to kill or seriously
4 injure anyone, but acted recklessly in the handling of a
5 dangerous instrumentality which resulted in the death of
6 another person. A reckless disregard for the safety of
7 others and the term "recklessness" refers to a state of
8 mind in which a person consciously acts not withstanding
9 knowledge that his conduct creates a risk to the safety
10 of another person. Before the Defendant could be found
11 guilty of involuntary manslaughter, it would be necessary
12 that the evidence in the case establishes to your
13 satisfaction beyond a reasonable doubt that the Defendant
14 did without malice unintentionally kill another person
15 while he was engaged in a lawful activity but in a reckless
16 disregard for the safety of others.

17 I am now gonna instruct you on the law relating to
18 the indictment charging the Defendant with the crime of
19 attempted murder. With regard to that indictment, I will
20 also be charging you -- or included in that instruction
21 will be a charge on the law of a lesser included offense,
22 that lesser included offense being assault and battery of a
23 high and aggravated nature. So I'll instruct you on the
24 law of attempted murder and then the law -- the lesser
25 included offense of assault and battery of a high and

1 aggravated nature.

2 Section 16-3-29 of the Code of Laws of South Carolina
3 provides that a person who, with intent to kill, attempts
4 to kill another person with malice aforethought, either
5 express or implied, commits the offense of attempted
6 murder. In order for you to find the Defendant guilty
7 of the crime of attempted murder, it would be necessary
8 that the evidence in this case has established to your
9 satisfaction beyond a reasonable doubt that the Defendant,
10 Dexter Myers, did with malice aforethought and a specific
11 intent to kill commit some overt act or acts in an attempt
12 to kill Mahogany Speech-Harris. An attempt is the
13 commission of an overt act or acts which are done in
14 furtherance of the intent to do a specific thing which
15 tends towards the accomplishment of the intended goal, but
16 which falls short of completion. An attempt to commit a
17 crime means an effort towards or the doing of an act or
18 acts which directly move toward the completion of the
19 commission of the crime intended. In this case, it is
20 alleged to be the crime of murder.

21 Attempted murder does require the element of malice
22 aforethought. Malice aforethought, again, as an essential
23 element of the crime of attempted murder -- it's a little
24 bit different than with the crime of murder, but malice
25 aforethought as an essential element of the crime of

1 attempted murder is, again, a technical term importing
2 wickedness and excluding just cause or legal excuse. It
3 is something which springs from depravity, from a heart
4 devoid of social duty and fatally bent on mischief. It is
5 a state of mind indicating an extreme disregard for, or an
6 extreme indifference to, a human life. It is a state of
7 mind which indicates a form and purpose and design to do a
8 wrong act under circumstances that exclude any legal right
9 to do it.

10 As in the case of murder, the law does not require
11 that malice must exist for any appreciable length of time
12 before the commission of an act or acts constituting the
13 offense of attempted murder. Indeed, it may be conceived
14 at the very moment that those acts are committed. It is
15 sufficient in the law so long as the State does prove
16 beyond a reasonable doubt both malice aforethought
17 accompanying acts constituting the attempt to commit
18 murder.

19 With regard to the charge of attempted murder, a
20 specific intent to kill is an essential element of the
21 crime of attempted murder. A specific intent to kill means
22 that the Defendant did consciously intend the commission
23 of the acts that constitute the attempt to commit murder.
24 Intent means the State of a person's mind which directs his
25 actions towards a specific object or goal and intended

1 result. And intent would include those consequences which
2 represent the very purpose for which an act is done, as
3 well as all of those consequences which are known to be
4 substantially certain to result from such conduct. The
5 element of intent to kill may also be inferred from acts,
6 declarations and conduct of the Defendant, as well as from
7 any other circumstances established by the evidence in this
8 case and from which you might reasonably infer such an
9 intent as often a person's intent may only be established
10 by circumstantial evidence. Therefore, in order to
11 establish the crime of attempted murder, it is necessary
12 that the evidence in this case establishes to your
13 satisfaction beyond a reasonable doubt that the Defendant
14 did with malice aforethought and a specific intent to kill
15 commit some overt act or acts in the attempt to kill
16 Mahogany Speech-Harris without justification or legal
17 excuse.

18 Again, a crime alleging the offense of -- excuse me.
19 An indictment alleging the offense of attempted murder may
20 also include a lesser included offense. In this case,
21 I'll be instructing you on the lesser included offense of
22 assault and battery of a high and aggravated nature.
23 Again, that's a statutory offense. That offense is set
24 forth in 6-3-600. Subsection B of that section provides
25 that a person is guilty of the crime of assault and battery

1 of a high and aggravated nature if a person unlawfully
2 injures another person and great bodily injury to an
3 another person results or the injurious act is accomplished
4 by means likely to produce death or great bodily injury.
5 And the term great bodily injury is defined under the law
6 as bodily injury which causes a substantial risk of death
7 or which causes serious permanent disfigurement or a
8 protracted loss or impairment of the function of a bodily
9 member are -- or -- and so assault and battery of a high
10 and aggravated nature is committed when a person unlawfully
11 injures another person and great bodily injury to that
12 person results or the acts constituting the injury are
13 accomplished by means likely to produce death or great
14 bodily injury.

15 Now in this case, there has been presented evidence
16 raising what is known in the law as the defense of
17 self-defense. The law recognizes the right of every person
18 to defend himself from death or from sustaining serious
19 bodily harm and to do this a person may use such force as
20 is reasonably necessary even to the point of taking human
21 life under the appropriate circumstances. The right of
22 self-defense is founded upon necessity, either actual or
23 reasonably apparent necessity, and it is a complete defense
24 to a charge of an unlawful homicide or assault and the
25 existence of self-defense entitles a person charged with

1 the commission of an unlawful homicide or assault to a
2 verdict of not guilty. Although the Defendant has raised
3 the defense of self-defense, the burden of proof is not on
4 the Defendant to prove the existence of such a defense
5 because, as I've previously instructed you, the burden is
6 always on the State to prove the Defendant has committed
7 the crime that they allege he committed and this burden
8 would, therefore, necessarily require that the State prove
9 beyond a reasonable doubt the absence of self-defense.

