

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Eugene C. Griffith, Circuit Court Judge

JONTA GREEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000004

APPENDIX

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1 live right there.

2 Q

3 A Yes.

4 Q Okay. Let's talk up a little bit louder
5 because these people have to hear you.

6 A Yes.

7 Q Your backyard and their backyard kind of meet
8 at a corner?

9 A Yes.

10 Q Okay. What were you -- was Jonta in your
11 presence on September 19th?

12 A Yes, sir.

13 Q And how did that come about?

14 A I was getting a pair of shoes from him. And I
15 called him and asked him if he could meet me at my
16 grandmother's house. And he told me to call when I
17 got in the neighborhood. And I called him and him
18 and his brother came.

19 Q And that was to

20 A Yes.

21 Q And what did you all discuss?

22 A We were talking about the shoes.

23 Q Okay. About how long were you all together?

24 A For like 30 minutes.

25 Q About 30 minutes?

1 A Yes.

2 Q And was anyone with you?

3 A Just me and my Auntie Alicia.

4 Q Okay. Did you end up buying any shoes?

5 A Yes.

6 Q Okay. During that period of time, did Jonta
7 receive any phone calls?

8 A Yes.

9 Q Tell me about the phone calls?

10 A His phone kept ringing while we were talking.
11 And I asked him why was his phone keep ringing and he
12 said that someone else wanted to buy his shoes around
13 the corner.

14 So I asked him was he going around there to
15 sell the shoes, he said yes but after that he was
16 going home. And he stayed at my house for a little
17 while longer and that's when he left.

18 Q Okay. Who did he say he was going to sell the
19 shoes to?

20 A To Sam.

21 Q To Sam? Is that Crawford?

22 A Yes.

23 Q The gentleman who lives?

24 A Behind me, yes.

25 Q In your backyard so to speak?

1 A Yes.

2 Q And do you recall the time of day those phone
3 calls were coming in?

4 A It was like at 8:30.

5 Q Around 8:30 in morning or evening?

6 A Evening.

7 Q Okay. Approximately what time did Jonta
8 leave?

9 A It was about 9:00, 9:20.

10 Q Sometime around 9 o'clock you think?

11 A Yes.

12 Q Okay. And you knew Sam and Terrence?

13 A Yes.

14 Q And do you know Carlton Stretch?

15 A No.

16 Q You didn't know him? Did you know Brandon
17 Parker?

18 A No.

19 Q Did you know any of the other people who -- do
20 you know who was over at the house, the Crawford
21 house that evening?

22 A I only knew of Sam being there.

23 Q And that was because of what Jonta said on the
24 phone?

25 A Yes.

1 Q Okay.

2 MR. MATTSON: I have no further questions.
3 Please answer any questions that these gentlemen may
4 have.

5 THE COURT: Any cross-examination of the
6 witness?

7 MR. DURANT: Thank you, Your Honor, just
8 briefly.

9 CROSS-EXAMINATION

10 BY MR. DURANT:

11 Q How do you know Sam?

12 A From the neighborhood.

13 Q Have you talked to him a good amount of times?

14 A Yes.

15 Q Is he a pretty good guy?

16 A Yes.

17 Q What about his brother Terrence?

18 A He hasn't spoken to me. He doesn't speak to
19 me.

20 Q Do you have any problems with either one of
21 those two guys?

22 A No, sir.

23 Q They're pretty good guys, aren't they?

24 A Yes.

25 Q Thank you.

1 THE COURT: Any redirect?

2 MR. MATTSON: None, Your Honor.

3 THE COURT: Any objection to the witness being
4 excused from the State?

5 MR. DURANT: Not from the State, Your Honor.

6 THE COURT: From the defense?

7 MR. MATTSON: No, Your Honor.

8 THE COURT: Ma'am, you are excused.
9 You may proceed.

10 MR. MATTSON: May I approach.

11 THE COURT: You may.

12 (Whereupon, the following discussion was held
13 at the bench.)

14 MR. MATTSON: This is a little bit out of
15 schedule.

16 THE COURT: I was going to suggest we break
17 for lunch.

18 MR. MATTSON: That's what I was going to ask.

19 THE COURT: Okay. Let me ask you a question.
20 How many more witnesses do you have other than your
21 client?

22 MR. MATTSON: Three or four. They will all be
23 quick.

24 THE COURT: Sounds like we have to close and
25 charge in the morning is what it's looking like. I'm

1 not going to close and charge after 3:00, so.

2 MR. MATTSON: Yeah, we will be all right.

3 THE COURT: Are you going to have rebuttal
4 testimony?

5 MR. DURANT: It's not looking like it right
6 now.

7 THE COURT: Maybe after he testifies it's
8 possible. I think it could take us to 5:00 easily by
9 the time we do charge conference. I was trying to
10 gauge our afternoon.

11 (In open court.)

12 THE COURT: Madam forelady, ladies and
13 gentlemen of the jury, we are going to take advantage
14 of this break in testimony to take our luncheon
15 recess. We will break until 2 o'clock.

16 During the break, please don't discuss the
17 case among yourselves or with anyone else, please
18 don't allow yourselves to be exposed to any media
19 accounts about this case, and again please don't have
20 any contact with anyone in or about the courthouse
21 that you do not recognize to be a fellow juror.

22 You will return directly to your jury room.
23 You can leave your notepads in your seats. I hope
24 that you all have a great lunch. We will see you at
25 2:00.

1 (Whereupon, the jurors exit the courtroom.)

2 THE COURT: I'm going to have your all's
3 request to charge marked as a Court's Exhibit as a
4 package. Mr. Mattson, I have numbered your requests
5 in the order that they were submitted. I simply
6 numbered them exactly in the order you handed them to
7 me.

8 MR. MATTSON: Thank you very much.

9 MR. DURANT: If there is any way, can I see a
10 copy of what you submitted?

11 MR. MATTSON: Sure.

12 THE COURT: Then of course we will have charge
13 conference but I just wanted to let you know I had
14 those marked.

15 Is there anything before we recess for lunch
16 from the State?

17 MR. MATTSON: Nothing, Your Honor.

18 THE COURT: From the State?

19 MR. DURANT: Nothing from the State, Your
20 Honor.

21 THE COURT: From the defense?

22 MR. MATTSON: I used to prosecute in the Navy.

23 THE COURT: Nothing wrong with that. From the
24 defense?

25 MR. MATTSON: The only thing good with the

1 Navy, though, is it kept you honest. One month you
2 prosecuted, the next month you defended. So you
3 really made it close with what goes around comes
4 around.

5 THE COURT: You all have a good lunch. See
6 you at 2:00.

7 MR. MATTSON: Thank you.

8 (Whereupon, a recess was taken.)

9 THE COURT: Mr. Mattson, has your witnesses
10 arrived?

11 MR. MATTSON: Yes, Your Honor, he has.

12 THE COURT: Who is that?

13 MR. MATTSON: Detective VanHorn.

14 THE COURT: Is it Corporal or detective?

15 THE WITNESS: It's Corporal, ma'am.

16 THE COURT: If we could bring in the jury.

17 (Whereupon, the jurors enter the courtroom.)

18 THE COURT: You may be seated.

19 Ladies and gentlemen, I hope you all had a
20 pleasant lunch. We will now resume with the trial
21 testimony.

22 Mr. Mattson, you may proceed.

23 MR. MATTSON: Thank you.

24 THE COURT: You're welcome.

25 MR. RODNEY THOMAS VANHORN,

1 after having first been duly sworn to state the
2 truth, the whole truth and nothing but the truth,
3 testified on his oath as follows:

4 THE COURT: You may proceed.

5 DIRECT EXAMINATION

6 BY MR. MATTSON:

7 Q Good afternoon. Where are you employed?

8 A City of Charleston.

9 Q Police Department?

10 A Yes.

11 Q How long have you been employed there?

12 A 16 years.

13 Q Six?

14 A 16, 1-6.

15 Q 1-6. The older I get, the harder of hearing
16 gets.

17 Before then, where were you employed?

18 A I was employed with the Charleston County
19 Sheriff's Office for about a year at the detention
20 center.

21 Q What is your training in law enforcement?

22 A I went through the academy, have had numerous
23 hours of on-the-job training and in-service training.
24 My current position in the digital evidence unit, I'm
25 a certified computer examiner, and have had numerous

1 hours of training with digital evidence.

2 Q Okay. And have you ever testified before
3 concerning --

4 A Digital evidence, yes, sir.

5 Q Digital evidence?

6 A Yes.

7 Q You have been declared an expert before?

8 A State's expert.

9 Q In which courts?

10 A This court.

11 Q In this courtroom?

12 A Yes.

13 Q In your capacity with the City of Charleston,
14 did you obtain possession of a Palm Treo
15 communications device or cell phone?

16 A It was a Palm Treo 650 device, yes.

17 Q And that was found at the scene of the --

18 A That I cannot testify as to where that was
19 recovered from. It was brought to us and submitted
20 to us in our lab.

21 Q Okay. What were your duties concerning that
22 device?

23 A We were asked to do an examination on the
24 phone, or on the Treo specifically. Typically with
25 cell phones we are asked to locate call logs, any

1 images filed, owner information from the phone, any
2 text messages filed, contact lists.

3 And in this case the request sheet asked for
4 any homicide or suicide evidence.

5 Q Okay. And when you do a phone -- I guess you
6 call it interrogating the phone I think?

7 A Examination and analysis, yes, sir.

8 Q When you are analyzing the phone and its
9 contents, can you normally pull up missed calls?

10 A It depends on the phone, depends on the make
11 and model of the phone, and it depends on whether our
12 software, Special Agent, is compatible with it.

13 Q Okay. Were you able to pull up any missed
14 phone calls on this phone when you interrogated it?

15 A On this I'm not able to pull up any missed
16 calls on this particular phone due to a depleted
17 battery.

18 Q When did you attempt to do that, how long?

19 A After we received it.

20 Q What was the date when you tried to do it?

21 A We received it on 9/19/08. September 19th,
22 '08. And the program was done withdrawn from
23 evidence 10/1/08. So approximately from 9/19 to
24 10/1.

25 Q Okay.

1 MR. MATTSON: I have no further questions,
2 thank you.

3 THE COURT: Any questions from the State?

4 MR. DURANT: No, the State has no questions.
5 Thank you, Your Honor.

6 THE COURT: You're welcome.

7 Any objection to the witness being excused?

8 MR. MATTSON: None.

9 MR. DURANT: None from the State, Your Honor.

10 THE COURT: Sir, you are excused.

11 You may proceed, Mr. Mattson.

12 MR. MATTSON: Call Ashland Thomas.

13 MS. ASHLAND GEORGETTE THOMAS,
14 after having first been duly sworn to state the
15 truth, the whole truth and nothing but the truth,
16 testified on her oath as follows:

17 THE COURT: You may proceed.

18 MR. MATTSON: Okay.

19 DIRECT EXAMINATION

20 BY MR. MATTSON:

21 Q Ms. Thomas, if you feel weak or anything like
22 that let me know.

23 A Okay.

24 Q And is there anything physically wrong with
25 you at the present time?

1 A Yes. I recently found out that I'm diagnosed
2 with a brain tumor.

3 Q Does that cause any problems?

4 A Yes, sir, causes that I have seizures.

5 Q Okay. Does it affect your speech any?

6 A Yes, it does.

7 Q Okay. And you are obtaining treatment for
8 that?

9 A Yes.

10 Q So if you feel anything or dizzy, what have
11 you, seizure coming on, let us know, we will get you
12 off the stand for a while, okay?

13 A Okay.

14 Q How old are you, Ashley, Ms. Thomas?

15 A 26.

16 Q And do you know Jonta Green?

17 A Yes, I do.

18 Q How long have you known Jonta?

19 A 14 years.

20 Q Huh?

21 A 14 years.

22 Q 14 years. How did you meet him?

23 A From school. We were close, really close that
24 we were calling each other cousins. That's when
25 everybody thought we was cousins.

1 Q Everybody thought you all were cousins, huh?

2 A Uh-hum.

3 Q Did that relationship change to be more than
4 cousins?

5 A Yes, it did, seven years.

6 Q And you all are engaged to get married?

7 A Yes.

8 Q On September 19th, 2008, were you planning to
9 get married?

10 A Yes, we was.

11 Q Did you have a marriage license already?

12 A Yes, we did.

13 Q Did you all have any plans as to what you were
14 going to do when you got married?

15 A Yes. The reason why he was selling sneakers
16 we were saving up to move lacks. I knew everyone
17 heard he was a giving person, he always gives, so
18 that's why. Because when it comes down to family and
19 everything else, he was always broke. That's why we
20 planned to get up and move basically.

21 Q Where were you going to move to?

22 A Was Columbia.

23 Q Get out of the area?

24 A Out of the area, yes.

25 Q Did you all ever get married?

1 A No.

2 Q Why?

3 A Finances.

4 Q Finances?

5 A Uh-hum.

6 Q You all still planning on getting married if
7 things go right?

8 A Yes.

9 Q What type of things did you and Jonta do? I
10 mean as far as church and?

11 A Church, movies, very little productive things
12 church, working, park and stuff, stuff like that.

13 Q You all knew each other well?

14 A Yes.

15 Q Let me ask a question. Do you know anything
16 about Jonta's association with the basketball team?

17 A Yes, I do. Actually two years ago he was
18 coaching it, they actually have a newspaper clipping
19 when they was her for little league.

20 Q What was Jonta's involvement with that team?

21 A He was coach.

22 Q Did he do anything financial towards it that
23 you are aware of?

24 A Yes.

25 Q What were the ages of the people on the

1 basketball team?

2 A From 6 on up to 18.

3 Q Okay. And what do he do to help it
4 financially?

5 A Help them get the best food. Supply the room
6 and board, stuff like that. He also helped
7 participate and them practicing weight for game, like
8 basically what a coach would do regularly.

9 Q And anything about the uniform?

10 A He also helped pay for the uniforms also.

11 Q Okay. Do you know why he did these things?

12 A Because he was a very compassionate person.

13 Q Now did the basketball team have any success?

14 A Yes, they did.

15 Q What did they do?

16 A They won whatever it was, the series, whatever
17 it was, the end of game, they won it.

18 Q They went to the state championship?

19 A Yeah, the state championship.

20 Q And how do you and Jonta get along?

21 A Every relationship has it's ups and downs. I
22 can't lie and say that it's perfect.

23 Q Now are you aware of Jonta's reputation in the
24 community for truth and veracity?

25 A Yes.

1 Q And what kind of reputation is that?

2 A Everyone loves him. He is just wonderful
3 because he helps like elderly. He helps my
4 grandmother. He helps the church members. He helps
5 everyone else.

6 Q Helps the youth?

7 A The youth also, and the basketball team.

8 MR. MATTSON: I have no further questions.

9 Please answer any questions the prosecution may have.

10 THE COURT: Any questions for the witness?

11 MR. DURANT: One second, Your Honor.

12 THE COURT: Uh-hum.

13 CROSS-EXAMINATION

14 BY MR. DURANT:

15 Q Thank you, Ms. Thomas. I'm sorry to hear
16 about your condition.

17 A Uh-hum.

18 Q Do you know Brandon Parker?

19 A Yes, I knew him.

20 Q Do you know him well?

21 A Yes.

22 Q Do you know his mother?

23 A No.

24 Q Do you know the mother of his child?

25 A No.

1 Q And you couldn't say anything about his
2 character, can you?

3 A Not really.

4 Q But you can tell us about Jonta's character,
5 can't you?

6 A Uh-hum.

7 THE COURT: Ma'am, I need you to say yes or
8 no.

9 THE WITNESS: Yes.

10 THE COURT: Thank you.

11 Q (By Mr. Durant) Because he is someone you
12 love, right?

13 A Yes.

14 MR. DURANT: Thank you. I'm not going to ask
15 you anything else.

16 THE COURT: Any redirect?

17 MR. MATTSON: None, Your Honor.

18 THE COURT: Ma'am, you may step down.

19 MR. MATTSON: Thank you. I call Quantas
20 Green.

21 MR. QUANTAS MONTE GREEN,
22 after having first been duly sworn to state the
23 truth, the whole truth and nothing but the truth,
24 testified on his oath as follows:

25 THE COURT: Thank you. You may proceed.

DIRECT EXAMINATION

BY MR. MATTSON:

Q Mr. Green, how old are you?

A 22.

Q Did you finish high school?

A No, sir.

Q How far did you go?

A I went to the 11th grade.

Q Were you working on a GED?

A Yes, sir.

Q Where is that at?

A West Ashley High.

Q Are you related to Jonta Green?

A Yes, sir.

Q How are you related to him?

A Younger brother.

Q And how much older is he than you?

A Four.

Q Four years?

A Yes, sir.

Q Okay. Were you with your brother on the evening of September 19th, 2008?

A Yes, sir.

Q Do you remember that day?

A Yes, sir.

1 Q Why do you remember that day?

2 A Because I was riding with him and get applied
3 for my GED.

4 Q Okay. Tell me about that day?

5 A Well we were -- he came to pick me up in North
6 Charleston about 5:30, almost 6 o'clock to go apply
7 for our GED at West Ashley High because I just got
8 out of the hospital.

9 Q Talk a little louder.

10 A I -- we applied for GED, I just got out of the
11 hospital. I was trying to go back to school.

12 Around 8:30 we got a call from Stephanie
13 Jackson to buy a pair of shoes. We went to the
14 corner, we sold her a pair of shoes, we talked,
15 talked to her grandmother, her auntie for a couple
16 minutes. He was getting a phone call but his phone
17 was in the car. As they were leaving, telling us
18 have a safe night, don't get in no trouble, he got
19 the phone, it was Sam Crawford.

20 Q Let's do this.

21 A Uh-hum.

22 Q Let me show you this. Are you familiar with
23 this neighborhood?

24 A Yes.

25 Q How are you familiar with it?

1 A Okay. This is This is.

2 Q How are you familiar with it?

3 A We grew up in that neighborhood.

4 Q You all grew up in that neighborhood?

5 A Yes, sir.

6 Q Show you Do you
7 know who lives there?

8 A Yes.

9 Q who lived there?

10 A Stephanie Jackson and her mother.

11 Q Stephanie Jackson's grandmother?

12 A Yes, sir.

13 Q Is that the home you were referring to where
14 you went to?

15 A Yes, sir, for the shoes.

16 Q And how long did you all stay there?

17 A We was there about I would say close to 30
18 minutes.

19 Q About 30 minutes. Did you all sell her any
20 shoes?

21 A Yes, sir.

22 Q And during that period of time did Jonta
23 receive any phone calls?

24 A Yes, sir.

25 Q Did he answer the calls that you are aware of?

1 A No, sir.

2 Q How many phone calls did he receive?

3 A I would say he had about six or seven missed
4 calls.

5 Q Okay. Did he ever indicate to you who's
6 calling him?

7 A When we got in the car that was Sam calling
8 him. So we had to go around the corner to check to
9 see what he wanted.

10 Q Sam Crawford?

11 A Yes, sir.

12 Q Now you and your brother were here at

13 A Yes.

14 Q Which was almost directly under the N of the
15 correct?

16 A Correct.

17 Q Do me a favor, draw me a circle around
18 the number. And put a check mark on the roof of the
19 house.

20 A (Whereupon, the witness so indicates.)

21 Q Okay. Now where would Sam Crawford have been?

22 A On I don't know the exact
23 address, somewhere up here.

24 Q sound familiar?

25 A Yes, that would be right there.

1 Q Right there. Put a circle around that
2 address.

3 A (Whereupon, the witness so indicates.)

4 Q You put a check up there. The driveway of the
5 and are almost directly behind one another;
6 is that correct?

7 A Correct.

8 Q So where did you all go when you left
9

10 A We went this direction.

11 Q You went --

12 A This way.

13 Q That direction. When you got here, you just
14 basically went around the block?

15 A Yes, sir.

16 Q Okay. When you got there, who was driving the
17 vehicle?

18 A I was.

19 Q And what kind of vehicle was it?

20 A 1996 Crown Victoria.

21 Q And where did you all -- did you all stop at
22

23 A Yes, sir.

24 Q And whose house is that? Who all lives there,
25 do you know everybody living there?

1 A Yes, sir. Ms. Crawford, Terrence Crawford and
2 Sam Crawford.

3 Q That's a mother and two sons?

4 A Yes, sir.

5 Q Okay. You all have known them for a while?

6 A Yes, sir.

7 Q Okay. When you got there, now showing you
8 State's Exhibit 6, where did you park the vehicle?

9 A We stopped right here.

10 Q Is that the first time?

11 A Yes, sir.

12 Q You all didn't pull into the driveway yet?

13 A Not yet.

14 Q You just parked out front?

15 A Yes, sir.

16 Q Okay: what happened after you stopped?

17 A We roll the windows down and he asked Terrence
18 Crawford if Sam Crawford was in the house because he
19 called Sam. He said Sam was in the house sleeping so
20 his brother said I can go in there and check. So we
21 pulled into the driveway.

22 Q You then pulled into the driveway?

23 A Yes, sir.

24 Q Where did you pull in? Put me another circle,
25 I guess, or square tick or pick?

1 A (Whereupon, the witness so indicates.)

2 Q You pulled into the driveway. Were you all
3 behind kind of that burgundy red pickup truck?

4 A It was a Rodeo, black.

5 Q Oh, okay. Now what happened next?

6 A We started getting -- everybody started giving
7 everybody handshakes in the yard. Then we started
8 talking and Jonta and Carlos walked off from
9 everybody else.

10 Q Did -- was there anything about any wheels
11 going on?

12 A Yes, sir they were discussing, what I didn't
13 hear conversation, but they were discussing some
14 rims.

15 Q Who was?

16 A Jonta and Carlos that he previously had on the
17 car.

18 Q Who previously had?

19 A Carlos.

20 Q Jonta was looking to buy some?

21 A Yes, sir.

22 Q What was he -- okay. Did shoes enter into the
23 conversation?

24 A Yes, sir.

25 Q And how did that get into the conversation?

1 A Carlos asked him about the shoes, he started
2 asking Carlos about the rims.

3 Q Okay. And what happens?

4 A That's when they began talking and we was all
5 like I was standing like a little distance from them.
6 We was over there talking, me and Terrence, and the
7 by Andrew sitting there talking about my incident.

8 Q Okay. Who all was there that you recognize?

9 A Andrew, I recognized Terrence, Stretch,
10 Carlton and Sam.

11 Q Okay. Where were you all when you were
12 talking?

13 A Okay, I was about right here.

14 Q Put an X in there, then let's do that.

15 A (Whereupon, the witness so indicates.)

16 Q Okay. You started to do something else?

17 A Yeah. And Jonta was like right here talking.

18 Q Who was there, Jonta? Okay. And so you were
19 kind of close to the car you all came in?

20 A Yes, sir.

21 Q Was there a reason for that?

22 A No, not really.

23 Q Okay. Did anybody show the gentleman the
24 shoes?

25 A I wasn't paying attention to them as he was

1 pulling out the shoes because I was still talking.

2 Q what happens next?

3 A Then a guy came out of nowhere and tried to
4 hit Jonta from the back. That's when everybody
5 started running towards them.

6 Q Do you know who this fellow was?

7 A No, sir.

8 Q You didn't know who he was?

9 A No, sir.

10 Q Did you later found out who he was?

11 A Yes, sir.

12 Q Who did you find out he was?

13 A Brandon Parker.

14 Q You said -- okay, what happened next?

15 A That's when everybody began to scuffle. We
16 ran over, everybody was trying to break it up. He
17 was getting in car, he was trying to leave. As we
18 was leaving, he was trying to still charge at the
19 car.

20 Q Okay, let's back up for a minute. Did you or
21 your cane get involved in any way, you get involved
22 in that incident in any way?

23 A Yes, sir. When I was trying to break it up I
24 was trying to break dude.

25 Q Do you know who all was involved with that?

1 A Everything happened so fast, everyone jumping
2 in, Stretch, Carlton, Andrew, Terrence.. Someone else
3 who tried to jump in and break it up too.

4 Q So you didn't know everybody who was there?

5 A No, sir.

6 Q And what was your physical state at that time?

7 A Can you rephrase that?

8 Q Was there anything physically wrong with you?

9 A Yes, sir.

10 Q I will still open-wounded, wasn't supposed to
11 be outside at the moment.

12 Q Open-wounded from what?

13 A Gunshot wound.

14 Q How did it come about?

15 A I got carjacked at McDonald's.

16 Q What McDonald's?

17 A At Sam Rittenburg and Cross Roads.

18 Q Sam Rittenburg and Orange Grove?

19 A Yes.

20 Q What happened to you at that point?

21 A I got shot five times.

22 Q And how long had you been out of the hospital?

23 A I had been out of the hospital I would say
24 probably about two weeks.

25 Q And were you under any physical restrictions?

1 A Yes. I wasn't supposed to be outside, I
2 wasn't supposed to lift anything over six pounds for
3 three to six weeks.

4 Q What was your wound at that point?

5 A Critical, still open.

6 Q Some of them were still open?

7 A Yes.

8 Q And draining?

9 A Yes, sir.

10 Q Where did you get shot?

11 A Twice in the stomach, once in the side, once
12 in the arm and once in the leg.

13 Q Did you get shot somewhere else too that the
14 bullet didn't penetrate?

15 A It almost hit my chest.

16 Q What stopped it?

17 A My medallion chain.

18 Q Okay. So what happened? Did you have your
19 cane with you at the time?

20 A Yes, sir.

21 Q Why did you have your cane?

22 A Because I needed to walk.

23 Q You were walking with a cane?

24 A Yes, sir.

25 Q So you didn't run over there with the cane?

1 A No, sir.

2 Q Okay, next thing. You, obviously from
3 everything, you and your brother got out of the
4 fight?

5 A Yes, sir.

6 MR. MCCOY: Objection to leading.

7 THE COURT: Sustained, leading.

8 MR. MATTSON: Okay.

9 Q (By Mr. Mattson) When did you all get back in
10 the car?

11 A Right after the fight broke up.

12 Q And how did you all get there? what did you
13 all do, walk, run, fly?

14 A We walked to the car.

15 Q Okay. When you got in car, who got behind the
16 steering wheel?

17 A Jonta.

18 Q Where did you get?

19 A In the passenger seat.

20 Q And what did Jonta do after you got in the
21 car?

22 A We pulled off.

23 Q And tell me exactly what he did, go forward,
24 backward, sideways?

25 A We backed out.

1 Q He backed out?

2 Again I want to show you this. Just show me,
3 point -- tell you what, here is the little button on
4 the side. Use that little laser pointer, just push
5 that forward.

6 Okay. Where was the car parked?

7 A Right here.

8 Q That's the car. Okay. When he started to
9 move the car, which way did he go?

10 A He backed up back this way, headed this
11 direction.

12 Q Okay. Is there a ditch anywhere out there?

13 A It's about between these little plants right
14 here.

15 Q Okay. So is this the roadway?

16 A Yes, sir.

17 Q And the ditch is where?

18 MR. MCCOY: Can I see what is going on here
19 too?

20 THE COURT: Why don't you use the tripod.
21 Then why don't you have him step down, have him do it
22 that way.

23 MR. MATTSON: That's the one that attacked me
24 the first day.

25 Come on over here. Okay.

1 Q (By Mr. Mattson) Okay. Now show me the car?

2 A Right there.

3 Q Right there. The circle that you drew?

4 A Yes, sir.

5 Q Okay. Where were you indicating the ditch
6 was?

7 A About right here.

8 Q Okay. This would be the yard?

9 A Yes, sir.

10 Q This would be the road?

11 A Yes, sir.

12 Q And the ditch was between them?

13 A Yes, sir.

14 MR. MCCOY: Objection to leading.

15 THE COURT: Sustained, leading. Rephrase.

16 MR. MATTSON: Okay.

17 Q (By Mr. Mattson) Where was the ditch located
18 in reference to the road and the yard?

19 A In between the yard and the -- I would say
20 right here between the yard and the pavement.

21 Q Okay. After Jonta backed out of the yard,
22 what happened next? Where did he move the car to
23 and?

24 A We went -- we got to the stop sign right here,
25 because there's a stop sign right here we get to, and

1 that's when he realized he didn't have his phone
2 because --

3 Q After he backed out, what did he do with the
4 car after he backed out?

5 A He put the car in drive.

6 Q Okay. And which way was he trying to go?

7 A He was going towards -- going to this area
8 right here.

9 Q You are indicating from the left to the right
10 with the pointer?

11 A Yes, sir.

12 Q Okay. Was anybody else around the car when he
13 was trying to go forward?

14 A Yes, sir.

15 Q Who was that?

16 A Brandon Parker.

17 Q And what was -- how did Mr. Parker get there
18 and what was he doing?

19 A He was running toward the car.

20 Q And?

21 A You want me to point to it?

22 Q Yes, show me where he ran from.

23 A He was running right here like almost in the
24 street right here trying to turn it off.

25 Q And did the car do anything to him?

1 A Not that I can refer as.

2 Q Not that you can recall?

3 A Yes, sir.

4 Q Okay. What happened next?

5 Okay, you are out in the driveway, you are
6 heading towards Wantoot?

7 A Yes, sir.

8 Q Okay. And just run us through it.

9 A Okay. We got to the stop sign, he was looking
10 for his phone so we could call Sam and see what was
11 going on. He couldn't find his phone and I told him
12 I left my cane and he said he dropped his glasses.

13 So we spun around the block to come back
14 around.

15 Q Okay, bring it all the way around.

16 A Okay. We came all the way back around, came
17 down North Sherwood, come up a little side street,
18 came back up on

19 we pulled back up in the same spot and he has
20 to put down the passenger window because the driver
21 window was messed up. He yelled out to Ms. Crawford
22 was outside. And he asked her -- he apologized, and
23 he asked her if we could come back in the yard and
24 get our belongings and she said yes --

25 MR. MCCOY: objection, hearsay.

1 THE COURT: Sustained, hearsay.

2 Q (By Mr. Mattson) Okay. He had a conversation
3 with Ms. Crawford?

4 A Yes, sir.

5 Q Okay. And what happened next?

6 A She said, yes, we can come in the yard.

7 MR. MCCOY: Objection, hearsay.

8 THE COURT: Sustained, hearsay.

9 Q (By Mr. Mattson) Don't say what she said.

10 A Oh, okay. She gave us permission to come in
11 the yard. We got our belongings. And that's when
12 someone cut the high beam on their car so we could
13 find our belongings and that's when the second fight
14 breaks out.

15 Q How did the second fight break out? Where was
16 Jonta and where were you?

17 A I'm unaware of where he was, but I was right
18 here in the grass right here looking for our
19 belongings.

20 Q Okay. And where was Jonta?

21 A I'm not sure.

22 Q Okay. Did you see what happened when the
23 fight broke out?

24 A No, sir.

25 Q You didn't see that?

1 A No, sir.

2 Q Okay. And did you see anything happen -- did
3 you see a gun?

4 A No, sir.

5 Q Okay. Did you -- what did you see of the
6 fight?

7 A Basically nothing.

8 THE COURT: I'm sorry, sir, please repeat your
9 answer

10 THE WITNESS: Nothing.

11 Q (By Mr. Mattson) Basically nothing?

12 A Yes, sir.

13 Q Did Jonta say anything to you about Brandon
14 Parker when you all were going around the block?

15 A No, sir.

16 Q Did Jonta say anything to you as to why you
17 all were going around the block?

18 A Yes, sir.

19 Q Why was that?

20 A To get our belongings.

21 Q To get your belongings.

22 Could you see who was involved in the fight?

23 A No, sir.

24 Q Okay. Did you hear anything?

25 A No, sir.

1 Q Did you hear a gunshot?

2 A Yes, sir.

3 Q Could you tell where the pistol was or
4 anything about it?

5 A No, sir.

6 Q After you heard the shot, what happened next?

7 A He told me to leave and tossed me his phone.

8 Q Did he give you anything?

9 A No, sir.

10 Q What about the pistol?

11 A No, sir.

12 Q How did the pistol get to me?

13 A I'm unaware of that too.

14 Q Okay. You don't recall getting the pistol?

15 A No, sir.

16 Q Okay. What did you do?

17 A I went around the corner and I tried to look
18 for the cell phone. I went to Ashley Thomas's house
19 on and I called my brother.

20 Q How did you get there?

21 A Drove.

22 Q So you got in the car and left?

23 A Yes, sir.

24 Q And did your brother stay?

25 A Yes, sir.

1 Q Did you ever hear your brother use any bad
2 language towards Brandon Parker?

3 A No, sir.

4 Q Did you hear him use any bad language around
5 Ms. Crawford?

6 A No, sir.

7 Q Approximately what time did you all arrive at
8

9 A I would say between 9 o'clock and 9:30.

10 Q Somewhere around 9:00?

11 A Yes, sir.

12 Q What was the lighting like?

13 A It was getting -- it was dark.

14 Q It was dark. In some of the photographs it's
15 pretty bright with a whole bunch of lights on and car
16 lights on. Was it bright like it's shown in State's
17 Exhibit No. 9?

18 A No, sir.

19 Q How about the lighting that is shown in No.
20 10?

21 A Yes, sir.

22 Q That's similar?

23 A Yes, sir.

24 Q And No. 11?

25 A Yes, sir.

1 Q How did it get so lighted, did you know?

2 A I wasn't aware of that. I wasn't running when
3 the lights came on.

4 Q Okay. How many arms does your brother have?

5 A One.

6 Q Do you know how he lost his?

7 A Yes, sir.

8 Q Arm?

9 A Yes, sir.

10 Q You can sit down now.

11 How did he lose his arm?

12 A He lost his arm in a tree accident when he was
13 11 years old.

14 Q Electrical?

15 A Yes, sir.

16 Q Okay. And you say we were 11, how old were
17 you and how old was he?

18 A He was 11, I was about 7 years old.

19 Q Were you in the tree with him?

20 A No, sir.

21 Q Okay. Who was in the tree with him? I know
22 somebody else got hurt?

23 A My other brother.

24 Q Which one?

25 A Rashine Green.

1 Q And was there a third person up there?

2 A No, sir.

3 Q Okay. So your brother has had one arm since?

4 A 11.

5 Q He was 11. Does he have an artificial arm or
6 what's called medically a prosthetic device?

7 A Yes, sir.

8 Q Did he ever have more than one of them?

9 A No, sir.

10 Q How much use of that arm does he have, the
11 left? A Not much.

12 Q What do you call not much?

13 A Like he could be able to hold something like
14 together.

15 Q Stand up and show us.

16 A He can like leaning on something where he is
17 picking up.

18 Q How high can he lift it?

19 A I'm not sure.

20 Q You're not sure. Can he lift it all the way
21 above his head?

22 A No, sir.

23 Q Does he have much strength in that arm?

24 A No, sir.

25 Q Did you ever see him when he didn't have the

1 artificial arm or the prosthetic arm on?

2 A Yes, sir.

3 Q And how much arm does he have left up here, I
4 guess I don't know the best term, the stump?

5 A About six to seven inches.

6 Q And how big around is that arm?

7 A Very small.

8 Q Show the jury with your fingers.

9 A I would say about that big around.

10 (Whereupon, the witness indicates.)

11 Q Did you have arm-wrestle with your brother?

12 A Sir?

13 Q Did you ever arm-wrestle with him using his
14 left hand?

15 A No, sir.

16 Q Okay. Does he have as much movement in the
17 left hand -- left arm as he does in the right arm?

18 A No, sir.

19 Q Knowing your brother, you and your brother are
20 pretty close?

21 A Yes, sir.

22 Q And would you mind -- could he hit anybody
23 with that left arm?

24 A No, sir.

25 Q Could he do anything, that you are aware of,

1 with that left arm to defend himself in a fight?

2 A No, sir.

3 Q Do you know how he moves that left arm?

4 A Well it's like a brace that he have on it, but
5 it's broken.

6 Q And does it have a cable and pulleys?

7 A Yes, sir.

8 Q Did you -- you didn't get involved in the
9 second fight at all?

10 A No, sir.

11 Q How far away were you?

12 A About in yards, I would say about 7, 8 yards.

13 Q Use this courtroom as a judge. From where you
14 are now to where, point to where it is.

15 A Okay. I would say like if you were standing a
16 little further back.

17 Q Okay.

18 A About right there.

19 Q That's how far you were away?

20 A Yes, sir.

21 Q Were you talking to anybody?

22 A Yes, sir.

23 Q Who were you talking with?

24 A Andrew and Terrence.

25 Q Andrew and Terrence. Were they facing towards

1 where the fight was going on or away from it?

2 A They were facing each other like this. And my
3 back was toward the house, and they was facing like
4 this.

5 Q And where was the fight taking place?

6 A By the car, the radio. And by the back trunk
7 of my car, actually the hood.

8 Q Okay. So we don't have too much -- what was
9 the relationship of their body with the fight?

10 A Who?

11 Q The two persons you were talking to, Terrence
12 and?

13 A They were like -- I couldn't tell you because
14 it was dark. I couldn't tell you whether they was
15 breaking it up or whether they was jumping in.