10 In your consideration as to whether or not
11 self-defense does exist in this case, you are instructed
12 that there are four essential elements that make up the
13 defense of self-defense. First of all, it must be shown
14 that the Defendant was without fault in bringing on the
15 immediate difficulty which necessitated the use of deadly
16 force against another person that resulted in the death or
17 assault of another. In other words, the Defendant cannot
18 provoke, initiate or otherwise through his own fault bring
19 about a difficulty and then claim the right of self-defense
20 in the use of deadly force in repelling an attack which was
21 caused by his own provocation.

22 As to the second element, a person is entitled to
23 defend one's self against death or the infliction of
24 reasonably anticipated unlawful serious bodily harm and
25 in doing so may use such force as is reasonably necessary

1 even to the point of using deadly force. Where deadly
2 force is employed in response to any assault, it must be
3 shown that at the time that the deadly force was employed
4 the Defendant actually believed that he was in imminent
5 danger of losing his life or sustaining serious bodily
6 harm or that the Defendant actually was in such imminent
7 danger. The term imminent danger meaning immediate or
8 present danger.

9 As to the third element, you are instructed that if a
10 defense of self-defense is based upon a belief of imminent
11 danger, then it must be shown that the Defendant's belief
12 was a reasonable one. That a reasonable prudent person of
13 ordinary firmness and courage would have entertained the
14 same belief if that person had been acting under the same
15 or similar circumstances as established by the evidence in
16 this case. If the Defendant actually was in imminent
17 danger, then it must be shown that the circumstances are
18 such that would warrant a person of ordinary reason and
19 courage to act as the Defendant did act in order to save
20 himself from death or suffering serious bodily injury.
21 Deadly force in repelling any assault is only appropriate
22 when necessary and may only be exercised when the Defendant
23 entertains a reasonable belief that he is about to sustain
24 a loss of life or serious bodily harm or he actually is in
25 danger of sustaining death or serious bodily harm. The

1 law of self-defense also encompasses preventative action
2 taken to protect one's self from sustaining bodily injury
3 provided such action is taken in anticipation of an
4 immediate danger of bodily injury and such action is in
5 response to that immediate threat. A defendant has the
6 right to act on appearances. He may be mistaken. The law
7 does not hold someone to a fine assessment of the actual
8 danger as might be accomplished having an adequate time to
9 properly reflect provided, however, that he has acted as a
10 person of ordinary reason, firmness and courage would have
11 acted or should have acted in meeting the appearance of the
12 danger. In other words, a person acting in self-defense
13 does not have to wait until his or her aggressor gets the
14 advantage for one always has the right to act under the law
15 of self-preservation and to prevent one's assailant from
16 getting the advantage over him or her. There is, however,
17 a requirement of objectivity. That is the belief of the
18 necessity to act must be reasonable; that is it must be
19 such that a reasonable and prudent person if acting under
20 the same or similar circumstances as established by the
21 evidence in the case would have also reasonably believed it
22 and had been warranted and so acted.

23 As to the fourth element, it must be shown that the
24 Defendant had no other means of avoiding the danger of
25 losing his life or sustaining serious bodily harm other

1 than to act as he did in these particular circumstances
2 because, as I've stated, self-defense is founded upon
3 necessity. It is, therefore, a person's duty to avoid the
4 use of deadly force where it is possible to avoid such
5 action even to the extent of retreating from one's
6 adversary if such can be done without increasing the danger
7 to one's self. In other words, to avoid the necessity of
8 using deadly force against another, the person assaulted
9 must retreat from the aggressor unless it is shown that by
10 retreating the Defendant would increase the danger of
11 sustaining serious bodily injury or loss of life to
12 himself.

13 In this case, the Defendant has also raised what is
14 known as the defense of accident. An accident -- excuse
15 me. An act may be excused on the ground of accident if
16 it is shown by the evidence in the case that the death
17 or injury occurring to another was unintentional, the
18 Defendant was acting lawfully and the Defendant exercised
19 reasonable care in the handling of a dangerous
20 instrumentality that caused death or injury to another
21 person. As in the case of self-defense, there is no burden
22 on the Defendant to prove the defense of accident. The
23 burden is on the State to prove that the Defendant
24 committed a crime that was not a result of an accident as
25 I have defined that legal term for you.

1 So, again, in order to -- for the defense of
2 accident to be made out, it must be shown that the acts
3 committed were unintentional -- or excuse me -- the death
4 or the injury that occurred was unintentional, that the
5 Defendant was acting lawfully and that the Defendant
6 exercised reasonable care in the handling of a dangerous
7 instrumentality that resulted in the death or caused
8 injury to another.

9 Now if you have a reasonable doubt as to the
10 Defendant's guilt after considering all of the evidence
11 received during the course of this trial, including any
12 evidence relating to the issue of self-defense and/or
13 accident, then it would be your duty to resolve that doubt
14 in favor of the Defendant and to find him not guilty. If,
15 on the other hand, you have no reasonable doubt as to the
16 Defendant's guilt as it relates to a particular crime,
17 after considering all of the evidence received during the
18 trial of this case, including any evidence relating to the
19 issue of self-defense and/or accident, then it would be
20 your duty to find the Defendant guilty of that crime where
21 it has been proven to your satisfaction beyond a reasonable
22 doubt based upon my instruction already provided to you as
23 to the elements of those particular offenses.

24 Now, Madam Forelady and ladies and gentlemen of the
25 jury, I am not in any way concerned with what your

1 decisions are, but you are instructed that your verdict
2 must be unanimous. All twelve of you must be in agreement
3 before any decision may be rendered and returned to the
4 Court. Madam Forelady, as you have been told, these
5 indictments will be in the jury room with you solely to
6 serve as the verdict forms in the case. You'll see on the
7 back of each indictment -- you can't see it from there,
8 but on the back of each indictment in the lower left-hand
9 corner there's the word "verdict" and it's beneath that
10 word that you'll be indicating the jury's unanimous
11 decision as relates to that particular indictment.