16 Q No, the people you were talking to.

17 A Like, how do you mean by that?

18 Q When the fight started you said you were
19 talking to some people?

20 A Yes, sir.

21 Q And you all were about this far away from
22 them?

23 A Yes, sir.

24 Q From the fight?

25 A Yes, sir.

1 Q Okay. Was your -- what part of your body was
2 towards the fight?

3 A Like the front part of me.

4 Q So you were facing the fight?

5 A Yes, sir.

6 Q Okay. And the people who were -- you were
7 talking to, where were they standing?

8 A Right in front of me.

9 Q On either side?

10 A Yes, sir.

11 Q Were they sideways to you?

12 A Yes, sir.

13 Q Okay. So they were not facing the fight at
14 all?

15 A No, sir.

16 Q Okay. And who were those individuals?

17 A Andrew and Terrence.

18 Q And Terrence?

19 A Yes, sir.

20 Q Crawford. Andrew Rivers, right?

21 A Yes, sir.

22 Q Okay. Could they have seen the fight?

23 A Yes, sir, if they was looking.

24 Q If they were looking, but were they looking?

25 A No, sir..

1 Q Do you attend St. Andrew's Presbyterian
2 Church?

3 A Yes, sir.

4 Q What do you do there?

5 A Sing in the choir and choir director.

6 Q For the adults?

7 A For the youth.

8 Q For the youth. Does anybody else assist you
9 with that?

10 A Yes, sir.

11 Q Who?

12 A My brother, Jonta Green.

13 Q And does he assist in any other way as
14 transportation for anybody?

15 A Yes, sir. He transports the elders and the
16 kids if they need to be there too.

17 Q How long have you all been doing that?

18 A He has been doing that longer than me. I
19 would say he was doing it for about 3, 4 years now,
20 and I was there recently for about a year-and-a-half.

21 Q Okay. And you know Ms. -- who's the church
22 mother?

23 A Rosalee Butler.

24 Q Okay. And do you know the church elder?

25 A Yes, sir.

1 Q What is her name?

2 A Rosalee Butler.

3 Q Who is the church mother?

4 A I'm not sure.

5 Q You are not sure who that is?

6 A No, sir.

7 Q Okay. Jonta is a regular attendee?

8 A Yes, sir.

9 Q Does anybody accompany him to church?

10 A Yes, sir.

11 Q Who?

12 A Me.

13 Q Okay. Anybody who is not a family member?

14 A No, sir.

15 Q Okay. Girlfriend?

16 A Yes, sir, Ashley Thomas.

17 Q She goes with him?

18 A Yes, sir.

19 MR. MCCOY: Objection to leading.

20 THE COURT: Sustained, leading.

21 MR. MATTSON: Okay.

22 Q (By Mr. Mattson) Do you know your brother's
23 reputation for being honest?

24 A Yes, sir.

25 Q What is that?

1 A Very high. Always, all his life.

2 MR. MATTSON: please answer any questions
3 these gentlemen may have.

4 THE WITNESS: Yes, sir.

5 MR. MCCOY: Thank you, Your Honor, may it
6 please the Court.

7 THE COURT: Yes, sir, you may proceed.

8 CROSS-EXAMINATION

9 BY MR. MCCOY:

10 Q Mr. Green, how are you doing today?

11 A How are you doing, sir.

12 Q I'm doing pretty good. My name is Peter
13 McCoy, I'm the solicitor for the Ninth Circuit.

14 Have we ever spoken before?

15 A No, sir, not that I can remember.

16 Q Okay. We have a lot to get into, Mr. Green.
17 Let's start with the shooting two weeks ago,
18 or two weeks before this incident happened.

19 A Yes, sir.

20 Q Tell me a little bit about what happened with
21 that carjacking.

22 A I pulled up at the McDonald's about 12 o'clock
23 that night. I was in the drive-thru, about to place
24 an order, and the guy jumped in the car.

25 Q A guy jumped in the car?

1 A Yes, sir.

2 Q Do know if he was ever prosecuted?

3 A No, sir.

4 Q And he had a gun?

5 A Yes, sir.

6 Q And he just shot you while you were sitting in
7 your car?

8 A No, sir.

9 Q How did he shoot you?

10 A He asked me to give him everything I got.

11 Q And did you give him anything?

12 A No, sir.

13 Q Why didn't you give him anything?

14 A I honestly don't know, sir.

15 Q You don't know?

16 A No, sir.

17 Q Did you have anything on you?

18 A Jewelry.

19 Q Jewelry?

20 A Yes, sir.

21 Q You think that's what he wanted?

22 A Probably.

23 Q Did he put a gun in your face when he said he
24 wanted the jewelry?

25 A Yes, sir.

1 Q And were you scared?

2 A No, sir.

3 Q You weren't scared when a gun was in your
4 face?

5 A No, sir.

6 Q Why not?

7 A We all take chances, sir.

8 Q What does that mean, we all take chances?

9 A You have a 50/50 chance if somebody has got a
10 gun in their hand. You either can get away or
11 anything can happen.

12 Q When you say anything can happen, you mean
13 anything can happen to you or anything can happen to
14 the guy who got in your car?

15 A Anything can happen to me or anybody who's in
16 my presence.

17 Q Was anybody else in the car with you that
18 night?

19 A No, sir.

20 Q So you had jewelry on you. Did you have any
21 money on you?

22 A Yes, sir.

23 Q How much money did you have?

24 A \$40.

25 Q \$40. He wanted your jewelry and your money?

1 A Yes, sir.

2 Q Had you ever seen this guy before?

3 A No sir.

4 Q Did he have a mask on his face?

5 A No, sir.

6 Q So you got a clear look at him?

7 A Yes, sir.

8 Q Did -- tell me what happened after this gun
9 was in your face.

10 A He asked for everything I got. I told him no.
11 I tried to push him out of the car, he started
12 shooting inside the car.

13 Q Okay. And he shot you five times?

14 A Yes, sir.

15 Q Did the shots occur while you were inside or
16 outside the car?

17 A Inside the car.

18 Q Okay. What did he do after you were shot?

19 A He got out of the car and ran.

20 Q All right. Obviously you were shot five
21 times. Did EMS come and help you out there?

22 A Yes, sir.

23 Q Who called the police?

24 A I'm not sure. I guess the guy at McDonald's,
25 I told him to call the police.

1 Q All right. You told him to call the police?

2 A Yes, sir.

3 Q Was this a case, do you know if charges were
4 ever filed against anybody?

5 A Not that I'm aware of, sir.

6 Q Were you cooperative with the police in this
7 investigation?

8 A Yes, sir.

9 Q How did you cooperate with them?

10 A They told me to come downtown and do a photo
11 lineup and give my statement.

12 A Did you pick anybody out of the photo lineup?

13 A Yes, sir.

14 Q Who did you pick out?

15 A Orlando Richardson.

16 Q You picked out a guy named Orlando Richardson?

17 A Yes, sir.

18 Q Did you know this guy's name at the time?

19 A No, sir.

20 Q Just recognized his face?

21 A Yes, sir.

22 Q So were charges brought against Orlando
23 Richardson?

24 A Not that I'm aware of.

25 Q Okay. So you picked somebody out of a photo

1 lineup and the police have not brought changes
2 against anybody?

3 A I have no clue.

4 Q Okay. This happened when?

5 A August 13th.

6 Q August 13th. That's 8/13 of what?

7 A 2008.

8 Q 2008.

9 All right. And then this incident was what
10 date?

11 A This incident happened September 19th.

12 Q 9/19, same year?

13 A Yes, sir.

14 Q 2008. And obviously on September 19th of 2008
15 a shooting happened there too?

16 A Sir?

17 Q A shooting happened on 9/19/2008; am I
18 correct?

19 A Correct.

20 Q So you had been around or involved in two
21 shootings within a month's period of time; is that
22 correct? Is that accurate?

23 A Correct.

24 Q Are there any other shootings that I need to
25 know about?

1 A No, sir.

2 Q Why do you think that you were around or
3 involved in two shooting within one month?

4 A I can't answer that, sir.

5 Q Is it just bad luck?

6 A Don't know, sir.

7 Q You don't know?

8 A No, sir.

9 Q Okay. Do these kind of things regularly
10 happen to you?

11 A No, sir.

12 Q Okay. Just a stroke of bad luck one month,
13 two shootings?

14 A Yes, sir.

15 Q All right. Obviously you've heard some
16 testimony today from you from what you've said and
17 what you've observed and what you've seen on that
18 date?

19 A Yes, sir.

20 Q And Mr. Mattson questioned you?

21 A Yes, sir.

22 Q How many times have you met with Mr. Mattson
23 about this case?

24 A Three.

25 Q Three times?

1 A Yes, sir.

2 Q This case is two years old?

3 A Yes, sir.

4 Q And you've met with him three time?

5 A Yes, sir.

6 Q When have you met with him?

7 A I met with him a couple of weeks after my
8 brother turned himself in. Then I met at my
9 brother's preliminary hearing. And then I met again
10 last week.

11 Q Okay, so you've met three times?

12 A Yes, sir.

13 Q Did you talk to him at all today before you
14 testified?

15 A Yes, sir, he told me to tell everybody we've
16 got to come to court and come to court.

17 Q Okay. Did you talk about your testimony at
18 all today?

19 A No, sir.

20 Q Did you rehearse your testimony at all in the
21 other three times that you talked to him?

22 A No, sir.

23 Q So what did you all talk about?

24 A Sir?

25 Q What did you all talk about when you met?

1 A We talking about getting our witnesses and my
2 brother, and whatever I needed to help get my brother
3 to court that I was able to do.

4 Q Okay. So you have open wounds at this point
5 on 9/19/2008?

6 A Yes, sir.

7 Q Where are you still bleeding from?

8 A Now? I'm not bleeding now.

9 Q No, I'm talking about on 9/19/2008?

10 A Oh, my stomach.

11 Q Your stomach?

12 A Yes, sir.

13 Q What kind of stitches or bandages did you have
14 on yourself?

15 A I just had bandages. No stitches and no
16 staples.

17 Q No stitches, no staples?

18 A No, sir.

19 Q But you were still bleeding?

20 A Yes, sir.

21 Q All right. And you testified that a doctor
22 told you not to lift anything heavier than what?

23 A Three pounds.

24 Q Three pounds for how long?

25 A Six to eight weeks.

1 Q Did he want you to be on any sort of rest or
2 anything like that?

3 A He didn't say.

4 Q He did not say?

5 A He said come back the following month for my
6 physical.

7 Q Okay. Did he give you any indication it's
8 okay for you to procedure with your normal day-to-day
9 activities?

10 A No, sir.

11 Q No, sir to what?

12 A He didn't give me permission to be outside.

13 Q He didn't want you outside?

14 A No, sir.

15 Q Okay, that's understandable. So he didn't
16 want you outside. But on this date you and your
17 brother were going to?

18 A West Ashley High.

19 Q West Ashley High School?

20 A Yes, sir.

21 Q And what were you going to do?

22 A Apply for a GED.

23 Q Apply for your GED?

24 A Yes, sir.

25 Q And what time again -- or actually I'm sorry.

1 You said your brother picked you up around 5:30 or
2 6:00?

3 A Yes, sir.

4 Q And what car did he pick you up in?

5 A The Crown Victoria.

6 Q Crown Victoria. Was that your car?

7 A Yes, sir.

8 Q He was just driving it?

9 A Yes, sir.

10 Q Okay. So he picked you up at 5:30 or 6:00.
11 Where did he come get you?

12 A From my aunt's house in North Charleston.

13 Q Your house in North Charleston?

14 A My aunt.

15 Q Oh, your aunt's house in North Charleston.
16 Where do you live in North Charleston, or your aunt,
17 I'm sorry.

18 A On Liberty Hill.

19 Q On Liberty Hill?

20 A East Montague.

21 Q Give me a little bit of direction as to where
22 that is.

23 A Like on Sanders Street across from the Cherry
24 Baptist Church.

25 Q Okay. Let's say I'm riding down Rivers Avenue

1 in North Charleston and I'm heading parallel to let's
2 say Highway 26. Which way am I going to get to your
3 neighborhood, to your aunt's?

4 A You would take a right on Morningside Drive at
5 the red light.

6 Q The red light? Are you near the navy -- the
7 naval shipping yard?

8 A No, sir.

9 Q Okay. So he is coming to get you at 5:30 or
10 6:00?

11 A Yes, sir.

12 Q And he is coming to get you at your aunt's
13 house in North Charleston?

14 A Yes, sir.

15 Q Where were you all going?

16 A West Ashley High.

17 Q And where is West Ashley High School?

18 A Off of Ashley River Road.

19 Q Off of Ashley River Road?

20 A Yes, sir.

21 Q So that's down, basically down Highway 61?

22 A Kind of close, yes, sir.

23 Q Okay. And you all were going to drive there.
24 What time, do you know, you were going to get your
25 GED or apply for one?

1 A Yes, sir.

2 Q How long do they take applications on that
3 kind of night?

4 A They can take applications at night I would
5 say between 5:30 to 8 o'clock.

6 Q Okay. So you were going to go at 5:30, so you
7 had plenty of time to get there?

8 A Yes, sir.

9 Q Did you ever make it to West Ashley High
10 School?

11 A Yes, sir.

12 Q You did make it there?

13 A Yes, sir.

14 Q And did you get your information for your GED?

15 A Yes, sir. I paid my fee.

16 Q Paid your fee?

17 A Yes, sir.

18 Q Tell me where you go after that?

19 A We went back to Oak Forest.

20 Q Okay, which is what?

21 A Off of Playground Road.

22 Q Where is that?

23 A Off of 17, Savannah Highway.

24 Q The same neighborhood where is?

25 A Yes, sir.

1 Q And you've already testified that you were
2 going to sell some shoes?

3 A Yes, sir.

4 Q To a friend of yours?

5 A Yes, sir.

6 Q And those people are who?

7 A Stephanie Jackson.

8 Q Stephanie Jackson?

9 A Yes, sir,

10 Q And who's the other girl?

11 A Her auntie Alicia Jackson.

12 Q Okay. Now how do you know them?

13 A I've known them for a couple of years.

14 Q You have? Are they friends?

15 A Friends, yes, sir.

16 Q Did you meet them at school?

17 A No, sir.

18 Q How did you meet them?

19 A In the neighborhood.

20 Q In the neighborhood?

21 A Yes, sir.

22 Q So you go there?

23 A Yes, sir.

24 Q And what time did you say you get there again?

25 A Probably between 8:30, 9 o'clock.

1 Q All right. Did you know that your brother was
2 selling shoes?

3 A Yes, sir.

4 Q And how long had he been doing that?

5 A About two years.

6 Q About two years?

7 A Yes, sir.

8 Q Make a good living that way?

9 A Not really.

10 Q Okay. So you pull up to this house?

11 A Yes, sir.

12 Q You get out?

13 A Yes, sir.

14 Q And you sell some shoes, or show some shoes.
15 How many shoes did these people buy?

16 A One.

17 Q One pair?

18 A Yes, sir.

19 Q And you testified you were there for about 30
20 minutes; is that correct?

21 A Correct.

22 Q And how do you know that he was getting phone
23 call while he was there?

24 A We got in the car he had missed calls. He had
25 his phone sitting on the driver's seat.

1 Q Okay. Let's talk a little bit about some
2 people that were at

3 A Yes, sir.

4 Q Do you know Brandon Parker?

5 A No, sir.

6 Q Had you ever seen him before?

7 A No, sir.

8 Q Did you know Terrence Crawford?

9 A Yes, sir.

10 Q How did you know him?

11 A He used to sell CD's to us.

12 Q Sell what?

13 A Burn CD's.

14 Q He used to burn CD's?

15 A Yes, sir.

16 Q You used to buy burned CD's?

17 A Yes, sir.

18 Q Okay. How about Sam Crawford?

19 A I known him too.

20 Q For how long?

21 A I known Sam for about like three years now.

22 Q Okay. How about Andrew Rivers?

23 A Don't really know him that well.

24 Q You don't know him. But did you know him that
25 night?

1 A Yes, sir.

2 Q Just kind of an acquaintance with him?

3 A Yes, sir.

4 Q Did you know Carlos Chisholm?

5 A Yes, sir.

6 Q For how long?

7 A Around five, six years.

8 Q Okay. How about Carlton Stretch?

9 A Who.

10 Q Carlton Stretch?

11 A Yes, sir.

12 Q Okay. So you knew all those guys or at least
13 knew their faces?

14 A Yes, sir.

15 Q But you didn't know Brandon Parker?

16 A No, sir.

17 Q And you had never seen him before?

18 A No, sir.

19 Q How about Ms. Crawford, did you know her?

20 A I didn't know her, I just knew of her.

21 Q Just knew of her?

22 A Yes, sir.

23 Q Had you ever seen her?

24 A Yes, sir.

25 Q So you go to their house?

1 A Yes, sir.

2 Q You had gotten some missed calls from Sam who
3 wanted to buy some shoes?

4 A Yes, sir.

5 Q Did you call Sam back to let him know you were
6 coming by?

7 A No, sir.

8 Q Why didn't you do that?

9 A Because I didn't have the phone.

10 Q Okay. Did Jonta call him to let him know you
11 all were coming by?

12 A No, sir.

13 Q So you show up, who's hanging out in the yard
14 when you get there?

15 A Andrew, Stretch, Carlos, Terrence, and that
16 was all that I saw outside. Another guy I don't know
17 the name and faces like that.

18 Q Okay. So you get out, everybody is shaking
19 hands. Where was Brandon Parker? Do you know where
20 he was in the driveway?

21 A No, sir.

22 Q You have no idea?

23 A No, sir.

24 Q Okay. And you are riding in the passenger
25 seat; am I correct?

1 A Driver's seat.

2 Q You are in the driver's seat?

3 A Yes, sir.

4 Q You hop out?

5 A Yes, sir.

6 Q Did you and Jonta get out at the same time?

7 A No, he got out before me.

8 Q And you had a cane?

9 A Yes, sir.

10 Q Just describe the cane to me a little bit.

11 A It was like a cream color wood grain, long,
12 with a eagle top head.

13 Q All right. I'm going to show you what already
14 is in evidence as State's 5. This is what we have,
15 this is what's left.

16 A Yes, sir.

17 Q Does this look like the cane that you had that
18 night?

19 A Yes, sir.

20 Q At least part of it. It's broken obviously?

21 A Yes, sir.

22 Q But this is basically it. Is this more toward
23 the bottom end of it?

24 A That's the bottom end of it.

25 Q Did the top have a handle on it?

1 A Yes, sir.

2 Q Okay.

3 A It was an eagle head.

4 Q It was what?

5 A An eagle head.

6 Q An eagle head, okay.

7 So you get out with your cane?

8 A Yes, sir.

9 Q And you see your brother talking to some
10 people?

11 A Yes, sir.

12 Q Who was he talking to?

13 A He was talking to Carlos.

14 Q Talking to Carlos?

15 A Yes, sir.

16 Q And what did Carlos want?

17 A I was very unaware. I know what they was
18 probably talking about.

19 Q You were unaware?

20 A Yes, sir.

21 Q But you know what they were talking about?

22 A Yes, sir.

23 Q What were they talking about?

24 A Some shoes.

25 Q Were they talking about rims at all?

1 A Yes, sir.

2 Q Did Carlos take a look at any shoes?

3 A Yes, sir, he walked towards the car.

4 Q He did walk towards the car?

5 A Yes, sir.

6 Q Did you hear anybody say anything to Jonta
7 while they were there while this was going on?

8 A No, sir.

9 Q You didn't hear anybody say anything?

10 A No, sir.

11 Q Okay. You've kind of glanced over, you
12 breezed over a little bit about the first fight that
13 happened?

14 A Yes, sir.

15 Q How did the two come together? How did Jonta
16 and Brandon actually come together and start
17 fighting?

18 A He came from around the car and swung at him.

19 Q Did he connect on that hit?

20 A Yes, sir, in the back of the head.

21 Q He connected in the back of the head and hit
22 who?

23 A Jonta.

24 Q All right and who did this?

25 A Brandon.

1 Q Did you see this actually happen?

2 A Yes, sir.

3 Q All right. And what you kind of described in
4 your direct testimony was that after that it kind of
5 seemed like a free-for-all, everybody kind of got
6 involved.

7 A Yes, sir.

8 Q Tell me again who got involved in this first
9 fight?

10 A Stretch.

11 Q Stretch.

12 A Terrence.

13 Q Terrence.

14 A And Andrew.

15 Q And Andrew.

16 A Yes, sir.

17 Q And all three of these guys, were they -- when
18 you say in a free-for-all or all in it together, were
19 they all punching Jonta?

20 A I couldn't tell, it was dark. I know everyone
21 was like running towards them.

22 Q Okay.

23 A I couldn't tell if they was trying to break it
24 up or if whether they was actually trying to fight
25 him.

1 Q Could you see arms moving?

2 A Yes, sir.

3 Q Could you see bodies locked up together?

4 A Yes, sir. Everybody was trying to pull them
5 apart.

6 Q How far away were you?

7 A I would say about six, seven yards.

8 Q Same distance you kind of showed us last time?

9 A Yes, sir.

10 Q Is this accurate?

11 A Yes, sir.

12 Q As to where you were when you were watching
13 the first fight?

14 A Yes, sir.

15 Q This is the first first now. This is the
16 first fight?

17 A Yes, sir.

18 Q So Terrence, Brandon and Stretch all got
19 involved in this first fight?

20 A Yes, sir.

21 Q Okay. And they're all attacking your brother?

22 A Yes, sir.

23 Q And how many brothers do you have?

24 A Two.

25 Q Two brothers. How about how many sisters do

1 you have?

2 A Zero.

3 Q Zero. You love your older brother?

4 A Yes, sir.

5 Q I'm going to take that from you. Thank you.
6 What did you think about these three guys all
7 ganging on him like that?

8 A I can't say. I don't know.

9 Q You don't know?

10 A No, sir.

11 Q I mean life is about chances, you already told
12 us that, it's 50/50 somebody is getting out, somebody
13 is not getting out. This is your blood?

14 A Yes, sir.

15 Q This is your older brother who you've looked
16 up to, lived in the same house with your entire life?

17 A Yes, sir.

18 Q You got a guy that you've never even seen
19 before punching him in the back of the head out of
20 nowhere?

21 A Yes, sir.

22 Q What did you think?

23 A Help.

24 Q I would be mad, that's me. I would be very
25 mad. I would be very angry. I've got one brother

1 and I would go after him.

2 Now tell me about you, what did you think?

3 A Get him help, break it up or something.

4 Q You did what now?

5 A Get in there help to break it up.

6 Q Get in to help and break it up a little bit?

7 A Yes, sir.

8 Q You've already walked out of the car with your
9 cane?

10 A Yes, sir.

11 Q Did you use your cane at all?

12 A No, sir.

13 Q I mean obviously you are taking on three guys
14 now?

15 A Yes, sir.

16 Q And your brother has one arm, there is a
17 little bit of disadvantage there, right?

18 A Yes, sir.

19 Q You need to use anything you can to kind of
20 break this thing up because I don't see how you can
21 fight two guys alone either. So did you use your
22 cane at all?

23 A No, sir.

24 Q You didn't use it?

25 A No, sir.

1 Q Tell me, I want you to use this pointer, tell
2 me kind of where this first fight happened?

3 You want me to give it back to you?

4 A Yes, sir.

5 Q Okay. Tell me where it happens?

6 A Right there. (Witness indicating.)

7 Q Right here?

8 A Yes, sir.

9 Q And you were where?

10 A Right here. (Witness indicating.)

11 Q You're right here. First fight is down here?

12 A Yes, sir.

13 Q And you hobble all the way up here?

14 A No, actually I hobbled down. I was -- I was
15 up here, they was down here. (Witness indicating.)

16 Q You were where?

17 A I was up here and they were down here.
18 (Witness indicating.)

19 A Okay. But you had already gotten out of the
20 car and hobbled up here with out the cane?

21 A Yes, sir.

22 Q And you were going to come back down here, you
23 see the fight going on?

24 A Yes, sir.

25 Q What did you think about Terrence Crawford?

1 A He was a cool guy.

2 Q He was a cool guy?

3 what did you think about Sam Crawford?

4 A Same thing, cool.

5 Q How about Stretch?

6 A We never really hang out like that, so as far
7 as I can say he was straight.

8 Q Okay. Did you have any problems with him?

9 A Never.

10 Q Did you have any reason to believe when you
11 pulled up in this yard a fight would happen?

12 A No, sir.

13 Q I mean do you think these are shady dudes?

14 A Now, yeah.

15 Q Huh?

16 A Back then, no. But now, yeah.

17 Q But now you do but back then you didn't?

18 A No, sir.

19 Q How did your cane get broken that night?

20 A I don't know, sir,

21 Q You don't know?

22 A No, sir.

23 Q Well it seems like pretty sturdy wood, pretty
24 solid wood. How did it break?

25 A I don't know.

1 Q You don't know? Did anybody take that cane
2 from you during the first fight?

3 A No, sir, I dropped it.

4 Q You dropped it?

5 A Yes, sir.

6 Q You were the only one who kind of had his
7 hands on it besides it being on the ground?

8 A Yes, sir.

9 Q But you don't no how it was broken?

10 A No, sir.

11 Q Did a car run over it?

12 A No, sir.

13 Q Did somebody step on it?

14 A Not that I'm aware of.

15 Q Just broke?

16 A Yes, sir.

17 Q Okay. So you come to the aid of your brother?

18 A Yes, sir.

19 Q And you are helping pull him away from him
20 basically?

21 A Yes, sir.

22 Q How is your brother doing in the middle of all
23 this, is he holding his own?

24 A Yes, sir.

25 Q Even with one arm he is holding his own?

1 A Yes, sir.

2 Q How does he get by with the one arm. He's
3 only had one for a long time?

4 A Yes, sir.

5 Q So he's learned to adjust to it?

6 A Yes, sir.

7 Q And he can get by okay with it?

8 A Yes, sir.

9 Q Obviously he plays basketball with it?

10 A Yes, sir.

11 Q He can hold his own against three guys?

12 A Yes, sir.

13 Q So he is doing all right. Did you see Brandon
14 Parker get hurt in any way in this first fight?

15 A No, sir.

16 Q You did not?

17 A No, sir.

18 Q Then when you also rolled up here, did you see
19 anybody have a cane on them at all?

20 A No, sir.

21 Q Anybody have a knife on them?

22 A Not that I seen.

23 Q How about a gun?

24 A No, sir.

25 Q Okay. So no other weapons, this was just I

1 guess what I call an old-fashioned fistfight?

2 A Yes, sir.

3 Q Okay. So you are watching this fistfight and
4 it eventually breaks up?

5 A Yes, sir.

6 Q And you didn't see Brandon Parker get any kind
7 of injury?

8 A No, sir.

9 Q Ones you have I guess gotten your brother away
10 a little bit, you pull on him? I mean how did you
11 get him out of there?

12 A After they separated, we all walked off to the
13 car.

14 Q So like that the fight just stopped?

15 A Yes, sir. They were still breaking them up.

16 Q Okay. So you all start walking back towards
17 your car?

18 A Yes, sir.

19 Q Is there anybody taunting or saying anything
20 at this point in time?

21 A No, sir.

22 Q No kind of issues, no kind of provocative
23 words being said?

24 A No, sir.

25 Q So it's a four-man fight, three people on your

1 brother, you are pulling him out, all the sudden
2 stops?

3 A Yes, sir.

4 Q You turned around, you walk to your car and
5 you are getting ready to leave?

6 A Yes, sir.

7 Q Are you driving at this point?

8 A No, sir.

9 Q Okay. Did Ms. Crawford come out and yell and
10 break that fight up at all?

11 A Yes, sir.

12 Q she did?

13 A Yes, sir.

14 Q So she came outside, obviously she doesn't
15 like that kind of stuff going on?

16 A Yes, sir.

17 Q She's a little bit older, she doesn't want to
18 deal with it?

19 A Yes, sir.

20 Q Where did she come and yell at everybody?

21 A She came out of the house and walked down the
22 driveway.

23 Q Okay. Point to it for me on here.

24 A She came out of the house like right here.

25 (witness indicating.) She came down the driveway

1 like right here. (Witness indicating)

2 Q And she's yelling?

3 A When she got up there she stayed behind the
4 bush.

5 Q Okay, and she's yelling and she's saying, you
6 all get out of here.

7 You get in the passenger side this time?

8 A Yes, sir.

9 Q Jonta is driving?

10 A Yes, sir.

11 Q It was flip-flopped when you got there?

12 A Yes, sir.

13 Q Okay. And you start the car?

14 A The car was already running.

15 Q Already running. And you backed out which
16 way?

17 A We backed out, we backed out this way.

18 (Witness indicating.)

19 Q You back out this way?

20 A Yes, sir.

21 Q And then you start to head which way?

22 A This way. (Witness indicating.)

23 Q Now I got to ask you this, at any point in
24 time did Jonta put the car into drive, slam on the
25 gas and run back up in this driveway at all?

1 A No, sir.

2 Q He didn't do that?

3 A No, sir.

4 Q So guys you've described as good guys, cool
5 guys.

6 A Yes, sir.

7 Q Like Terrence and Sam, Stretch, Carlos, Andrew
8 and Ms. Crawford, are they all lying to us today in
9 court, this week in court?

10 THE COURT: Be very careful with pitting.

11 A I wasn't here, sir.

12 THE COURT: Sir, be careful with pitting, Mr.
13 McCoy.

14 MR. MCCOY: I will withdrawal that, Your
15 Honor, I apologize.

16 THE COURT: The question is withdrawn.

17 Q (By Mr. McCoy) So that never happened?

18 A No, sir.

19 Q Okay. So you leave and go this way?

20 A Yes, sir.

21 Q Tell me again, I'm just a little bit confused,
22 who is down towards this end of the driveway when you
23 all are leaving?

24 A Yes, sir.

25 Q who is down there?

1 A That was Brandon charging at the car this way,
2 coming down towards the car.

3 Q When he's charging at the car, what is he
4 doing?

5 A Running.

6 Q Running how? Does he have anything in his
7 hands?

8 A No, sir.

9 Q He's just running at the car?

10 A Yes, sir.

11 Q Did he ever catch the car?

12 A No, sir.

13 Q Why is that?

14 A Because my brother pulled out.

15 Q Because you all pulled on down the street.
16 So it's a little bit of a hostile situation
17 here; am I correct in saying that?

18 A Yes, sir.

19 Q Okay. A lot of guys here?

20 A Yes, sir.

21 Q Fight one has already happened?

22 A Yes, sir.

23 Q What point in time does Jonta, or do you
24 realize from Jonta telling you, that you have left
25 your cane or he left -- or you left your cane.

1 A Yes, sir.

2 Q And he left his glasses on the scene?

3 A Yes, sir.

4 Q When do you all realize that?

5 A When we got to the stop sign.

6 Q When you got to the first stop sign?

7 A Yes, sir.

8 Q I got to ask you with your eagle cane here, I
9 mean are these things expensive?

10 A I was given that by a friend when I got out of
11 the hospital.

12 Q Okay, so you were given this cane. And we
13 have heard some testimony, were the glasses
14 eyeglasses for your brother or were they sunglasses?

15 A Eyeglasses, prescription.

16 Q Eyeglasses, prescription?

17 A Yes, sir.

18 (Whereupon, a discussion was held at the bench
19 off the record.)

20 The COURT: Madam Forelady, ladies and
21 gentlemen, we are going to take a very brief restroom
22 break. During the break, please do not discuss the
23 case and please leave your notepads in your seats.

24 (Whereupon, the jurors exit the courtroom.).

25 THE COURT: We will be at ease until the

1 defendant is done using the bathroom.

2 (Whereupon, a recess was taken.)

3 THE COURT: State ready to proceed?

4 MR. DURANT: Yes, Your Honor.

5 THE COURT: Defense ready to proceed?

6 MR. MATTSON: Ready, Your Honor.

7 THE COURT: Please bring in the jury.

8 (Whereupon, the jurors enter the courtroom.)

9 THE COURT: Ladies and gentlemen, I hope you
10 enjoyed your break, you may be seated. We will now
11 resume with the cross-examination of the witness.

12 Mr. McCoy, you may proceed.

13 MR. MCCOY: Thank you, Your Honor, may it
14 please the Court.

15 THE COURT: Yes, sir.

16 Q (By Mr. McCoy) All right, Mr. Green?

17 A Yes, sir.

18 Q Where we left off was I guess the first fight
19 had ended?

20 A Yes, sir.

21 Q Okay. You've already told me, you know, this
22 seemed like a pretty hostile environment, okay. You
23 got guys who were mad, you got guys who were angry,
24 everybody wants to fight, correct?

25 A Correct.

1 Q They seem upset at least?

2 A Yeah.

3 Q Okay. So Jonta is driving?

4 A Yes, sir.

5 Q You all are leaving?

6 A Yes, sir.

7 Q He did not pull back in this yard at all?

8 A No, sir.

9 Q You all drive this way?

10 A Yes, sir.

11 Q And you've already testified that once you get
12 to the first stop sign, you realize that cane is
13 gone, and what else is gone?

14 A The glasses.

15 Q The glasses. And you also told us before the
16 break that the cane was given to you?

17 A Yes, sir.

18 Q Is the cane that important to you?

19 A Sir?

20 Q Is the cane that important to you?

21 A Yes, sir.

22 Q Does it have big economic value to you?

23 A Yes, sir.

24 Q It does?

25 A Yes, sir.

1 Q Even though it was given to you?

2 A Yes, sir.

3 Q Got to get that cane back?

4 A Yes, sir.

5 Q Okay. Can't get another one?

6 A No, sir.

7 Q All right. Get to this stop sign?

8 A Yes, sir.

9 Q Who's driving?

10 A Jonta.

11 Q Jonta is driving. What does he say to you?

12 A He was trying to call Sam.

13 Q He was trying to call Sam?

14 A Yes, sir.

15 Q Was Sam anywhere outside during this first
16 incident?

17 A I think he was coming outside when this first
18 started.

19 Q You think or you know?

20 A I think.

21 Q Okay. You are not 100 percent sure on that?

22 A No, sir.

23 Q Okay. Pulling away?

24 A Yes, sir.

25 Q Trying to call Sam?

1 A Yes, sir.

2 Q Does he then tell you the glasses and cane are
3 gone?

4 A Yes, sir.

5 Q Or how does it go, does he say, my glasses are
6 gone?

7 A Yes, sir, and I told him I left my cane.

8 Q And you're like, oh, man, I left my cane?

9 A Yes, sir.

10 Q Okay. And you obviously -- are you wearing
11 prescription eyeglasses?

12 A No, sir. Reading glasses.

13 Q Those are just reading glasses?

14 A Yes, sir.

15 Q Are reading glasses expensive?

16 A No, sir.

17 Q Are prescription eyeglasses expensive?

18 A Yes, sir.

19 Q Do you know anything about your brother's
20 prescription eyeglasses?

21 A Yes, sir.

22 Q Does he have to have those at all times?

23 A Yes, sir.

24 Q How long has he worn those?

25 A About three years.

1 Q About three years?

2 A Or two. Yeah, about three years.

3 Q Okay. Does he wear them all the time?

4 A Yes, sir.

5 Q Does he ever wear contacts?

6 A No, sir.

7 Q Got to get this stuff back?

8 A Yes, sir.

9 Q And you also testified that Brandon is running
10 out of the driveway, correct?

11 A Correct.

12 Q How far down the street does he make it before
13 -- I guess does he stop?

14 A Yes, sir, at the top of the driveway.

15 Q Okay. So he stops at the top of the driveway?

16 A Yes, sir.

17 Q Does he actually come out in the street at all
18 after you all?

19 A No, I didn't even see. I didn't even look
20 back.

21 Q Okay. But when you come to the stop sign, you
22 don't see him anymore, do you?

23 A No, sir.

24 Q So you decide to go around the block?

25 A Yes, sir.

1 Q How long does it take you to go around that
2 block?

3 A No more than a minute.

4 Q No more than a minute?

5 A Yes, sir.

6 Q If you had to guess would you say that's
7 quarter of a mile, half a mile, a mile?

8 A I would say a little over a quarter mile,
9 about a quarter mile.

10 Q About a quarter mile?

11 A Yes, sir.

12 Q Let me ask you this, when Jonta is in the car
13 is he angry about what has just happened?

14 A No, sir.

15 Q How does his demeanor appear to you in the car
16 next to you?

17 A Shock.

18 Q In shock?

19 A Yes, sir.

20 Q Is he quiet?

21 A Yes, sir.

22 Q Is he saying, I want to go back there and
23 raise hell?

24 A No, sir.

25 Q Is he punching the dashboard?

1 A No, sir.

2 Q Is he angry?

3 A No, sir.

4 Q Or is he calm?

5 A Calm.

6 Q He is calm. How would you describe your
7 brother's general demeanor just from day-to-day being
8 around him?

9 A Calm.

10 Q Is he calm?

11 A Yes, sir.

12 Q So he was as he is day-to-day to you after you
13 had just left this house?

14 A Yes, sir.

15 Q Okay. Got to get these things back?

16 A Yes, sir.

17 Q Once you pulled back around, did Ms. Crawford
18 tell everybody to leave?

19 A Yes, sir.

20 Q Were you nervous at all pulling back into
21 ?

22 A No, sir.

23 Q Why were you not nervous at all?

24 A Did nothing wrong, sir.

25 Q I'm not saying you did anything wrong. But

1 I'm just saying you just left a hostile environment.

2 A Yes, sir.

3 Q Were you nervous going back into one?

4 A No, sir.

5 Q Why not?

6 A Didn't seem that much a big of a problem, just
7 they had a scuffle.

8 Q 50/50, right?

9 A Yes, sir.

10 Q Some get in, some get out, right?

11 A Yes, sir.

12 Q All right. We pull back in?

13 A No, sir, we stayed in the street.

14 Q Stayed in the street?

15 A Yes, sir.

16 Q Jonta is driving?

17 A Yes, sir.

18 Q Does he leave the car running this time?

19 A Yes, sir.

20 Q When you are walking back into the driveway,
21 not a whole lot of time had passed; am I correct on
22 that?

23 A Correct.

24 Q Had anybody left from Ms. Crawford telling
25 everybody to get out?

1 A Yeah, a couple people left and a couple people
2 are still in the yard.

3 Q Okay, so a couple people had left?

4 A Yes, sir.

5 Q Do you remember who was there?

6 A Yes, sir.

7 Q That was still there from the first go-round?

8 A Yes, sir. Andrew, Stretch and Carlos was
9 still there.

10 Q Andrew, Stretch, Carlos.

11 A Terrence.

12 Q Terrence?

13 A Yes, sir.

14 Q Was Sam outside?

15 A Yes, sir.

16 Q So that's five. Brandon Parker?

17 A I thought he left, they said he left.

18 Q Who said he left?

19 A One of them yelled he left, when he asked Ms.
20 Crawford if he had already had left.

21 Q Somebody yelled out to Mr. Crawford and says
22 what?

23 A He already left.

24 Q He already left.

25 A Yes, sir.

1 Q Who were they implying on that?

2 A Brandon.

3 Q How do you know that?

4 A That he asked if Brandon had already left the
5 yard because he was just the one that got in the
6 scuffle. He apologize to her and asked if we could
7 get our belongings.