12 Now I have prepared somewhere a sheet that I think
13 will help you so far as understanding what the various
14 potential verdict forms are which you are going to be able
15 to consider in this case, and I'll send it back with the
16 indictments themselves, but with respect to Indictment
17 2014-5482, that's the indictment for murder, there are four
18 potential verdict forms. Those four potential verdict
19 forms include guilty, guilty of voluntary manslaughter,
20 guilty of involuntary manslaughter, and not guilty. So you
21 just render one verdict, but it can be any one of those
22 four. That will obviously depend, again, upon the facts as
23 you determine them to be and the law that's applicable.

24 With respect to the indictment for attempted murder,
25 there will be three potential verdict forms. Those forms

1 are guilty, guilty of assault and battery of a high and
2 aggravated nature, and not guilty. So, again, you indicate
3 that form, whichever you find to be appropriate, on the
4 back of the indictment. You're also called upon to sign
5 your name as foreperson and date the indictments. You're
6 the only juror that needs to sign the verdict form.

7 Now during the course of the jury deliberations, there
8 may come a time where you have some question about the
9 evidence or testimony or you may even wonder if something
10 else exist. You might come up with something and say
11 well, if we had that we think it would help. Well, please
12 understand that no additional evidence can be received now
13 that you're going back to begin your deliberations. So
14 don't ask me about something else that you don't have
15 unless it was something that was introduced and it just
16 happens not to be there, but we'll verify the exhibits
17 before they go back. But if you think there's something
18 else out there, you still can't have it. So don't ask me
19 about that because even if it does exist you're not able to
20 get it because the case is now closed.

21 If you do ever have a question about the testimony of
22 a witness, we can bring you back into the courtroom to have
23 a witness's testimony replayed in whole or in part if that
24 will assist you in answering some question that you may
25 have. I don't have transcripts of the testimony, but if

1 you want to hear a witness's testimony replayed, the court
2 reporter will locate that witness's testimony and we'll
3 bring you back into the courtroom and you can listen to
4 that witness's testimony again, as I say, in whole or just
5 in part if that's all you need.

6 If you ever have a question about the law that is
7 applicable, I am permitted to answer those questions. So
8 if at any time you -- you think you need a re-instruction
9 on the law that I've already given or you need an
10 additional explanation or clarification of the law that
11 I've provided you, I'll be happy to provide you with
12 that re-instruction, that additional explanation or
13 clarification if that will be helpful.

14 Madam Forelady, if at any time you need to address
15 some comment to me, if you'll simply -- if you or a fellow
16 juror have some difficulty, problem or question, if you'll
17 write it on a piece of paper, give it to the bailiff,
18 the bailiff will provide it to me and I'll address it
19 appropriately.

20 I don't know if we have smokers on the jury. If we
21 do, you can't smoke in the jury room, but if you do need a
22 smoke, the bailiff will take you outside to accomplish that
23 purpose, but you are instructed that no deliberations may
24 take place unless all twelve jurors are present in the jury
25 room so that all may participate. So if at any time a

1 juror is absent, you know, for any authorized purpose, the
2 deliberations have to stop. They may only resume when all
3 are present so that all may participate.

4 Your lunches I'm confident, but not certain, are
5 here. You can begin your deliberations and eat while
6 you deliberate or you can eat and then begin your
7 deliberations. I don't care how you do that. That's up
8 to you. You do it however you see fit. I think that's
9 all I have right now, but in the event I have neglected
10 to provide you with something I was supposed to, I'm sure
11 one of these lawyers have made note of that fact and I'm
12 sure they'll address that to my attention and if I need to
13 bring you back, I'll do so and if I don't need to bring
14 you back, I'll simply send word by way of the bailiff that
15 you may begin with your deliberations and in that event the
16 bailiff will bring to the jury all of the exhibits which
17 have been introduced during the trial and to you, Madam
18 Forelady, he'll also bring the indictments which serve as
19 the verdict form and he'll also bring the document which I
20 have prepared so that you can remember what the various
21 potential verdict forms are.

22 One thing let me point out to you. On the potential
23 verdict forms, the one word "guilty" means guilty of the
24 charge in the indictment. If you find the Defendant only
25 to be guilty of a lesser included offense, then it's the

1 verdict form that says guilty of that offense and you write
2 it out. And, of course, if the Defendant has been -- has
3 not been proven guilty of any criminal offense beyond a
4 reasonable doubt, then the verdict form is not guilty.

5 All right. I'll ask you to please go to your jury
6 room, but don't begin your deliberations. Now the two
7 alternate jurors, I'm gonna ask you to stay with me
8 because I don't know what might happen during the course
9 of deliberations and it might be that one or both of you
10 will be called upon to take a juror's place. I don't know
11 how good the lunches are. Maybe somebody might get sick,
12 I don't know, but one of you might be needed. So what
13 I'll ask you to do, the bailiff will take you to a separate
14 room together. You'll be provided your lunches there and
15 you'll have lunch there, but you're still not to talk about
16 the case. You're only permitted to talk about the case if
17 you're involved in jury deliberations, and you're not, so
18 you can't talk about the case yet because you're not
19 involved in those deliberations so don't discuss it while
20 you're sequestered separate and apart from the twelve
21 primary jurors, okay?

22 All right. Please be excused and I'll send you word
23 when to begin your deliberations.

24 (Whereupon, the jury retires to the jury room at
25 1:52 PM.)

1 **THE COURT:** Are there any exceptions taken to the
2 instruction or requests or additions to the instructions
3 by the State?

4 **MS. WALKER:** No, Your Honor.

5 **THE COURT:** By the defense?

6 **MS. PINNOCK:** No, sir.

7 **THE COURT:** Thank you. Let me ask y'all -- I'll show
8 you these potential verdict form documents that I'm gonna
9 send back. Y'all have a look at them. And also please
10 verify all of the exhibits before they go back.

11 All right. Y'all verify the exhibits, please.

12 (Recess taken.)

13 (Whereupon, the evidence was received by the jury and
14 deliberations commenced at 3:54 PM.)

15 **THE BAILIFF:** All rise.

16 **THE COURT:** All right. Bring the jury in, please.

17 (Court's Exhibit Number 4, a jury note, was marked for
18 identification.)

19 (Whereupon, the jury returns to the courtroom at
20 4:45 PM.)

21 **BAILIFF:** The jury's seated, Your Honor.

22 **THE COURT:** All right. Thank you.

23 Madam Forelady, I understand from the note that the
24 jury is asking for some clarity on the difference between
25 voluntary manslaughter and involuntary manslaughter. All

1 right. So I'm gonna instruct you again on what constitutes
2 voluntary manslaughter and involuntary manslaughter and
3 then you'll be asked to go back and continue. And if what
4 I provide you is not sufficient to assist you in answering
5 your question, you be sure and let me know and I'll bring
6 you back to give you further information, okay?

7 Voluntary manslaughter is defined as the unlawful
8 killing of another human being which is committed in a
9 sudden heat of passion provoked by a sufficient legal
10 provocation. The law recognizes that a sudden heat of
11 passion arising out of exasperation, rage, anger, sudden
12 resentment, fear or terror, may for the time being affect
13 the self-control of an individual temporarily disturbing
14 the ability to properly reason creating an uncontrollable
15 impulse to do violence and, therefore, reduces the crime
16 from that of murder to that of voluntary manslaughter
17 provided that the sudden heat of passion arose from a
18 sufficient legal provocation. The sudden heat of passion
19 aroused by sufficient legal provocation which may reduce
20 an unlawful homicide from that of murder to that of
21 manslaughter need not be something which dethrones reason
22 entirely or shuts out knowledge or volition, but it must
23 be such heat of passion provoked by such facts or
24 circumstances as would naturally disturb the ability of
25 an ordinary, reasonable and prudent person to properly

1 reason rendering his mind enable of cool reflection and
2 reducing what according to human experience may be
3 described as an uncontrollable impulse to do violence.
4 Therefore, as stated, involuntary manslaughter is an
5 unlawful homicide committed in the absence of malice, but
6 in a sudden heat of passion, aroused by a sufficient legal
7 provocation.

8 Involuntary manslaughter is defined as the
9 unintentional killing of another person without malice
10 while engaged in a lawful activity with a reckless
11 disregard for the safety of others. Unintentional means
12 that the Defendant was acting without malice and did not
13 intend to kill or seriously injure anyone, but acted
14 recklessly in the handling of a dangerous instrumentality
15 which resulted in the death or injury to some other
16 person. A reckless disregard for the safety of others and
17 recklessness refers to a state of mind in which a person
18 consciously acts notwithstanding knowledge that his conduct
19 creates a risk to the safety of another person. Before the
20 Defendant can be found guilty of involuntary manslaughter,
21 it would be necessary that the evidence establishes to your
22 satisfaction beyond a reasonable doubt that the Defendant
23 without malice unintentionally killed another person while
24 he was engaged in a lawful activity, but with a reckless
25 disregard for the safety of others.

1 All right. So please retire to your jury room.
2 Continue with your deliberations. If you need further
3 guidance, please let me know.

4 (Whereupon, the jury retires to the jury room at
5 4:50 PM to continue their deliberations.)

6 **THE COURT:** Are there any exceptions taken to that
7 additional instruction from the State?

8 **MS. CAMPBELL:** No, Your Honor.

9 **THE COURT:** From the Defendant?

10 **MS. PINNOCK:** No, Your Honor.

11 **THE COURT:** All right. We'll continue to be at ease
12 while they deliberate.

13 (Recess taken.)

14 **THE COURT:** All right. The jury is asking if they can
15 recess tonight and come back tomorrow, so we'll bring them
16 back and let them go home and come back tomorrow.

17 (Court's Exhibit Number 5, a jury note, was marked for
18 identification.)

19 (Whereupon, the jury returns to the courtroom at
20 6:51 PM.)

21 **BAILIFF:** The jury is seated, Your Honor.

22 **THE COURT:** All right. Madam Forelady, I understand
23 from your note that you and your fellow jurors would like
24 to recess for today and come back and resume deliberations
25 in the morning. Is that true?

1 **THE FOREPERSON:** Yes, sir.

2 **THE COURT:** All right. That's certainly permitted.
3 Keep in mind -- and, of course, it's always important that
4 you follow the Court's instructions. It's even most
5 important that you adhere to that instruction once you've
6 begun deliberations. So during the overnight recess, you
7 are to continue to follow the instruction, and that is
8 you're not to have any discussion about this case with
9 anybody in any fashion whatsoever. Do not allow anyone to
10 discuss it with you, don't conduct any research, don't do
11 your own investigation, don't allow yourselves to be
12 exposed to any type of media coverage, do not discuss the
13 case among yourselves. When you come back in the morning,
14 I'll ask you to come back at 9:00. Is that satisfactory
15 for everybody? Come back at 9:00. Do not begin any
16 deliberations until all twelve jurors are present in the
17 jury room. Once all twelve have arrived, then you may
18 resume with your deliberations, okay? And I'll ask the
19 alternates to also please return in the morning at 9:00.

20 All right. Have a good evening. We'll see you in the
21 morning.

22 (Whereupon, the jury retires to the jury room at
23 6:53 PM.)

24 **THE COURT:** Y'all come up here, please.

25 (Proceedings held at the bench; not reported.)

1 **THE COURT:** Court's in recess until nine in the
2 morning.

3 (Whereupon, the proceedings were concluded at
4 6:56 PM.)

5 (Whereupon, the following proceedings were held on
6 September 4, 2015.)

7 (Whereupon, jury deliberations were commenced at
8 9:06 AM.)

9 (Court's Exhibit Numbers 6 and 7, jury notes, were
10 marked for identification.)

11 (Back on the record at 3:50 PM.)

12 **BAILIFF:** All rise.

13 **THE COURT:** Thank you. Be seated. I'm told the jury
14 has reached a decision. Are we ready to receive it?

15 **MS. WALKER:** The State's ready, Your Honor.

16 **MS. PINNOCK:** The defense is ready, Your Honor.