8 Q Okay. So when he gets out of the car, do you
9 get out as well?

10 A Yes, sir.

11 Q How are you walking without your cane, are you
12 okay?

13 A Limping.

14 Q Getting along okay?

15 A Yes, I was limping, walking slow.

16 Q When you are walking a little bit slower, are
17 you moving about 100 percent, or are you about 85
18 percent?

19 A About 80.

20 Q Okay. When you head back in the yard, are you
21 coming to look for your cane?

22 A Yes, sir.

23 Q Is Jonta looking for?

24 A His glasses.

25 Q His glasses?

1 A Yes, sir.

2 Q So you all are kind of I guess just going
3 after your own belonging, is that correct or fair to
4 say?

5 A Yes, sir.

6 Q Where did you start looking for your cane?
7 Point it out to me.

8 A Right here where everything occurred.

9 (Witness indicating.)

10 Q Okay. You started looking right in here?

11 A Yes, sir.

12 Q And you already told me a minute ago that you
13 used your cane get up there?

14 A Yes, sir.

15 Q But at some point?

16 A I dropped it.

17 Q You dropped it?

18 A Yes, sir.

19 Q You also told us a little bit earlier that
20 nobody else picked that cane up?

21 A No, sir.

22 Q And basically nobody else used the cane?

23 A Not that I'm aware of.

24 Q But you don't know how it got broken?

25 A Yes, sir.

1 Q So you started looking in this general area,
2 am I correct?

3 A Yes, sir.

4 Q Where is Jonta?

5 A He is over here looking for his glasses.

6 Q Okay. Is he walking behind you or in front of
7 you?

8 A Behind me.

9 Q Behind you. You are going first?

10 A Yes, sir.

11 Q Is Ms. Crawford in the yard?

12 A Yes, sir.

13 Q Where is she?

14 A She was right behind me. She was helping us
15 look.

16 Q She was helping you all look?

17 A Yes, sir.

18 Q You also testified you heard your brother say,
19 listen, Ms. Crawford, I'm sorry about what happened
20 earlier. Is that correct?

21 A Correct.

22 Q Did you hear Jonta say anything else that
23 would be a provocative word or a provocative sentence
24 at all?

25 A No, sir. Because he apologized before we

1 stepped out of the car.

2 Q He apologized here?

3 A Before we stepped out of the car. We never
4 pulled back into the driveway, we was right where
5 that circle is right there.

6 Q So what did he do, did he yell at Ms.
7 Crawford?

8 A Yes, sir, because she was still in the yard.

9 Q Yelled what? What did he yell?

10 A She was yelling -- Ms. Crawford, I guess he
11 recognized her outside. And he told her that we was
12 the one in the incident because she was still outside
13 because she wanted everybody out of her yard.

14 Q And he yelled to her I'm sorry?

15 A Yes, sir. It was me who just got in a
16 predicament in your yard. Can we please come find
17 our stuff.

18 Q Okay. So you walk back?

19 A Yes, sir.

20 Q Is Sam Crawford anywhere?

21 A Yes, sir. He was I would say about right
22 here. He was coming off the steps right here.

23 (witness indicating.)

24 Q So in this area is it fair to say that it's
25 Mildred Crawford, Sam?

1 A Uh-hum.

2 Q You walking up?

3 A Uh-hum.

4 Q Jonta walking up behind you?

5 A Uh-hum.

6 Q Where is stretch?

7 A I don't know.

8 Q You don't know. Where is Carlos?

9 A He was right here by the car.

10 Q He is down here?

11 A Yeah.

12 Q Okay. Where is Terrence?

13 A I'm not sure where he was.

14 Q Not sure where he is. And where is Brandon?

15 Or do you see Brandon?

16 A Still don't see him.

17 Q Still don't see him, okay. Did you see Sam
18 hand Jonta his glasses?

19 A No, sir.

20 Q Did you know or have any knowledge that Jonta
21 actually got the glasses back?

22 A Yes, sir.

23 Q How did you know that?

24 A Because he had them, it was broken.

25 Q He had them?

1 A Yes, sir.

2 Q When did he get those glasses?

3 A I'm not sure.

4 Q Not sure. Was it before or after you all kind
5 of get in this area and started looking?

6 A I'm not sure.

7 Q You are not sure?

8 A No, sir.

9 Q But you didn't see Sam give him the glasses,
10 just all the sudden he had them?

11 A Yes, sir.

12 Q Okay. Do you actually know where the cane was
13 found?

14 A No, sir.

15 Q By the police?

16 A No, sir.

17 Q And do you know what happened to the other
18 half of the cane?

19 A No, sir.

20 Q Did you take the other half with you when you
21 left the first time?

22 A Oh, yes, sir. Ms. Crawford passed it to me.

23 Q Ms. Crawford passed you --

24 A The top part.

25 Q The top part right when you all came to her?

1 A Yes, sir. I told her about my cane.

2 Q Once you got the top part of your cane, did
3 you turn back around and head towards the car?

4 A Yes, sir.

5 Q Okay. And once Jonta had gotten his glasses,
6 did he turn around and start heading towards the car?

7 A I'm not sure.

8 Q You are not sure?

9 Let me show you something. I'm going to show
10 you what is already in evidence as State's No. 2.

11 A Yes, sir.

12 Q Take a look at that for me. Hold that.
13 Do you know what that is?

14 A Yes, sir.

15 Q What is the?

16 A It's a .45 automatic.

17 Q It's a .45 automatic? How can you tell by
18 just looking at it?

19 A Because revolvers don't drop shells, this
20 does.

21 Q A revolver doesn't drop shells and this does?

22 A Yes, sir.

23 Q How do you know it's a .45?

24 A I know pretty much a little bit about guns.

25 Q You do?

1 A Yes, sir.

2 Q You know about guns from your interactions
3 with shootings?

4 A No, sir.

5 Q How do you know about guns?

6 A You got TV. I watch the deer hunting channel.

7 Q okay. Have you ever seen this gun before?

8 A Once.

9 Q Once. Where did you see -- this particular
10 gun?

11 A Yes, sir.

12 Q Where did you see it?

13 A I don't remember exactly where I saw it, but I
14 saw it before.

15 Q Would you say that you've seen this gun before
16 September 19, 2008?

17 A No, sir.

18 Q Or after September 19th, 2008?

19 A Yeah, after.

20 Q Sometime after?

21 A Yes, sir.

22 Q okay. Did you see it in Jonta's car this
23 night?

24 A No, sir.

25 Q So the glasses have been returned?

1 A Okay, yes, sir.

2 Q Top half of the cane has been returned?

3 A Yes, sir.

4 Q You turn back around and head back this way?

5 A Yes, sir.

6 Q You don't know what Jonta did; is that
7 correct?

8 A Correct.

9 Q At what point in time did you see Brandon
10 Parker again?

11 A After I hear the bang.

12 Q After you hear the bang?

13 A Yes, sir.

14 Q Did you tell your brother after he had gotten
15 his glasses, come on, man, let's go, let's go, we got
16 our stuff, let's go. Did you tell him that?

17 A No, sir.

18 Q Why not?

19 A Because I didn't know he had his glasses yet.

20 Q You didn't know he had his glasses?

21 A No, sir.

22 Q So you turned your back, you are walking back
23 towards the car?

24 A Yes, sir.

25 Q Are you at all concerned for your brother at

1 this point in time?

2 A No, sir. Because they said he was already
3 gone and they helped us find our belongings.

4 Q I know but I'm just saying are you concern
5 because he's already been in a fight with three guys
6 pounding on him?

7 A Uh-hum.

8 Q You had to pull him out, remember?

9 A Yes, sir.

10 Q You've turned your back now and head towards
11 the car and you are not concerned for your brother
12 but these guys may still be here?

13 A Well Terrence and Sam lived there so you
14 expect them to be there.

15 Q Excuse me?

16 A Terrence Crawford and Sam lived there so I
17 expected them to be there.

18 Q Terrence and Sam live there so you expected
19 them to be there.

20 A Yeah.

21 Q But you already told me you saw the other
22 fellows there too?

23 A Yeah.

24 Q Same guys that fought him the first time?

25 A Yeah.

1 Q But are you worried about him?

2 A No, sir.

3 Q Why not?

4 A Because there was nothing intentional like he
5 actually wanted to fight them or they wanted to fight
6 again.

7 Q I don't understand that. Say that to me
8 again.

9 A Meaning if we had stepped out of the car and
10 they wanted to attack him again, they could have
11 attacked him again. But they helped us find our
12 belongings.

13 Q Okay. So you think it's calmed down now?

14 A Yes, sir.

15 Q You turn back towards the car?

16 A Yes, sir.

17 Q Still running?

18 A Yes, sir.

19 Q Where do you get, passenger seat or driver's
20 seat.

21 A Passenger seat.

22 Q Passenger seat?

23 A Yes, sir.

24 Q And what point in time, are you in the car or
25 are you out of the car when you hear the bang?

1 A I was out of the car, in the car door.

2 Q You were in the car door?

3 A Yes, sir.

4 Q The door is open?

5 A Yes, sir.

6 Q You standing there?

7 A Yes, sir.

8 Q You facing where the bang came from?

9 A No, sir. My back was turned, when it banged I
10 turned around.

11 Q Your back is turned when the bang happens, you
12 hear it and you turn around?

13 A Yes, sir.

14 Q When you turn around, what are you thinking?

15 A Someone got shot.

16 Q What is the first initial thought in your
17 mind?

18 A Somebody had a gun.

19 Q Somebody had a gun?

20 A Yes, sir.

21 Q Where is your brother?

22 A Still in the yard.

23 Q Do you see him?

24 A No, sir.

25 Q You don't see him?

1 A No, sir.

2 Q You've heard a bang, you're first initial
3 thought is somebody got shot, and you don't see your
4 brother, you are one of two other brothers?

5 A Yes, sir.

6 Q Are you concerned?

7 A Yes, sir.

8 Q Are you scared?

9 A Yes, sir.

10 Q Did you go look for him?

11 A Yeah, I started walking back towards the yard.

12 Q You start walking back towards the yard?

13 A Yes, sir.

14 Q Where is Ms. Crawford?

15 A She was over here by the bushes.

16 Q Where is Sam?

17 A I don't know.

18 Q Where is Terrence?

19 A I'm not sure.

20 Q Where is Brandon?

21 A He was crouched over about right here.

22 Q So you know where Brandon is now?

23 A Yes, sir.

24 Q Where is your brother once you walk back up in
25 the yard?

1 A Standing by him.

2 Q Standing by him?

3 A Yes, sir..

4 Q Where is Carlos?

5 A I'm not certain.

6 Q How about Carlton?

7 A Who?

8 Q Carlton Stretch.

9 A Not sure.

10 Q Andrew Rivers?

11 A Not sure.

12 Q Do you see Brandon Parker's body on the
13 ground?

14 A Yes, sir.

15 Q Do you see blood?

16 A Yes, sir.

17 Q Are you relieved to know that the gunshot was
18 not your brother?

19 A Sir?

20 Q Are you relieved to know that the gunshot, the
21 one shot you heard, was not your brother?

22 A No, sir.

23 Q You were not relieved?

24 A No, sir.

25 Q You don't care?

1 A Yeah.

2 Q 50/50?

3 A Yes.

4 Q Some get out, some don't?

5 A Yes.

6 Q Gunshots happen. How does it come to pass, or
7 how does it come that you actually get back in the
8 passenger seat and leave?

9 A Actually I got in car and drove off the second
10 time.

11 Q I know, but I'm saying how does that happen?
12 You said you already walked up here?

13 A Yes, sir.

14 Q But you say there comes a point in time you
15 hear the shot, see Brandon Parker dead on the ground,
16 know it's not your brother, how does it come? Do you
17 say, did you just get in the car and leave?

18 A Yes. He told me to leave because he was going
19 to call the police.

20 Q Who told you to leave?

21 A My brother.

22 Q You've just witnessed somebody get murdered?

23 A Yes, sir.

24 Q And you were a witness to this?

25 A Yes, sir.

1 Q And your brother tells you to leave?

2 A Yes, sir.

3 Q Do you think that's okay?

4 A Don't know, sir.

5 Q Don't know? Somebody has lost their life, and
6 you think it's okay to pull away and leave?

7 A Don't know, sir.

8 Q You don't know?

9 Obviously you do the right things, you go to
10 church?

11 A Yes, sir.

12 Q You are active in the church, you are active
13 in the choir. Your brother is active in the church.
14 You take people to their medical appointments, you
15 are a good person in the community.

16 You are going to leave after somebody has just
17 lost their life, their life is bleeding out of them
18 in the driveway?

19 A Yes, sir.

20 Q You testified on direct examination that your
21 brother handed you the phone?

22 A No.

23 Q You didn't say that?

24 A No, sir.

25 Q Did he hand you anything?

1 A No, sir.

2 Q He didn't hand you anything?

3 A No, sir.

4 Q I must have just misunderstood that.

5 where were you and how close to you, how close
6 were you to him when he said, go ahead and leave?

7 A Couple of feet away. I would say about four
8 to five feet away.

9 Q What did you do when you left there that
10 night?

11 A Called my brother. I called Mr. Mattson but
12 he didn't pick up the phone.

13 Q Did you tell anybody about what you'd seen?

14 A No, sir.

15 Q Did you ever talk to your brother that night?

16 A Yes, sir.

17 Q What did he say to you?

18 A He was coming to get me.

19 Q Did you learn from him about who had been
20 murdered?

21 A Yes, sir.

22 MR. MATTSON: Objection, that's --

23 THE COURT: Basis of the objection?

24 MR. MATTSON: Whether he was murdered or not
25 is for the jury's determination.

1 THE COURT: No speaking objections.

2 MR. MCCOY: Your Honor, I will rephrase and
3 say kill if you'd like me to.

4 THE COURT: Rephrase.

5 Q (By Mr. McCoy) Did you learn from your
6 brother that night that somebody had lost their life?

7 A No, sir.

8 Q You all didn't talk about it?

9 A No, sir.

10 Q You are telling me, and you are telling this
11 jury, that you didn't even talk to your brother about
12 the incident?

13 A No, sir.

14 Q And somebody had just been killed?

15 A Yes, sir.

16 Q Why not? Seems like that would be a hot topic.
17 of conversation?

18 A No, sir.

19 Q It's not?

20 A No, sir.

21 Q Everyday in the life?

22 A No, sir.

23 Q So where do you go that night?

24 A Went home.

25 Q Went home. Did you think about what you had

1 witnessed that night?

2 A Yes, sir.

3 Q Did you think about what you had seen?

4 A Yes, sir.

5 Q You didn't talk to anybody about it?

6 A Just a lawyer.

7 Q Just the lawyer?

8 A Yes, sir.

9 Q Did you talk to the lawyer that night?

10 A Yes, sir.

11 Q You talked to him that night?

12 A No, sir, I talked to him the next day. I
13 called him that night.

14 Q Do you know when your brother turned himself
15 in?

16 A Yes, sir.

17 Q When did he do that?

18 A That next morning.

19 Q Who did he turn himself in with?

20 A The lawyer.

21 Q Where did he go, do you know?

22 A To his office.

23 Q Did they go to the police station after that?

24 A I don't know, I wasn't with them.

25 Q Okay. So you had a night to think about it,

1 you had a night to sleep on what you had seen, and
2 what's happened. Your brother turned himself in.

3 Did you think at this point, or did you at
4 this point talk to the police and just tell them what
5 you had seen?

6 A No, sir.

7 Q Why didn't you do it the next day?

8 A Can't answer that, sir, I don't know.

9 Q You are a witness to a murder or --

10 THE COURT: Be careful

11 Q (By Mr. McCoy) Somebody lost their life.

12 THE COURT: Sustained.

13 Q (By Mr. McCoy) You are a witness to a killing?

14 A Yes, sir.

15 Q You didn't want to talk to the police after
16 that?

17 A No, sir.

18 Q Do you know when the gun was turned over to
19 the police?

20 A Yes, sir.

21 Q When was that?

22 A I don't know the exact date.

23 Q Would you say it was a couple days maybe after
24 your brother turned himself in?

25 A Probably so, yes, sir.

1 Q And you are telling the jury and telling me
2 today that you saw this same gun in between the
3 shooting and when it was turned in?

4 A No, sir.

5 Q When did you see it?

6 A I seen it when they turned it in.

7 Q Seen it when they turned it in?

8 A Yes, sir.

9 Q Did you turn it in?

10 A No, sir.

11 Q Did you talk to the police when the gun was
12 turned in?

13 A No, sir.

14 Q Why didn't you do that?

15 A I don't know, sir.

16 MR. MCCOY: Judge, may I have a moment?

17 THE COURT: Uh-hum.

18 MR. MCCOY: Mr. Green, I appreciate you
19 answering my questions. Thank you.

20 THE WITNESS: Yes, sir.

21 THE COURT: Any redirect?

22 REDIRECT EXAMINATION

23 BY MR. MATTSON:

24 Q Let me ask you a question, Quantas.

25 A Yes, sir.

1 Q You ever been involved in anything like this
2 before in your life?

3 A No, sir.

4 Q Did you know what to do?

5 A No, sir.

6 Q Did you feel any emotions for Brandon Parker?

7 A Yes, sir.

8 Q Did you feel emotions for your brother?

9 A Yes, sir.

10 Q And you heard your brother ask someone before
11 he got out of the car the second time if he, meaning
12 Brandon, was still there?

13 A Yes, sir.

14 Q And did he receive an answer?

15 A Someone yelled out he's gone.

16 Q He's gone. And when your brother got out of
17 the car, was getting out of the car, did you see
18 Brandon at any time before he and your brother were
19 scuffling?

20 A No, sir.

21 Q Did you recognize the voice of the person who
22 said he's gone?

23 A No, sir.

24 Q Male or female voice?

25 A Male.

1 Q How old are you now?

2 A 22.

3 Q How old were you when this happened?

4 A 20.

5 Q Had you been around shooting and killings
6 before?

7 A No, sir.

8 Q Did the police come to you and ask you to make
9 a statement?

10 A No, sir.

11 Q Were you aware that other people had
12 identified you as having been with your brother at
13 that scene?

14 A No, sir.

15 Q But you knew some of the people who were at
16 the scene?

17 A Yes, sir.

18 Q Would you have talked to the police had they
19 asked you questions?

20 A Yes, sir.

21 Q Were you hiding from them in any way?

22 A No, sir.

23 Q Where were living just before the shooting?

24 A At my aunt's house.

25 Q Where were you living after the shooting?

1 A still at my aunt's house.

2 Q Do you still have the same automobile?

3 A No, sir.

4 Q Did you -- what happened to that car?

5 A Sold it.

6 Q How long?

7 A I would say about eight months after.

8 Q So what, until eight months later you sold the
9 car?

10 A Yes, sir.

11 Q You continued to use it until you sold it?

12 A Yes, sir.

13 Q You didn't go into hiding?

14 A No, sir.

15 MR. MATTSON: I have no further questions.

16 THE COURT: Any objection to the witness being
17 excused from the State?

18 MR. MCCOY: No, ma'am.

19 THE COURT: From the defense?

20 MR. MATTSON: No, ma'am

21 THE COURT: Sir, you are excused.

22 You may proceed, Mr. Mattson.

23 MR. MATTSON: Your Honor, I expect the next
24 witness is going to be --

25 THE COURT: You may call your next witness.

1 MR. MATTSON: -- couple hours. Okay.

2 Call Jonta Green.

3 MR. JONTA EMBRAY ZOMANE GREEN,
4 after having first been duly sworn to state the
5 truth, the whole truth and nothing but the truth,
6 testified on his oath as follows:

7 THE COURT: You may proceed.

8 DIRECT EXAMINATION

9 BY MR. MATTSON:

10 Q How old are you, Mr. Green?

11 A I'm 26 years old now.

12 Q And what is your educational background?

13 A I made it to the 12th grade. But after some
14 years seeing that I needed to start going to college
15 or do something with myself, I started to get my GED.

16 Q When did you start working on your GED?

17 A Actually like a couple of months, we started
18 trying to get paperwork in a couple of months before
19 this happened.

20 Q You were in classes for your GED?

21 A Yeah, currently in classes when this happened.

22 Q Where were you in classes?

23 A West Ashley High.

24 Q Okay. Are you familiar with the area over
25 there by West Ashley?

1 A Yes. I had my accident there in that same
2 neighborhood.

3 Q What accident, your arm?

4 A Yeah, the electricity accident.

5 Q Okay. How old were you when you lived there?

6 A Actually I didn't live there at the time, I
7 used to live downtown. But I normally came to my
8 aunt's house for the summer, I have another cousin my
9 age with me so.

10 Q So you're familiar with the neighborhood?

11 A Yes.

12 Q How long did you know Sam and Terrence
13 Crawford?

14 A Actually probably like about ten years or
15 something. You know, I known them from around. We
16 all used to do hang out at the same park.

17 Q Where is that?

18 A Forest Park.

19 Q Playground Road?

20 A Yes. Play basketball and just jump in the
21 pool and stuff.

22 Q What about Andrew Rivers?

23 A Same thing. As a matter of fact he lived
24 right across from the park.

25 Q He lived across from the park?

1 A Yes.

2 Q How far is the park from the Crawford's house?

3 A Actually down the street and like through
4 whitmarsh, around the corner. I would say about a
5 minute, you know.

6 Q Okay. What about Carlos Chisholm?

7 A He lived on Playground Road too, but he lived
8 about a minute from Andrew's house.

9 Q Okay. And what about Carlton Stretch?

10 A I didn't really know where he lived at, but I
11 known him from being in the park and being around
12 everybody at the gas station and stuff.

13 Q Okay. Did Carlton ever go around to your
14 house?

15 A Yes.

16 Q With your mother?

17 A No, not with my mother. He knew my family
18 too. We all from the same neighborhood.

19 Q Okay. So you all been in everybody's house?

20 A Yeah, yeah. Basically everybody stopped in
21 however's yard when they see people, stop or
22 whatever.

23 Q Okay. So these were all people you'd grown up
24 with?

25 A Basically, yes, sir.

1 Q Now you were talking about your accident. Was
2 that the accident concerning your arm?

3 A Yes, sir.

4 Q What happened?

5 A Well, my -- all our friends and stuff used to
6 play in the tree, you know, a Magnolia tree we used
7 to play in. My cousin, they just had left, said they
8 was coming back wherever they went at. And me and my
9 brother stayed behind and we were racing up the tree.
10 And I looked down, looked up and I'm in the hospital.

11 Q Happened that quick?

12 A Yeah.

13 Q Did you ever find out what caused it?

14 A They told me that I touched the power line.

15 Q Okay, that was in the tree?

16 A Yeah.

17 Q Okay. As a result of that accident, is that
18 how you lost your arm?

19 A Yes, sir.

20 Q How much trouble is it to take off your arm?

21 A I can show you right now.

22 Q Would you mind showing us?

23 A (Whereupon, the witness complies.)

24 Q How does this arm work? Maybe I should have
25 asked you that before you pulled it off so quick.

1 A Basically there's a harness. And you do the
2 motions, you know what I am saying, like if you pull
3 your weight or whatever, it pulls the arm open. This
4 adjusts the elbow, but it used to always pop on me
5 and slap me with it so I popped it off.

6 Q So your arm used to hit you?

7 A Yeah.

8 Q Okay. What can you do that with that arm,
9 Jonta?

10 A I mean I can tie my shoes, really just for to
11 balance me out. I don't really use it too much, but
12 like to tie my shoes or something.

13 Q Okay. And let me see your arm that it goes on
14 at to size as compared to the others.

15 A (Whereupon, the witness complies.)

16 Q Do you have much of a range of motion with
17 this prosthetic device?

18 A You know, try to push it, that's just like
19 that.

20 Q Can you comb your hair with it?

21 A No.

22 Q Scratch your eyes with it?

23 A No.

24 Q Brush your teeth with it?

25 A Uh-uh. I mean no.

1 Q Does it have any strength in it?

2 A Like that.

3 Q Very little muscle there in that stump?

4 A Yes.

5 Q could you hit somebody with it?

6 A I mean they'd have to be real, real close.

7 Are you talking about like this?

8 I mean, could you hit with this arm?

9 Q Yeah, with the artificial arm.

10 A I mean I can demonstrate.

11 Q would it have any power behind it?

12 A I don't think so. Not enough to do nothing.

13 Q Okay. How long have you been like that?

14 A Since I was 11. I was in a coma for three
15 months. I got out in like a year and a half. So
16 basically -- as a matter of fact I got out at nine
17 months because I had been able to go on back to
18 middle school. I went to sixth grade half a year.

19 Q Okay. You said you were in a coma?

20 A Yeah.

21 Q For how long?

22 A Three months.

23 Q How long was your total hospital stay?

24 A It wasn't that long because I had been able to
25 go back to school. So I would say probably about a

1 year.

2 Q How long -- did anybody try to teach you how
3 to use that arm?

4 A Yeah, physical therapist.

5 Q How long did you go there?

6 A It was long ago, and dealing with me trying to
7 adjust to have one arm, I wasn't really paying
8 attention. I didn't like the fact of being the way
9 that I was.

10 Q Okay. You can go ahead if you want to and put
11 the arm back on or leave it off.

12 A Okay.

13 Q How long did you know Brandon Parker?

14 A I would say like roughly probably about four
15 to five years. Like I didn't really used to, you
16 know, be with him, like, but I known him from the
17 park, you know, seeing him at the store, you know,
18 that was it. It wasn't like, oh, we ride around
19 together type thing.

20 Q Okay. Didn't hang together?

21 A No. Other than become, you know, somebody to
22 wherever we at, or I came to wherever he's at.

23 Q You all knew each other?

24 A Yeah.

25 Q Tell me about your church involvement.

1 A Well basically dealing with, you know, me
2 talking about I was already in church before my
3 accident and stuff. But, you know, I didn't feel
4 that I wanted to be, you know, a bad person.

5 So I started keep going to church, you know
6 what I am saying, thanking God that I'm still here
7 and that he had blessed me so much with funds and
8 stuff. Like when I started dating Ashland, you know,
9 her grandmother was elderly. And she was the first
10 person I actually started doing stuff for.

11 Q Okay.

12 A She started going to church and I started
13 taking her. So instead of me dropping her off I
14 stayed and started to get myself involved in the
15 church.

16 Q Women will do that to you?

17 A Yeah. I don't like dropping people off and
18 having to come back and pick them up.

19 Q Okay. How did you get involved in the youth
20 with the church?

21 A Well most of them -- well the elders were
22 saying recruit some kids so that we can have our
23 children's choir. And I have about six or seven
24 little cousins. And then other people started
25 bringing their kids in and that's how we got started

1 like that.

2 Q So you were -- you and your family were pretty
3 instrumental in getting the youth program going in
4 church?

5 A I mean I know I had some family members who
6 were young enough, so I just took it upon myself and
7 brought them in.

8 Q Okay. What about helping other people in
9 church?

10 A That's my nature, I just like to do stuff.

11 Q You just like to do stuff?

12 A Yeah. There is no like try to do it, I just
13 got to do it, you know.

14 Q Okay. So you knew everyone who was at that
15 gathering?

16 A September 19th.

17 Q On September 19th, yes?

18 A Yes.

19 Q Some of them you knew better than others?

20 A Yes.

21 Q Your brother had talked about his situation.
22 I'm talking about Quantas.

23 A Uh-hum.

24 Q What was his physical condition as you know it
25 on the 19th of September?

1 A Well like he's my best friend. And I wanted
2 to, you know, pick him up and bring him outside
3 because he already been sitting in the house and the
4 hospital and he was depressed, you know.

5 And I tell him, hey, you know, I need to sell
6 some shoes, you want to take a ride? But he was
7 hurt, he still had his patches on, you know,
8 basically he was just going to be probably an hour or
9 two and come back home. So I was going to pick him
10 up and take him on a ride.

11 Q Okay. And so that's what you all were doing
12 that evening?

13 A Yes.

14 Q Jumping around just a little bit here.

15 A Uh-hum.

16 Q But anyway, let me show you a document, ask
17 you if you can identified what that is?

18 A That's me and I was part of the basketball
19 team I used to sponsor.

20 Q What did you do in sponsoring this basketball
21 team?

22 A Well it started by my barber, who's the head
23 coach, he was more familiar in doing that and had the
24 connections. Instead of me being on the street I was
25 doing something I could to help my health, as in

1 practicing with kids and stuff. And I love playing
2 basketball.

3 Q What did you do? What did you do to help the
4 team?

5 A Well I trained with them. I provided them
6 like whatever Coach Smalls didn't have, I had it for
7 them because he would have my back.

8 Q Okay. And did you do anything about the
9 uniforms?

10 A Yes, I mean, well basically we went half on
11 the uniform. Like he cut his for 11, so he didn't
12 have all the funds. And like when we do go out of
13 town, you know, I help him out with the paying for
14 our rooms.

15 Q Okay. And where are these children from?

16 A They're from all over Charleston. No specific
17 place.

18 Q What was their age range?

19 A We had like four teams; 8 and up, 10 and up,
20 12 and up, 16 and up, like that.

21 Q Were you involved in all of them?

22 A Yes, because we all practice together.

23 Q Okay. And what did this team accomplish?

24 A We won -- we were the state champions in
25 Myrtle Beach.

1 Q Which pair of glasses and why?

2 A These same pair because when we was in the
3 fight, not knowing that I would have been in the
4 fight, it got knocked off. And when I got out of
5 jail on bond I went to get it repaired.

6 Q Do you recall about when you got out of jail
7 on bond?

8 A When I got out it was December 14th.

9 Q Okay. Let me show you this document and ask
10 if you can recognize what that is?

11 A Yes, this is my examination. And like I had
12 shown my stuff, I got it repaired and how much I had
13 to pay.

14 Q And the others are where you purchased it and
15 how much you paid for it?

16 A Where I first purchased it and how I set it
17 up.

18 Q Okay.

19 MR. DURANT: Your Honor, may we approach?

20 THE COURT: You may.

21 (Whereupon, the following discussion was held
22 at the bench.)

23 MR. DURANT: This is in December we are in,
24 and I don't think --

25 THE COURT: Replaced the ones he got damaged,

1 but his history of him purchasing it which would
2 confirm he had glasses.

3 MR. DURANT: Does this have a history of him
4 having glasses before September?

5 MR. MATTSON: Yes. He got these September
6 2nd.

7 THE COURT: Where does it show that?

8 MR. MATTSON: Okay, let me find it. On the
9 date of the examination 9/2/08.

10 MR. DURANT: All right.

11 MR. MATTSON: Previous examination 7/17/04.
12 And this got faxed to me this morning. This one has
13 your 12/19/08 when he got it repaired. You can see
14 2/16/08.

15 MR. DURANT: Is this a business record?

16 MR. MATTSON: Yeah.

17 MR. DURANT: Is there a custodian?

18 THE COURT: It doesn't come under that, it
19 comes as a statement of treatment or diagnosis.
20 Something they have a subjective opinion as long as
21 he can verify it's his record.

22 MR. DURANT: That puts it in?

23 THE COURT: Does it have any subjective
24 opinions or impressions on it from the doctor?

25 MR. MATTSON: Only thing lists the

1 prescription.

2 THE COURT: As long as it's just the time and
3 place of treatment and diagnosis, it's admissible.

4 MR. MATTSON: Thank you.

5 (In open court.).

6 THE COURT: Any objection to the admission of
7 the documents?

8 MR. DURANT: No objection from the State, Your
9 Honor.

10 THE COURT: Marked and admitted without
11 objection.

12 (Whereupon, Defendant's Exhibit No. 2 is
13 admitted into evidence.)

14 Q (By Mr. Mattson) Jonta, this has a date on it
15 of September 2nd, '08. What does that date mean?

16 A When I had my eye exam because that's my
17 handwriting.

18 Q Okay. And does that have anything to do with
19 when you started wearing glasses?

20 A I didn't realize I needed glasses until I took
21 my license test and they said I required, needed
22 glasses.

23 Q Okay.

24 A So that was the first exam. And the date when
25 I came to purchase this one.

1 Q Okay. This shows the date you purchased the
2 glasses?

3 A Uh-hum.

4 Q And how much you paid for them?

5 A Uh-hum.

6 Q And this one here has got a date on it of --

7 A 12/19, that's when I got out and I got a
8 repair.

9 Q 12/19/08 is when you got out and you went to
10 get your gasses repaired?

11 A Yeah, because that was real expensive.

12 Q Okay. Are those glasses similar to the ones
13 you have on?

14 A Same exact ones. Well but they repaired it.

15 Q Did you have any plans with your fiance,
16 girlfriend, before all this happened?

17 A That was my purposes why I was trying to get
18 everything together, we was going to get married.
19 But the main thing was trying to move away, not being
20 around.

21 Q Did you all have a marriage license?

22 A Yeah, we already did that.

23 Q Okay. Did you have somebody who was going to
24 marry you?

25 A Yes.

1 Q Who was that?

2 A Ashland Thomas.

3 Q Okay. No, I didn't mean the fiance, I mean
4 had you picked a church where you were going to get
5 married?

6 A We were going to use our church, the family
7 church.

8 Q Okay. Tell me what happened on 8/19/2008.

9 A 9/18. Well me and my brother, we was riding
10 around.

11 Q I want you to take your time. I know
12 sometimes you get excited. And the more excited you
13 get, the faster you go. And pretty soon I'm sitting
14 up there going, not understanding your words.

15 Take your time and make sure that these people
16 sitting over here on the end can hear you. It's very
17 important.

18 A All right. Well that day, the day was going
19 normal. My brother called me and asked me what I was
20 doing. I tell him, you know, riding around trying to
21 sell some shoes and just chilling. He was talking
22 like he was bored and, you know, basically he wanted
23 to get from the house with my aunt getting on his
24 nerves.

25 I say, hey, coming to pick
you up, you know, what I'm saying. I asked him,

1 like, forget what they're talking about, I'll come
2 and get you.

3 And I went to pick him up. And like as soon
4 as we get kind of to West Ashley we received a call
5 -- well he received a call from Stephanie saying,
6 hey, I was looking for shoes, it's Friday night.

7 So I told her, just call us when you get
8 inside the neighborhood. And we stopped there once
9 they had got there.

10 Q And where was her? Where were you when you
11 talked to her?

12 A I didn't talk to her, we was driving.

13 Q No, when you said you stopped in the
14 neighborhood?

15 A Oh, yeah, we stopped at her house.

16 Q Is that the house on

17 A Yes, sir.

18 Q It's kind of hard to see?

19 A Right here. (Witness indicating.)

20 Q That's it right there?

21 A Uh-hum.

22 Q Okay. And where is the house on

23 A Right here. (Witness indicating.)

24 Q

25 A Uh-hum.

1 Q Okay. And this is just, you can go around the
2 block?

3 A Yes, sir. Like all the streets in there like
4 come in circles. All the streets meet up to the same
5 street.

6 Q Okay. Now you stopped at her house on
7

8 A Uh-hum.

9 Q Who was with you or out there at that time?

10 A Well me and Quantas was in the car and we were
11 meeting Stephanie, which her sister -- I mean her
12 auntie was I guess out there at the same time too
13 when we pulled up.

14 Q The auntie that she walked up -- which auntie
15 are you talking about?

16 A Alicia Jackson.

17 Q Alicia, okay. Did they both come up to the
18 car?

19 A Yes, sir.

20 Q And what did you all do?

21 A We was, you know, laughing and she was looking
22 at some shoes. And I was showing them all the
23 different shoes I had. And she finally decided to
24 pick one and we started working our deal.

25 And, you know, Alicia was from the same high

1 school so we just started talking. And she was
2 asking about Ashland. Basically just talking, you
3 know, like a normal day.

4 Q Okay. How long do you think you were out
5 there?

6 A Well I don't really know the exact time, but I
7 know it was enough to converse. It was well over
8 like 15 or 20 minutes or something. We were sitting,
9 talking, we didn't have nothing else to do.

10 Q Okay. At that point in time did you have your
11 cell phone with you?

12 A I had it in the car.

13 Q Yes, that's what I mean.

14 A Yes.

15 Q And you were in the car?

16 A No, I was at the back door showing her the
17 shoes.

18 Q Okay. Did the phone ring?

19 A Numerous times.

20 Q Did you determine who was calling you?

21 A Not at the time because I'm trying to get the
22 money first, then I'll go back to the phone, you
23 know.

24 But after I got finished with her and I finally did
25 go back to the phone I said, oh, Sam is calling.

1 We'll just go around there because we were finished.

2 Q Because -- did you know where Sam lived?

3 A Yes, I do.

4 Q That was the house right around the corner?

5 A Yes.

6 Q Okay. Now how many phone calls did you get
7 from Sam, more than one?

8 A It was more than one because when I checked my
9 call log it was just his number being a missed call
10 with the other numbers.

11 And I already had spoken to him earlier that
12 day, he owed me some money, and he would call me when
13 he was ready.

14 Q When did you run into him earlier that day?

15 A Probably at the gas station, at the Amoco.
16 That's where, the Amoco.

17 Q Okay. Do you recall about what time it was
18 when you were selling the shoes on
19 Drive?

20 A I mean it was getting between light and dark.
21 Basically I told, you know, I got my brother around
22 5:30, 6 o'clock, you know. So it was getting dark.
23 It was evening time.