17 **THE COURT:** All right. Bring them in, please.

18 (Whereupon, the jury enters the courtroom at 3:51 PM
19 to report its verdict.)

20 **BAILIFF:** The jury is seated, Your Honor.

21 **THE COURT:** All right. Madam Forelady, have you and
22 your fellow jurors reached a unanimous decision on each of
23 the separate indictments?

24 **THE FOREPERSON:** Yes, sir.

25 **THE COURT:** Have you reflected those decisions on the

1 back of the indictments as requested?

2 **THE FOREPERSON:** Yes, sir.

3 **THE COURT:** And did you sign your name as the
4 foreperson?

5 **THE FOREPERSON:** Yes, sir.

6 **THE COURT:** All right. If you'll please hand those
7 indictments up to me by way of the bailiff.

8 All right. Now, Madam Forelady, what I want you to
9 do, I know you used the verdict form that I gave you, so
10 what I want you to do is if you will please, you and your
11 fellow jurors, go back and I want you to write whatever
12 your decision is on the back of each of these indictments
13 beneath the word where it says "verdict" and be sure that
14 you check, you know, the indictment number and what the
15 charge is when you make that decision.

16 (Whereupon, the jury retires to the jury room at
17 3:52 PM.)

18 (Recess taken.)

19 (Whereupon, the jury returns to the courtroom at
20 3:56 PM.)

21 **BAILIFF:** The jury is seated, Your Honor.

22 **THE COURT:** All right. Madam Forelady, have you
23 indicated the jury's unanimous decisions on back of each
24 of the indictments?

25 **THE FOREPERSON:** Yes, sir.

1 **THE COURT:** If you'll please hand those up by way of
2 the bailiff.

3 You may publish the verdict.

4 **THE CLERK:** Yes. Indictment Number 2014-GS-40-05482,
5 the State of South Carolina versus Dexter L. Myers,
6 indictment for murder. We, the jury, find the Defendant
7 guilty of voluntary manslaughter. Signed, Number 180,
8 Foreperson, September the 4th, 2015.

9 2014-GS-40-5481, the State of South Carolina versus
10 Dexter L. Myers, indictment for attempted murder. We, the
11 jury, find the Defendant guilty. Signed, Number 180,
12 Foreperson, September the 4th, 2015.

13 Madam Forelady, were these your verdicts and verdicts
14 of the entire jury?

15 **THE FOREPERSON:** Yes.

16 **THE CLERK:** Thank you.

17 **THE COURT:** If the decision of the jury as announced
18 is not the decision of any juror, I would ask that you
19 please raise your right hand. All jurors have responded in
20 the affirmative.

21 Does the Defendant wish to have the jury polled?

22 **MS. PINNOCK:** Yes, Your Honor.

23 **THE COURT:** All right. Poll the jury, please, ma'am.

24 **THE CLERK:** Yes, sir, Your Honor.

25 Ladies and gentlemen of the jury, I'm gonna call your

1 motions or other matters you need to address prior to the
2 imposition of sentence?

3 **MS. PINNOCK:** Your Honor, just for -- at this time we
4 would renew, again, all of our -- all the objections and
5 motions we made throughout the trial, Judge. We understand
6 your rulings and we respect your rulings, but we would,
7 again, renew those, specifically for the introduction of
8 Shamaray Myers' statement into evidence and Your Honor
9 moving in under Rule 613 the admission of the text message
10 from Dajuan Harris to Mahogany Harris. We believe that was
11 inadmissible hearsay, Your Honor. So those specifically,
12 but we renew all of our pretrial motions, all objections
13 during trial.

14 Your Honor, we would ask for -- we would ask for a
15 new trial at this point based on the length of their
16 deliberations, Your Honor. I think that does speak that
17 there was reasonable doubt in this case, Your Honor. I
18 understand the jury did reach a verdict, but, Your Honor,
19 we -- at this time we request a new trial.

20 **THE COURT:** Well, it appears they resolved that
21 reasonable doubt in favor of the Defendant when they found
22 him guilty of the lesser included offense. Do you think
23 the deliberations were too long?

24 **MS. PINNOCK:** No, Your Honor. You know, it's one of
25 those things. You know, when they're short, it makes you

1 -- you question and when it's extremely long, it makes you
2 question. I don't know what's the magic time limit, you
3 know --

4 **THE COURT:** I don't know either.

5 **MS. PINNOCK:** It's just one of those things. You
6 never know. They were obviously discussing something.
7 There was obviously questions about something, Judge, and
8 I think that would be reasonable doubt. I understand they
9 did reach a verdict on the lesser included, but I believe
10 there was doubt in this case and I think the length of the
11 deliberations shows that.

12 **THE COURT:** Well, quite frankly, I think the length
13 of the deliberation shows due diligence on the part of the
14 jury in taking their job seriously and doing what they're
15 supposed to do, which is to examine all of the evidence.
16 This was a week-long case and they obviously carefully
17 examined all of the evidence and discussed all of it
18 before they made a decision. And the fact that they did
19 find him guilty of a lesser included offense from the
20 murder indictment shows me that they also discussed the
21 law in relationship to the facts and resolving the doubt
22 in his favor and so it appears to me that the jury's done
23 everything we would want a jury to do, and so your motion
24 is denied.

25 **MS. PINNOCK:** Yes.

1 Honor. And I don't believe -- Dexter, do you want to say
2 anything?

3 **THE DEFENDANT:** It was an accident. It wasn't my
4 intention to do anything or kill anyone. You know, I
5 understand that -- the feelings of the family, you know,
6 and that's mutual, you know, but, like I said, I'm still
7 a human. Whatever your decision is, that's what your
8 decision is, and I'll take my consequences as a man. I
9 mean, that's it.

10 **THE COURT:** Ms. Campbell.

11 **MS. CAMPBELL:** Your Honor, as far as his juvenile
12 record goes, he does have two convictions starting back
13 in 2007. He has a conviction for disturbing schools,
14 another conviction for simple assault and battery, another
15 disturbing schools and a simple assault and battery, and
16 then in 2009 he was convicted on an assault and battery of
17 a high and aggravated nature that was pled down from a
18 criminal sexual conduct charge, and he was in DJJ for a
19 period of time after that. He was twenty years old when
20 this happened.