24 Q Okay. When you left the girls and the shoe
25 sale, where did you go?

1 A I traveled around the corner, around -- like
2 went down the street to Whitmarsh and turned on
3 and pulled up like catty-corner in front of
4 the driveway.

5 Q Okay. Tell me -- can you see this?

6 A Uh-hum.

7 Q Okay. Are you familiar with

8

9 A Yes, sir.

10 Q Does this appear to be a drawing of that area
11 as you know it?

12 A I lived in -- there's another bush right here.

13 Q Okay. And where did you pull up?

14 Whose driving the car when you get there the
15 first time?

16 A The first time Quantas was driving the car.

17 Q Okay. And where did he pull up to?

18 A I told him just to pull in the front, right
19 here. (Witness indicating.)

20 Q Is that where he's put the circle?

21 A Yeah, right there. (Witness indicating.)

22 Q Okay. What happened at that point?

23 A I yelled out the window, I said, is Sam home?
24 Somebody said, I don't know, he has been in the house
25 sleeping, I'll go call him. So we backed up and pull

1 in the yard.

2 Q Okay. Where did you go when you pulled in the
3 yard?

4 A I started seeing everybody, it was all up in
5 here.

6 Q No, where did the car end up?

7 A Right here, where that circle is. (Witness
8 indicating.)

9 Q Okay. Now when was the first time somebody
10 got out of the car?

11 A Well I was the first person out of the car
12 once we parked because I was waiting for Sam, you
13 know, I started seeing everybody. So we started
14 telling them, hi, what's up.

15 And I saw Carlos, his truck, and I went
16 directly to him because I wanted to talk to him about
17 his rims.

18 Q Okay. You didn't know Carlos was there?

19 A I know Carlos.

20 Q When you went there, you didn't know Carlos --

21 A No, I didn't know he was there.

22 Q You didn't know who was there when you went
23 there?

24 A No.

25 Q Keep going.

1 A All right. Well once I stop right here and
2 got out and I saw him, I came right to his door and
3 started talking to him.

4 Q That's his truck?

5 A That's his truck right here.

6 Q Okay.

7 Q To me personally I thought he was trying to
8 tell me something. He was like, come on, let's see
9 the shoes you got. So we walked to the car, walked
10 down the same area to the car, and I walked to the
11 back door like right up in here.

12 And as I was showing him, I got hit from the
13 back.

14 Q How did you get hit from the back?

15 A Hit from the back. Like I'm talking.

16 Q Like a fist?

17 A Yeah, like boxing.

18 Q Okay. Did you figure out who hit you?

19 A No, I tried to grab whoever tried to hit me.

20 Q Yeah, but did you find out who it was?

21 A I mean -- yeah, after I grabbed him. Like I
22 didn't know because my back was turned.

23 Q Who was it?

24 A It was Brandon Parker.

25 Q Had you gone around shaking hands or anything

1 like that at that point in time?

2 A Well I did shake a couple -- really there
3 wasn't no shaking hands. I was saying, what's up you
4 all, you know. Like just telling everybody hi,
5 greeting them. There wasn't no personal everybody,
6 you know.

7 Q Sort of like, hey, guys.

8 A Yeah, what's up. Basically I was focused on
9 trying to get some rims when I saw the person.

10 Q Who were you buying the rims for, what car?

11 A For the Crown Victoria because basically my
12 birthday was coming up and I just wanted them.

13 Q You were buying your own birthday present?

14 A Well I had called my brother, but yeah, you
15 know, feels good.

16 Q Okay. Now what happened after you got hit
17 behind the head?

18 A Well first thing I did was try to grab whoever
19 was behind me. And then the next thing you know we
20 started, like up in this area we started squabbling
21 and somehow we ended up in front of the cars right
22 there.

23 Q Okay. How many people were involved in that
24 scuffle?

25 A I couldn't really tell because my focus, when

1 I got hit, and I'm trying to hold on to him to figure
2 out who hit me so I can defend myself.

3 Q Was there more than one person involved in it
4 with you?

5 A Yeah. After me and him started -- first it
6 was just us two, you know, scuffling or whatever.
7 And then the next thing you know I started feeling
8 people grabbing, you know, and pulling and whatever.

9 Q How long did this go on in your estimate?

10 A I would say about a minute, you know.

11 Q About a minute?

12 A Probably a minute, minute-and-a-half like all
13 of us together right there.

14 Q How did you get loose?

15 A Ms. Crawford came outside and started yelling,
16 you all get out of my house, I don't take this in my
17 yard. So we didn't. Like somebody grabbed whoever,
18 and me and Quantas loose and we started going back to
19 the car.

20 Q Okay.

21 So when mom came out and started yelling at
22 the boys, everybody decided to be good?

23 A I listen to all my elders, whatever they tell
24 me.

25 Q Okay. Did you and Quantas manage to get back

1 in the motor vehicle?

2 A Yes, sir.

3 Q Who got behind the wheel?

4 A Me.

5 Q Quantas got in the shotgun, left, right
6 passenger side?

7 A Yeah. He had been -- the area opened up, and
8 he was trying to help I guess. I don't know, you
9 know, I'm in front of this person. And so that's why
10 I drive the car, I mean the car was already on, so.

11 Q You got behind the wheel?

12 A Yeah, I didn't have to get the keys or
13 nothing.

14 Q Because you wanted to get your brother out of
15 there?

16 A Both of us.

17 Q Both of you?

18 A Yeah. I don't know what happened.

19 Q Okay. Now tell me what happened next, you got
20 in the car?

21 A We got in the car and I tried to back up but I
22 didn't really get to make it all the way out. And I
23 did saw Brandon coming at the car. So I did, I tried
24 to hurry up and turn the car, you know what I'm
25 saying, basically like this, you know, and try to

1 drive out like that.

2 Q So you were trying -- you backed the car out
3 and you were then trying to go forward?

4 A Yeah. Basically, yeah, you know.

5 Q Okay. Did the vehicle strike Brandon that you
6 are aware of?

7 A No.

8 Q Did it come close to him?

9 A I don't know because I mean if I'm backing out
10 and trying to pull forward, I mean I did already when
11 I was backing up, you know, I could see him coming so
12 I wanted to hurry up.

13 I could have see him. He didn't touch the
14 car. He wasn't like that close to the car.

15 Q Okay. Now is there anything that separates
16 the yard of the Crawford house from the street?

17 A Yes, sir, there's a ditch. This needs to be
18 pushed back, but there is a ditch right there.

19 Q Does the ditch run --

20 A Yeah, all through the whole street.

21 Q The whole neighborhood?

22 A Yeah, the whole neighborhood.

23 Q Okay. That ditch is not depicted on that
24 drawing?

25 A No.

1 Q Okay. What did you do then, Jonta?

2 A Well when I already had took off and we
3 started turning the corner, I told my brother, I
4 said, let me call Sam and see what's going on. And
5 we realized I didn't have the phone.

6 Q You were going to call who?

7 A Samuel.

8 Q Crawford?

9 A Crawford, yeah. Maybe he's going to call me,
10 so that would have been the first person I called.
11 And so we got to -- I mean Wantoot and
12 and my brother said, I lost my cane.
13 So we went around, like we just turned right and came
14 all the way back around.

15 Q What did you realize was left there when you
16 were -- after you left, what all?

17 A At first I didn't have the phone because I
18 tried to call, I noticed that. And he said -- that's
19 when he said, I lose my cane, I don't have my cane,
20 man. And I said, I don't know where my glasses are.

21 Q Okay. So then what happened?

22 A Then we proceeded around to come back here to
23 see if we can retrieve it or whatever.

24 Q Okay. When -- let me ask you this -- when did
25 the -- let me do it this way.

1 Do you recognize this?

2 A Yes, sir.

3 Q And is this yours?

4 A Yes, sir.

5 Q And did you have this on your person?

6 A Not at the time.

7 Q How did this get on your person?

8 A Well once I had stopped and I yelled out the
9 window to Ms. Crawford, excuse me, ma'am, I
10 apologize, we was in the fight -- I didn't want to
11 lie to her -- I said, we was in the fight, we lose
12 some stuff, can we please get it and we can go.

13 And she said, I don't do that, but I'm about
14 to call the police and I don't want that stuff around
15 my house. So by that time my brother started getting
16 out and I took it out of the glove compartment and
17 put it in my waistline.

18 Q Were you planning on taking that pistol out
19 and taking it on the property?

20 A I mean, no because of the fact that I know
21 everybody, by the simple fact that we not a gang, you
22 know what I'm saying, it was still kind of heated and
23 hostile or whatever. But, you know, the whole point
24 was I was trying to keep control.

25 Q All right.

1 A Of my person.

2 Q Okay. What happened next?

3 A Well I proceeded this way around the car. And
4 I guess Ms. Crawford and my brother, they was looking
5 for stuff. Some people started turning on lights on
6 the cars so that we could start finding the stuff or
7 whatever, the glasses or whatever.

8 And I don't know who gave my glasses, somebody
9 gave my glasses and said, here's your glasses. And
10 once I got them my brother said he had his cane. And
11 we said we were about to go and we tell Ms. Crawford
12 thank you. And as soon as I was walking back, I was
13 attacked again.

14 Q Did you ask anybody about who was there before
15 you got out of the car?

16 A Yes, sir.

17 Q Do you know who you spoke to?

18 A No, sir, not exactly.

19 Q Okay. What did you ask?

20 A When I asked Ms. Crawford if we could get our
21 stuff, the first thing I asked was is Brandon still
22 here because I was telling her that's who we, you
23 know --

24 Q You were fighting with?

25 A Yeah, we had a scuffle with.

1 Q And what was her response?

2 A She was saying like, you all got to hurry up
3 and get your stuff and go. Basically she invited me
4 in the yard.

5 Q Okay. Did you see Brandon?

6 A No, sir.

7 Q How bright was the yard? Let's look at these
8 couple pictures over here and see.

9 Was the yard lighted like it is in Exhibit 24?

10 A No, sir.

11 Q I think I may have passed that around.

12 It was not that bright?

13 A No, sir.

14 Q And is this closer to how it was lighted in
15 the State's Exhibit 13?

16 A Yes, sir. Was like no car lights. I think it
17 was only one porch light.

18 Q So 13 and 14 depict the illumination at the
19 scene when you all returned?

20 A Yes.

21 Q Is that also how it was illuminated when you
22 were there the first time?

23 A No, the first time it was still dark.

24 Q Yeah, that's what I mean. These are still

25 dark. A Yeah, it was never lighted. Even in the

1 first or second time.

2 Q Okay.

3 A Until they started turning on lights to help
4 us find our things.

5 Q Why did people start turning on lights, Jonta?

6 A To help us find our stuff. Like Carlos and
7 Sam, they was helping us actually finding our stuff.

8 Q Okay. Now what happened next?

9 A Well after I got my glasses, I wasn't really
10 worried about the phone too much because, you know,
11 my brother said he had his cane. Basically we just
12 started walking back to the car.

13 Q Okay. And what happened after that?

14 A I got sucker punched again.

15 Q Again?

16 A Again.

17 Q Did you see him coming?

18 A No, sir.

19 Q And what happened?

20 A Well that's when I started grabbing him and
21 somehow we worked up this way. Somehow, you know,
22 between us or whatever.

23 Q Were you all pushing and shoving?

24 A Yeah. Basically, you know, I was trying to
25 tell him basically I was armed. And I told him, hey,

1 I got a gun on me stop. And he tried to went for the
2 gun.

3 Q And what happened?

4 A And up in this area, that's where we started
5 struggling over the gun.

6 Q Okay. What happened when you were struggling
7 over the gun?

8 A Well after I start felting it slip because,
9 you know, we was moving around, I told him that, you
10 know, I have a gun, stop. And he went for it and I
11 grabbed it too. And the first thing I did is push it
12 that way.

13 Q I want you to show the jury, please.

14 You don't want this gun?

15 A No, uh-uh. I mean I can show you with
16 something else. I mean I grabbed the gun and pushed
17 it that way.

18 Q Okay. And keep going.

19 where was his hand?

20 A It was all over my hand.

21 Q okay.

22 Q Basically like both of us had it because he
23 was trying to take it from me.

24 Q okay.

25 A And then I grabbed it, I pushed it, and then I

1 went up like this, both of us, you know.

2 Q Right.

3 A And it came down, clock, in both our face.

4 Q Do you know whether or not you had your hand
5 on the trigger?

6 A No, sir. I wasn't -- I mean I wouldn't even
7 want to grab the trigger because I mean if we were
8 struggling over it I could shoot myself in the leg or
9 something.

10 Q That would have been better then what
11 happened, wouldn't it?

12 A Probably would have.

13 Q Did you intentionally pull the trigger?

14 A I don't recall me even trying to pull the
15 trigger. I was trying to -- we were struggling over
16 it.

17 Q Then it suddenly came down?

18 A It came down, yeah. I don't know what
19 happened.

20 Q Did you mean to shoot him?

21 A I wasn't trying to shoot him.

22 Q When did you find out he was actually shot?

23 A Well after the shot went off, he like feel
24 straight in front of me. And I looked like -- as
25 soon as I saw that I ran to my brother, where my

1 phone at, where my phone at, and I throw the gun in
2 the car and I told him to go.

3 And I came back and tried to assist him, you
4 know, and tried to get him to the hospital. I was
5 going to call the police myself too, you know.

6 Q Did you say anything to him when he was on the
7 ground?

8 A I mean, I asked him, like, get up, you know,
9 because I could still hear him breathing. I could
10 still hear like (witness indicating) like that. So I
11 thought he, you know what I'm saying, we could help
12 him.

13 Q You tried to help him?

14 A Yeah, I picked him up. Tried to.

15 Q Who else helped you? Did you pick him up?

16 A My whole point was trying to get him up in the
17 air. I don't know who helped because, you know what
18 I'm saying, I know he was bleeding from the head. So
19 I was trying to pick him up, you know, to hold him up
20 like this so that we could at least take him to a
21 car.

22 Q Sam Crawford there?

23 A Yeah. Like after when we first -- after the
24 second time when we first came, that's when he
25 finally came out of the house that I saw. That's

1 when he was helping me and my brother find the stuff
2 or whatever. I never saw him the first time.

3 Q Okay. Why did you want to get Brandon in the
4 car?

5 A Man, because, I mean, that's a person, you
6 know. And I'd want somebody to help me, you know.

7 Q You trying to help him?

8 A Yes, I was.

9 Q Do you know whether or not Sam was the person
10 who helped you put him in the car?

11 A From my recollection I thought it was Carlton
12 stretch was helping at the time. My recollection.

13 Q Things were moving pretty fast?

14 A Yeah. Like, yeah.

15 Q You ever been involved in any situation where
16 somebody was shot before?

17 A I mean, well, I had a home invasion. I guess
18 I left home not knowing that somebody came to my
19 mom's house and started beating her with a gun and
20 shooting somebody in the front yard. And one of my
21 friends started calling and saying, you know --

22 Q I mean when you were there?

23 A No, I wasn't there.

24 Q Okay. So this is the first time you had ever
25 been with somebody who was shot in your presence?

1 A Yes.

2 Q Did you get Brandon in the car?

3 A Yes, we finally got him in the car. Actually
4 when I was trying to pick him up I was the one
5 yelling, get the car, get the car so that we can take
6 him to the hospital, let's help him, you know.

7 Everybody was like, whaaaa, going and crying,
8 yelling, ain't doing nothing. I am yelling, like,
9 come help me.

10 Q In other words, people were running around in
11 panic?

12 A Yeah, everyone was panicking and all kinds of
13 stuff.

14 Q Were scared?

15 A Yeah. Whatever was going on at the time.

16 Q What did you do? Did you -- you all got him
17 in the car?

18 A Yeah. Finally somebody pulled Andrew Rivers'
19 silver car up. And I -- me and whoever brought him
20 in. And I went in the car first and pulled him in,
21 and whoever had his legs, he set them in the middle.
22 I was in the backseat with him holding him, like
23 talking to him, wake up, you know, you are going to
24 be okay.

25 Q Who was the driver?

1 A Carlos Chisholm I saw, he was in the driver's
2 seat and Andrew was in the passenger.

3 Q So there were three of you in the car?

4 A Four of us. Stretch was in the car too. So
5 that's why I believe that he was the one who was
6 helping me.

7 Q Okay. What happened next? Did you all get
8 him to the hospital?

9 A Well by the time we was backing up, we was in
10 the yard catty-corner, basically just like that.

11 Q Just like what?

12 A Just like this, right here, we are in the
13 yard.

14 Q Right.

15 A And basically as soon as we got right here the
16 police, you know what I'm saying, stop, get out, you
17 know.

18 Q Okay. What happened then?

19 A All of us was yelling like, he is shot, we are
20 trying to get him to the hospital. No, we have an
21 ambulance coming right now, leave him right there.

22 So I did. Somebody -- I guess Carlos pulled a
23 little bit back up and as soon as I got out of the
24 car, Stretch attacked me.

25 Q And how did that go?

1 A Well he come running, you know, as I was
2 getting out, I was trying help him, Brandon. And he
3 pulled me and started fighting me and we ended up on
4 the ground.

5 Q Did he say anything to you?

6 A I'm going to kill you, I'm going to beat you
7 up.

8 Q Go ahead, tell me what he said.

9 A I going to kill you, like, you killed my
10 fucking dog, I'm going to beat your ass.

11 Q killed your dog, what does dog mean?

12 A A friend. Like a slang term.

13 Q And how did you get away from --

14 A The police.

15 Q -- Stretch?

16 A It looked like a older cop, he said, get off
17 him or I'm going to taze you. And as soon as --

18 Q You get off him or I'm going to taze you?

19 A Yeah. Well he wasn't talking to me, I guess,
20 because I was on the ground. So I guess he was
21 talking to Stretch.

22 Q Get off of you?

23 A Yeah, you know what I'm saying. So after he
24 said that I finally got released, I ran this way
25 right here.

1 Q Okay. But your plans were to stay and take
2 him to the hospital?

3 A Yeah, until I got attached again, so that's
4 like the third time.

5 Q Have a seat, please. Where did you go when
6 you left?

7 A After I left the car, I ran this way in
8 between the carport and the fence right here and I
9 ran through their backyard and jumped into Stephanie
10 Jackson's backyard and came up to
11 Wantoot.

12 And then I saw my brother been in the car at
13 the corner. I yelled, hey, right here. I guess he
14 wanted to see if I was still around there. And we
15 left out of the neighborhood.

16 Q Okay. When you left the neighborhood, where
17 did you go?

18 A Well my brother took me to a friend's house
19 and I started washing off, throwing up. You know, I
20 just been inside --

21 Q Slow down, slow down a little bit. You are
22 getting excited up here and I'm having trouble
23 understanding you.

24 So he took you to a friend's house?

25 A Uh-hum.

1 Q And?

2 A Basically I started washing off and throwing
3 up and stuff. Basically going through emotions, like
4 I just got and saw some big trouble.

5 Q Were you concerned about Brandon?

6 A Yes. Actually my brother started calling
7 neighbors who was down the street or whatever to see
8 what was going on. Finally like an hour or two later
9 called and said that he had died.