21 Your Honor, we have spoken to the family. They're
22 kind of overcome with emotion at this point. I spoke to
23 Dajuan Harris' family, his mother, and her family members.
24 They would respectfully ask you that -- you know, he took
25 his life for no reason. Dajuan was a young man that had

1 come up in the same household with him, but he had gotten a
2 job and he was working and he was trying to make himself
3 better. All he wanted to do was take care of his family.
4 That was his priority. He even took these too young men
5 in because they were his wife's siblings and tried to help
6 them out and in return they become disgruntled, got a gun
7 and took his life that morning while he was sitting at a
8 table holding his children, feeding his children, who were
9 one and four at the time.

10 The jury also came back with an attempted murder
11 conviction on Mahogany Harris. I've spoken to Ms. Harris
12 as well and she's very overcome. It's been very difficult
13 for her, but as she says they -- he took her husband from
14 her, the person that was raising their -- they were
15 married, they were raising their children, and they were
16 trying to rise above the life he chose. They took them in
17 because that's what they should do because neither one of
18 his parents would at the time.

19 Your Honor, respectfully we think that consecutive
20 sentences would be appropriate in this case based on the
21 facts and circumstances of this case. This wasn't his
22 first brush with the law and this was something where
23 he emptied the gun and the miracle in this is that the
24 children weren't killed while all these gunshots were
25 going off. That would be all the State has.

1 **THE COURT:** On Indictment 2014-5482, that's the
2 indictment for murder, wherein the jury has found you
3 guilty of voluntary manslaughter, the sentence of the Court
4 is you, Dexter L. Myers, be confined to the South Carolina
5 Department of Corrections for a period of thirty years.

6 Indictment 2014-5481, an indictment for attempted
7 murder, wherein the jury has found you guilty of that
8 offense, the sentence of the Court is you, Dexter L. Myers,
9 be confined to the South Carolina Department of Corrections
10 for a period of twenty years. Those sentences are
11 consecutive, one with the other. Give him credit for
12 any time he's entitled to pursuant to 24-13-40.

13 Mr. Myers, you have a right to appeal the verdict of
14 the jury and the sentence of the Court. You must file any
15 notice of your intention to appeal those decisions within
16 ten days of today's date, so you can discuss that with your
17 lawyers if you'd like. Okay.

18 **MS. WALKER:** Thank you, Your Honor.

19 **THE COURT:** All right. Court's adjourned. We're
20 shutting down.

21 (Proceedings were concluded at 4:17 PM.)
22
23
24
25

Statement of

Dexter Lamons MyersColumbia, SC 29210

Made at

Columbia, South Carolina, this July 2nd, 2014, at 1526 hours, in the presence of
Inv. Cris Truluck, Capt. McDonald of the Richland County Sheriff's Department.

I, Dexter Lamons Myers, understand that I have the right to remain silent.
 Anything I say can be used against me in court. I have the right to talk to a lawyer
 for advice before you ask me any questions, and to have a lawyer with me during
 any questioning. If I cannot afford a lawyer, one will be appointed for me before
 any questioning, if I wish. If I decide to answer questions now, without a lawyer
 present, I still have the right to stop answering at any time. I also have the right to
 stop answering at any time until I talk to a lawyer.

Do make the following statement:

Q: Inv. Cris Truluck

A: Dexter L Myers

Q: Do you know where you are at right now?

A: some business with the Sheriffs dept.

Q: What did you eat prior to this interview?

A: Arby's. A roast beef sandwich, curly fries and a sprite.

Q: How are you feeling and do you know what you are doing?

A: I feel scared and nervous. Yea I know what I am doing

I have made the foregoing statement freely and voluntarily without fear, threat, promise
 or reward or hope of reward of any kind.

Witness: See mlf

Signed: Dexter Myers

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting
 of 3 pages and a true copy has been given to me this 2 day of July 2014

Sworn to and subscribed before me

This 02 day of July

Signed: Dexter Myers

Cris Truluck
 Notary Public for South Carolina

My commission expires 04/15/2014

Q: Please explain what occurred this morning in the apartment at Brookpines.

A: I first woke up and the gun was on the living room floor. The gun is always kept on the floor when someone is home or under the couch when no one is there. They have the gun for protection. White Boy (Dajuan Harris) picked the gun up off the floor because he thought one of the kids might get it. That's what I am figuring he never said. When he picked it up I told him to be careful because the hammer was cocked back on it. The gun is either is broke or something because the hammer is always back. When I told him to be careful and he knew to be and said yeh yeh right and then put the gun back in my hand. I had already gotten up and was standing up in the living room. White Boy then put the gun back in my right hand and as soon as it hit my hand and before he could turn completely around it went off. All as I heard was White Boy yell, ahh ahh!! And put his hands up by his head. The gun then went off a few more time and my sister was hit and I saw her fall on to the counter and then to the ground. My brother then put his arms around me and the gun fell on the floor. I don't know where bra went but my sister was yelling. My brother started yelling that I had just fucked my life up. The babies were crying and screaming and now everyone was screaming. I then panicked and my brother picked the gun up off the floor and was going to put it in his pocket. I told him to give it to me and I knew I had to get rid of it. Everyone is still screaming and my brother was still freaking out. I then left with the gun and was walking down Broad River when I saw a CPD car coming. Once the CPD car passed me and turned into Brookpines it dropped out of my hand so I just left it there. I then walked back to the back of Brookpines and got ole girl, Shaunda, to give me a ride. She was driving a black Jeep and we left and went to El Cheapo's. Shaunda then drove me to [REDACTED] and dropped me off. I bought her a pack of cigarettes for the ride. As we were leaving the Apartment complex she asked what the fuck was going on.

Q: Can you describe the gun that was used in this incident?

A: It was black and the hammer was cocked back. It was a revolver.

Q: Did you have an argument with White Boy or your sister this morning?

A: No sir

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: Sen [Signature]

Signed: [Signature]

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 3 pages and a true copy has been given to me this 2 day of July 2017.

Sworn to and subscribed before me

This 02 day of July

Signed: [Signature]

[Signature]
Notary Public for South Carolina

My commission expires 04/15/2024

Q: Did you intentionally shoot White Boy or your sister?

A: No, all I remember once he was shot he was running all into stuff in the apartment.

Q: Why did you run from the scene and not call for help?

A: Because I watch first 48 and I know I cannot get around this. Nobody would listen to me that this was an accident. I am not playing the racist card but, I'm black.

Q: Was the clothing that you had on when you were arrested the same as you were wearing when this incident occurred?

A: Yes

Q: There was a blue shirt and paper towel with blood on it found at Charles St, Was that yours?

A: I used the blue shirt and the paper towel to clean up the blood from the cut on my left hand. I cut my hand from running through the woods.

Q: What were you thinking after White Boy and your sister was shot?

A: I was scared; I was thinking this gun has fucked my life up. I was thinking I had a career. I didn't even know they were dead. I even said to God what he got me into.

Q: What do you think should happen to you for this?

A: I don't think I should get off for this. My family has always been dysfunctional and this gun has fucked my life up.

Q: Is there anything else you would like to add to your statement?

A: That was an accident. I did not mean to do this. I know the judge is going to burn me.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: See mhl

Signed: Dexter Myers

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 3 pages and a true copy has been given to me this 2 day of July 2014

Sworn to and subscribed before me

This 02 day of July

Signed: Dexter Myers

Chris Tomlin
Notary Public for South Carolina

My commission expires 04/15/2014

Statement of

Dexter L. MyersColumbia, SC 29210DOB:

Made at

Columbia, South Carolina, this 07/02/14, at 1900 hrs, in the presence of Sgt. Isenhoward and Inv. Carwell of the Richland County Sheriff's Department.

I, Dexter L. Myers, understand that I have the right to remain silent. Anything I say can be used against me in court. I have the right to talk to a lawyer for advice before you ask me any questions, and to have a lawyer with me during any questioning. If I cannot afford a lawyer, one will be appointed for me before any questioning, if I wish. If I decide to answer questions now, without a lawyer present, I still have the right to stop answering at any time. I also have the right to stop answering at any time until I talk to a lawyer.

Do make the following statement:

Questions: Inv Carwell

Answers: Dexter Myers

Q: Did you tell the full truth during the first statement that you provided?

A: No.

Q: What happen this morning inside the apartment?

A: I was sleep and I woke up. When I woke up I was getting my day started. I was going to get my moped. I was still lying on the couch and I still had the cover over my head. I could hear my sister in the kitchen slamming cabinet doors and drawers and I knew she was mad. I took the white covers off my head when she walked into the room. When she came back out the room she started slamming plates on the kitchen table. That's when White boy came out the room and he said Yeah and he looked at her and then looked at

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness:

Signed: X Dexter Myers

Witness:

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 2 day of July 2014.

Sworn to and subscribed before me
This 2 day of July 2014

Signed: X Dexter Myers

[Signature]
Notary Public for South Carolina

My commission expires 9-23-19

me. I said man back to him, meaning get the fuck on. When I said man this nigga said whats up and he was going for the shit. When he was reaching for it I grabbed it and my finger was through the loop and his hand was on the nose. That's when the gun when off I saw him hold his face and he was still coming at me. I was able to get from under him and when I got off the couch I shot him again and that's when my sister came at me and she got shot too.

Q: Why did you shoot you sister?

A: She was coming at me after I shot her husband.

Q: Why did you shoot "White Boy" Dajuan Harris the second time?

A: That nigga had been on me.

Q: Do you think he was on you because he was shot already?

A: No, he was still talking to me. He was mad still. He was mad when he came out of the room.

Q: Were you asked to move out recently by your sister?

A: No, not recently. That shit happened in April.

Q: Do feel that White Boy and your sister were made that you were going to buy a moped?

A: Yeah, the moped and there is more shit.

Q: Have you had any other altercations with White Boy?

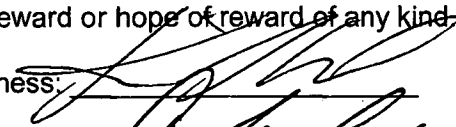
A: Nope. I have known him since we were young.

Q: You have never had any problems with White Boy?

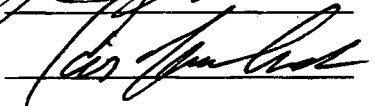
A: No, we have never had any problems. There are only problems when my sister Mahogany is made. If she is mad everyone is mad.

Q: How long have you lived with you sister and White Boy?

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: 

Signed: X Dexter Myers

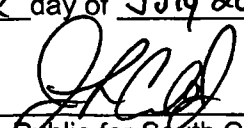
Witness: 

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 2 day of July 2014.

Sworn to and subscribed before me

This 2 day of July 2014

Signed: X Dexter Myers


Notary Public for South Carolina
My commission expires 9-23-19

A: Ever since February. That's when I came home from Job Corps.

Q: Is she the only family member that will allow you to live with her?

A: She took us in because of my brothers SSI check.

Q: Have you had any problems with you sister recently?

A: No, I don't put my hands on my sister.

Q: Why were you not truthful in your first statement?

A: Because I felt as if y'all not going to believe me.

Q: What would you like to say to White Boy and your sister?

A: I'm very sorry. What happen was not my intentions.

Q: When did you get the gun?

A: It had not been in the house for more than a week.

Q: What kind of gun was it?

A: It was a revolver. I don't know what caliber it was. It was black with the hammer already back on it.

Q: Why did you run from the apartment?

A: My though process that I was going to be looked at wrong. I was living in these peoples house.

Q: Did you talk to your brother after you left the apartment?

A: No.

Q: Did your brother witness this incident?

A: He caught the ending of it. He was sleeping on the floor in the livingroom.

Q: The living room was where this incident occurred, correct?

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: X [Signature] Myers

Witness: [Signature]

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 2 day of July 2014.

Sworn to and subscribed before me
This 2 day of July 2014

Signed: X [Signature] Myers

[Signature]
Notary Public for South Carolina
My commission expires 9-23-19

A: Yeah the living room.

Q: Is there anything you would like to add to your statement?

A: My intentions were not to kill nobody.

Q: Is this statement the truth to your knowledge?

A: Yeah, this one is real.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: X Dexter Myers

Witness: [Signature]

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 2 day of July 2014.

Sworn to and subscribed before me
This 2 day of July 2014

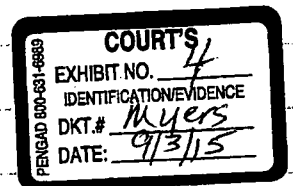
Signed: X Dexter Myers

[Signature]
Notary Public for South Carolina
My commission expires 9-2-17

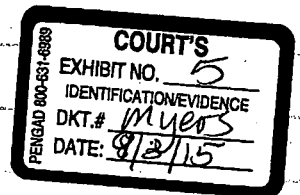
111	+18036290833	* Husband My	21/03/14 11:26:29 (GMT-4)	+12063130028	Read	Inbox	Phone	Incoming	Where you at your brothers around there talking a whole lot of shit like they said they going to burn me and the kids i think they trying to buy a gun because i heard them talking about it and good luck
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Can we get clarity on voluntary and involuntary manslaughter?



Can we leave for today?



WITNESSES

(S) Cris Truluck
- Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010500199

ACTION OF GRAND JURY

TRUE BILL

Michael Boone
Foreperson of Grand Jury
Date:

AUG 14 2014

VERDICT

Guilty

Carlene McLamorne
Foreperson of Petit Jury
Date: 9/4/2015

DOCKET NO. 2014GS4005481

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

AUGUST TERM 2014

42

**THE STATE
vs.**

Dexter L Myers

**Indictment for
Attempted Murder**

**SC Code: 16-03-0029
CDR Code: 3410**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

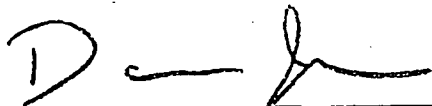
INDICTMENT

At a Court of General Sessions, convened on August 13, 2014, the
Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Dexter L Myers did in Richland County on or about July 2, 2014, did
with the intent to kill, attempt to kill Mahogany Speech-Harris with malice
aforethought, either expressed or implied. All in violation of SC Code of
Laws § 16-3-29 (1976, as amended)

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
 STATE VS.
Dexter L Myers

AKA:

Race: BLACK Sex: M Age: 21DOB: [REDACTED] SS# [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29210DL#: 103127544 SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Attempted MurderINDICTMENT/CASE#: 2014GS4005481A/W#: 2014A4010500199Date of Offense: 7/2/2014S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY: Campbell, Luck SC Bar# 13009 Defendant: X [REDACTED] Attorney for Defendant: [REDACTED] SC Bar# 77508

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
 and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
 of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee: \$ —Payment Terms: —☐ Set by SCDPPPS —Recipient: —

*Fine: \$ —
 § 14-1-206 (Assessments 107.5 %) \$ —
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ —
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ —
 § 56-5-2995 (DUI Assessment) \$12 \$ —
 § 56-1-286 (DUI Breath Test) \$25 \$ —
 Proviso 47.9 (Public Def/Prob) \$500 \$ —
 § 14-1-212 (Law Enforce. Funding) \$25 \$ —
 § 14-1-213 (Drug Court Surcharge) \$150 \$ —
 § 50-21-114(BUI Breath Test Fee) \$50 \$ —
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ —
 Proviso 90.5 (SCJA Surcharge) \$5 \$ —
 3% to County (if paid in installments) \$ —
 TOTAL \$ —

PTUP

— days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. —May serve W/E beginning —Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ — beginning —\$ — paid to Public Defender FundOther: —

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Bakist-Ray

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2053Sentence Date: September 4, 2015

WITNESSES

(S) Cris Truluck
- Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010500200

ACTION OF GRAND JURY

TRUE BILL

Michael Boone
Foreperson of Grand Jury
Date:

AUG 14 2014

VERDICT

Guilty of Voluntary Manslaughter

Carolee McGinnis
Foreperson of Petit Jury
Date: 9/4/2015

DOCKET NO. 2014GS4005482

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

AUGUST TERM 2014

42

**THE STATE
vs.**

Dexter L Myers

**Indictment for
Murder / Murder**

SC Code: 16-03-0010
CDR Code: 0116

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

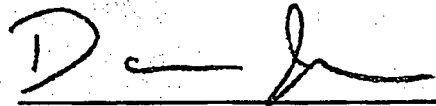
INDICTMENT

At a Court of General Sessions, convened on August 13, 2014, the
Grand Jurors of Richland County present upon their oath:

MURDER

That Dexter L Myers did in Richland County, on or about July 2, 2014, kill
the victim, Dajuan Harris, with malice aforethought, either express or
implied, by means of gunshot, and the victim did die as a proximate result
thereof. All in violation of Section 16-03-0010, S. C. Code of Laws, 1976,
as amended

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

615

COUNTY OF Richland
 STATE VS.
Dexter L Myers

AKA:

Race: BLACK Sex: M Age: 21DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Columbia, SC 29210DL#: 103127544 SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Manslaughter / Voluntary manslaughter

INDICTMENT/CASE#: 2014GS4005482A/W#: 2014A4010500200Date of Offense: 7/2/2014S.C. Code § : 16-03-0010CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Campbell, Luck

SC Bar# 13005

Defendant

Attorney for Defendant

SC Bar# 77518WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning

\$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (03/2011)

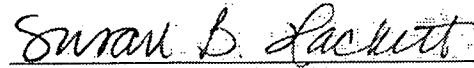
Presiding Judge

Judge Code: 3053Sentence Date: September 4, 2015

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

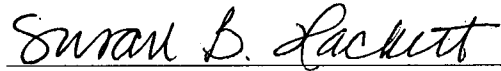
ATTORNEY FOR APPELLANT

This 20th day of April, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of April, 2018.

RECEIVED
APR 20 2018
SC Court of Appeals