10 Q Who called you?

11 A Nobody called me, somebody called my brother,
12 Ragime Green.

13 Q They called your Brother Ragime?

14 A Yes.

15 Q Not Quantas?

16 A No.

17 Q Okay. I don't think they called him because I
18 mean I don't even think he had his phone.

19 Q Is Ragime younger? Where does he fit in
20 age-wise between you and Quantas.

21 A He's like two years younger than me.

22 Q Three years younger than you?

23 A He will be turning -- he will be two years in
24 May.

25 Q So he's about a year older than Quantas?

1 A Yeah.

2 Q How long had you had that gun?

3 A Actually after Quantas had got shot, I
4 purchased the gun.

5 Q Did you purchase the gun specifically to shoot
6 anyone?

7 A No, sir.

8 Q Had you taken the gun out and fired it?

9 A No, sir.

10 Q How did you become familiar with the operation
11 of the gun?

12 A Well I know guns, too, you know. I know how
13 to operate a gun.

14 Q Do you recall whether the -- you realize what
15 this device is here on the gun?

16 A Yes, sir.

17 Q What is that?

18 A It's safety.

19 Q Okay. Do you know what this button is for
20 right here?

21 A Yes, sir.

22 Q What does that do?

23 A To eject the clip.

24 Q Okay. What is this little lever right there
25 for?

1 A I never known that.

2 Q You never knew what that meant? Okay.

3 What was the condition of the safety on the
4 gun when you put it in your waistband?

5 A Actually I never touched the safety or
6 nothing. I mean I didn't observe the gun, or
7 whatever. I just stuck it in and I thought
8 everything was, you know, fine. Probably just have
9 protection and leave.

10 I mean I just got ganged twice. I mean I know
11 everybody around there but, you know, never know,
12 they problem got something.

13 Q You understand some people are pretty upset at
14 you about his death, Brandon's death.

15 A You know, I'm upset myself. I wouldn't have
16 tried to help him.

17 Q You didn't want this to happen?

18 A No, sir.

19 Q Didn't intend for it to happen?

20 A No, sir.

21 Q You didn't know Brandon was there the first
22 time when you went by the house?

23 A No, sir.

24 Q You went there to sell shoes, talk to Sam?

25 A I went there to talk to Sam.

1 Q Talk to Sam?

2 A Yes. That's the only reason why I went there.

3 Q But you ended up seeing Carlos Chisholm?

4 A Yes, sir.

5 Q And you were talking to Carlos about the rims
6 and about selling some shoes?

7 A Yes, sir. Until somebody went to go get --
8 well Terrence went and got Sam out of the house, or
9 check and see if he was still up.

10 Q Where did you get the bullets that were in the
11 gun?

12 A Actually it already had came that way.

13 Q So you bought it with the bullets?

14 A Yeah. Actually wasn't really a bought, but I
15 mean if something should happen to the gun, you know,
16 you have to pay for it.

17 It was mostly like until I could get away from
18 Charleston like I was planning on to. Obviously like
19 a lot of trouble was coming around us, me and my
20 family.

21 Q You are talking about the home invasion and
22 your brother's carjacking?

23 A Yes, sir, it had me scared. I don't know if
24 somebody was actually coming for me and my family
25 getting hurt in the process. So that's why something

1 already was telling me to get from here.

2 Q So you and your girlfriend were going to get
3 out of town so to speak?

4 A Yeah, basically.

5 Q Start life over?

6 A Nobody don't know us.

7 Q But this thing changed all that?

8 A Yes, sir.

9 Q You ever owned a gun before this?

10 A No, sir.

11 Q First gun you ever bought?

12 A Yes, sir.

13 I don't really like guns, sir.

14 Q Hum?

15 A I don't like guns.

16 Q Especially now?

17 A Especially now. But I don't care for them. I
18 don't believe a nasty person have to deal with a gun.

19 Q How old are you?

20 A I'm 26 right now.

21 Q Still going to church?

22 A Yes, sir. And it was part of my house arrest.

23 Q Did you ever try to call any of Brandon's
24 family or anything and tell them you were sorry?

25 A No, sir because the next -- after the next

1 morning when we was trying to get in contact with you
2 that night to see what do we need to do like for the
3 service, you know, so that we can make whatever
4 needed to be done, done. You told me that they
5 already had a warrant for me, I needed to turn myself
6 in, so I turned myself in the next day.

7 Q When you got your bond, you were forbidden to
8 contact them, weren't you?

9 A Yes, other than somehow I got some kind of
10 permission to send flowers but not actually give
11 flowers to his funeral or wake or something.

12 Q Give me just a minute.

13 You heard Carlton Stretch say he wanted to
14 kill you that night?

15 A Yeah. He was acting out of anger. I'm not
16 saying that he was going to kill me right then, but
17 he was going to. I mean, something happened to his
18 friend too.

19 Q Were you aware of any drinking going on at
20 that location?

21 A No, not at the time, sir.

22 Q Okay. Did you ever -- you didn't see any,
23 smell anything either the first or second time you
24 went by there?

25 A I went straight to Carlos, so I didn't smell

1 anything, I wasn't looking it see if there was
2 drinking. But I mean out of everybody was coming
3 around, you could have smelled, you know, you could
4 tell like there was a party going on at the time.

5 Q Did you take Brandon's obituary out of the
6 paper?

7 MR. DURANT: Objection.

8 THE COURT: Basis?

9 MR. DURANT: Relevance.

10 THE COURT: Please approach.

11 MR. MATTSON: I will withdraw the question.

12 THE COURT: Question is withdrawn.

13 Q (By Mr. Mattson) I do have a couple more
14 questions.

15 Do you recall ever saying anything to Brandon
16 before he hit you upside the head the first time?

17 A No because I didn't recognize that he was out
18 there. Once again I was waiting for Sam Crawford,
19 well Terrence to call Sam. I saw Carlos, so I
20 proceeded to greet him. I mean I said hey to
21 everybody, you know.

22 Q Okay. So you don't know where he was when you
23 arrived, Brandon?

24 A No.

25 Q When you went there the second time, when you

1 pulled up, did you see him?

2 A No. I mean --

3 Q Did you think he was -- did you believe he was
4 still there?

5 A No, sir because I asked before I even got out
6 of my car if he was still there.

7 Q The second time around you lost your glasses
8 -- you had already lost your glasses?

9 A Yeah, I already did lost them.

10 Q Okay. Did you use any curse words in the
11 presence of Ms. Crawford?

12 A No, sir. Because once again I don't
13 disrespect my elders.

14 Q Okay. Did you hear anybody use any curse
15 words during that evening?

16 A Well I wasn't really paying attention. My
17 goal was to get my stuff and go.

18 Q Okay.

19 A I wasn't trying to hear anybody or see who was
20 there or see who all was out there and still left or
21 you know. My mission was to get my stuff and I was
22 going. I'm going to go to Karaoke on Fridays, so we
23 were going to proceed there to cool off.

24 Q You think your brother could have stood going
25 to Karaoke?

1 A Probably not. But if he is sitting down, I
2 mean he ain't really got nothing to worry about.
3 Just him standing up and moving around.

4 Q Like trying to get people off you?

5 A Yeah.

6 Q That's what he wasn't supposed to do?

7 A Uh-hum. I mean yes.

8 Q That's the gun you had that evening?

9 A Yes.

10 Q Was that gun ever chrome?

11 A Never. I mean, the reason why how the gun
12 even got in the car is because I threw in there. The
13 reason how it reappeared because when I got out of
14 jail I left messages to tell my cousin where it was
15 to give it to you so that you could turn it in.

16 Q You didn't ever want to see that gun again,
17 did you?

18 A No, sir, I don't like guns.

19 MR. MATTSON: One moment, Your Honor, please.

20 THE COURT: Uh-hum.

21 Q (By Mr. Mattson) Jonta, is there anything else
22 you want to tell this Court?

23 MR. DURANT: Objection, Your Honor.

24 THE COURT: Ask a question, Mr. Mattson.

25 MR. MATTSON: Okay.

1 Q (By Mr. Mattson) Is there anything you'd like
2 to say to the family of Brandon?

3 MR. DURANT: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. DURANT: I think this is an improper
6 question.

7 THE COURT: Is there such an objection?

8 MR. DURANT: We are talking to the jury, not
9 to Brandon's family.

10 THE COURT: No speaking objections. I need
11 the basis of the objection within the rules of
12 evidence.

13 MR. DURANT: It's not relevant.

14 THE COURT: Please approach.

15 (Whereupon, the following discussion was held
16 at the bench.)

17 THE COURT: Why is that relevant?

18 MR. MATTSON: He has never had an opportunity
19 to talk to them because what was put in there. He
20 told me he wanted to tell them he was sorry.

21 THE COURT: I think he can have an appropriate
22 time to do that whether he's acquitted or convicted.
23 He can do it at the close of the case. You already
24 asked about remorse.

25 MR. MATTSON: Yeah, I've gotten about as far

1 as I can go.

2 (In open court.)

3 THE COURT: Sustained.

4 MR. DURANT: Thank you, Your Honor.

5 THE COURT: Any further questions for the
6 witness?

7 MR. MATTSON: Let me look at one thing, Your
8 Honor. I should be through, but I want to make sure.

9 Q (By Mr. Mattson) Why did you take the gun
10 with you when you got out of the car?

11 A I mean I had felt threatened, but at the same
12 time like I know the yard, it wasn't some stranger's
13 yard, you know. But I wanted to protect myself
14 because I already had felt like I got ganged the
15 first time.

16 Q You weren't intent on using it?

17 A No.

18 Q I noticed your arm came off quite easily?

19 A Uh-hum.

20 Q Is that just how it goes on and it can be
21 pulled off?

22 A Yes, sir, it could be.

23 Q Did you have any concern about your physical
24 safety?

25 A That was my main concern about my safety.

1 Q Who got out of the car first the second time
2 you went there?

3 A After I had spoken to Ms. Crawford, Quantas
4 got out of the car and I came out from behind.

5 Q Did you have any concern about your brother's
6 safety because of his health issues?

7 A Well I mean the whole safety issue, I mean, it
8 goes back to when I said I thought a lot of stuff was
9 going on, like dealing with the shootings and the
10 home invasion and I wanted to protect myself.

11 Q And your family members?

12 A Huh?

13 Q And your family members?

14 A Yes.

15 MR. MATTSON: I have no further questions.

16 THE COURT: Does anybody on the panel need to
17 use the restroom or is everybody comfortable? Yes,
18 ma'am. I'd like to try to finish this witness before
19 we adjourn.

20 We will take a brief recess to use the
21 restroom. As soon as you all have completed using
22 the restroom, knock on the door and let the bailiff
23 know and we will immediately resume testimony.

24 Please leave your notepads in your seats, and
25 please do not discuss the case.

1 (Whereupon, the jurors exit the courtroom.)

2 (Whereupon, a recess was taken.)

3 THE COURT: All right, please bring in the
4 jury.

5 MR. DURANT: Your Honor, can we take up a
6 matter before the jury comes in real quick?

7 THE COURT: Yeah.

8 MR. DURANT: The State's position is is that
9 the door has been opened on a couple things here.
10 The defendant talked about this was his first time
11 ever owning a gun, he doesn't like guns, doesn't like
12 having anything to do with guns. He has got a prior
13 2003 unlawful carrying of a pistol.

14 MR. MATTSON: Is it carrying or possession?

15 THE COURT: Either way, it indicates he had a
16 gun in his possession.

17 MR. DURANT: Right. And then we have this
18 instance from two weeks previous to this situation
19 that I'd like to at least be able to ask him about.

20 THE COURT: I'd have to have a separate
21 in-camera hearing. You have to prove that by clear
22 and convincing evidence that it actually happened.

23 So you'd have to get those other people here
24 and prove to me by clear and convincing evidence that
25 it actually happened. Because it's a prior bad act

1 not the subject of a conviction.

2 MR. DURANT: Well, I wanted to prove it under
3 405(B) --

4 THE COURT: Either way you still have to prove
5 it be clear and convincing evidence that it's the
6 defendant. It's a prior bad act not the subject of a
7 conviction.

8 MR. DURANT: I thought that was just under
9 404(B).

10 THE COURT: Case law says whenever you have a
11 prior bad act that is not the subject of a
12 conviction, it must be proven to the satisfaction of
13 the Court by clear and convincing evidence as the
14 gate-keeper before it comes in.

15 Isn't that the case law?

16 MR. DURANT: Your Honor, that's not my
17 understand, but if that's your ruling --

18 THE COURT: If you have --

19 MR. DURANT: We are going with it.

20 THE COURT: I haven't ruled. But you have to
21 -- you are not -- if you are not -- you would have to
22 show to me that you are offering this for some other
23 reason. Because there has not been a door opened for
24 impeachment purposes for this.

25 He said he doesn't like guns, he never had a

1 gun. If you want to impeach him on that, then the
2 unlawful carrying is sufficient. Because that proves
3 by conviction that he had previous possession of a
4 weapon in his presence, which goes to refute or
5 impeach his credibility on the issue of I don't like
6 guns, I don't like to carry guns, I don't like guns
7 around me.

8 Him pulling a gun on someone, that's a whole
9 different scenario in terms of impeachment. And even
10 still for impeachment purposes, prior bad acts that
11 are not the subject of a conviction only come in
12 under certain circumstances, either Lyle, one of
13 those elements, exceptions, but you still have to
14 prove it by clear and convincing evidence that it
15 actually happened.

16 Unless you can point me to some case law that
17 says the law is different than that, I will be glad
18 to look at it while you are questioning him.

19 Him pulling a gun on the defendant (sic) is
20 not character evidence, it's not impeachment of his
21 character. If anything it would be -- impermissible
22 character to show that he acted in conformity with on
23 this particular event.

24 MR. DURANT: Right. My only reason for
25 wanting to get into that is I believe he has left us

1 with an impression that he doesn't like guns, he is
2 not --

3 THE COURT: You are going to ask him about a
4 conviction, so that's -- if your purpose is
5 impeachment, it is accomplished.

6 MR. DURANT: We will be fine with that. Thank
7 you, Your Honor.

8 THE COURT: You're welcome.

9 That does not, of course, preclude you from
10 offering it under Lyle. And if you want to have a
11 hearing to try to prove to the court by clear and
12 convincing evidence that it happened, you need to let
13 me know and we will plan accordingly.

14 Bring in the jury.

15 (Whereupon, the jurors enter the courtroom.)

16 MR. DURANT: Your Honor, may we approach?

17 THE COURT: Yes.

18 You may be seated.

19 (Whereupon, the following discussion was held
20 at the bench.)

21 MR. DURANT: Would it be all right with you if
22 we do have one witness who could testify in-camera.

23 THE COURT: It's up to you, you have to prove
24 by clear and convincing evidence.

25 MR. DURANT: Well that's why we want to get a

1 feel.

2 THE COURT: The clear and convincing is a very
3 high burden, it's well beyond --

4 MR. DURANT: I know.

5 THE COURT: It's up to you. I'm not going to
6 tell you.

7 MR. DURANT: I wanted to get a feel from you.
8 Based on that, I'm not going to do it.

9 THE COURT: I don't know how I'd rule on it.
10 It's hard when it's one person's word, then I have to
11 look at their motives, their bias, their prejudice.

12 MR. DURANT: I got you.

13 THE COURT: I don't know.

14 MR. DURANT: Forget it, I just.

15 THE COURT: Yeah.

16 (In open court.)

17 THE COURT: You'd have to make that
18 determination.

19 MR. MATTSON: There's no static.

20 THE COURT: All right. We ready for
21 cross-examination of the witness?

22 MR. DURANT: Yes, Your Honor.

23 THE COURT: You may proceed.

24 Ladies and gentlemen, we appreciate your
25 patience.

1 MR. DURANT: Thank you, Your Honor. May it
2 please the Court.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. DURANT:

6 Q Good afternoon, Mr. Green.

7 A How are you doing, sir?

8 Q Pretty good. How are you doing?

9 A I'm in a bad situation. I feel terrible.

10 Q Well, I have noticed that you've found it
11 pretty easy to laugh in here?

12 A I try to be happy, but I mean I know what is
13 going on.

14 Q This isn't a funny matter to you, is it?

15 A No, sir.

16 Q There is really nothing to laugh about, is
17 there?

18 A No, sir.

19 Q Now let me talk to you first about this. You
20 said that this gun right here was the first gun that
21 you've ever owned?

22 A Yes, sir. Me owning it, yes, sir.

23 Q Right?

24 A Yes, sir.

25 Q And that is your gun, right?

1 A Yes, sir.

2 Q And you bought that gun?

3 A Yes, sir.

4 Q Where did you buy it?

5 A I don't want to say that.

6 Q I'm asking you, where did you buy it?

7 A I bought it off the street.

8 Q It's not registered?

9 A No, sir.

10 Q You just bought it off the street?

11 A Yes, sir.

12 MR. MATTSON: Your Honor, I'd like to say
13 there is no law requiring registration of a weapon in
14 the state of South Carolina or --

15 THE COURT: Approach.

16 (Whereupon, the following discussion was held
17 at the bench.)

18 MR. MATTSON: SLED is allowed to keep records
19 of it.

20 THE COURT: I'm not sure what the law is in
21 South Carolina. I thought you had to do it like
22 other states, you had to apply to get a license.

23 MR. MATTSON: They have to accept your ID,
24 they have to destroy the serial number registration
25 of the gun.

1 THE COURT: You still have to go through that
2 process, they do a background check.

3 MR. MATTSON: To register something, that is
4 not required.

5 THE COURT: I think the law you can buy it in
6 the street from somebody.

7 MR. MATTSON: Not a felon.

8 THE COURT: I can buy it from an individual, I
9 can buy it at a gun show.

10 MR. DURANT: Felons cannot do it.

11 THE COURT: He is not a felon.

12 MR. DURANT: He is.

13 THE COURT: How is he a felon.

14 MR. DURANT: Failure to stop for blue light,
15 '03.

16 THE COURT: South Carolina determines whether
17 it's a fine. He's charged under South Carolina, that
18 determines whether he's a felon or not. CDV carries
19 ten years, until recently a misdemeanor. ABHAM is
20 still a misdemeanor under common law. Unless the
21 legislature designated it's a misdemeanor or felony,
22 the constitution doesn't govern it.

23 You have to show me in fact he is a felon
24 under South Carolina law. It's failure to stop.

25 MR. DURANT: I would not find he is or not, I

1 simply asked him where he got the gun.

2 THE COURT: You asked him if it was registered.

3 Clean it up on redirect. I don't know, I have
4 it look up the statute. I don't know what, I never
5 looked it up.

6 MR. MATTSON: I'd appreciate if that doesn't
7 go --

8 THE COURT: Otherwise that would not be the
9 statute, unlawful carrying or carrying, obliterated
10 serial number. That's a separate statute.

11 There is a statute on unlawful carrying. I
12 don't know what the elements are.

13 MR. MATTSON: I know them quite well. I have
14 a concealed weapon's permit

15 THE COURT: I don't know what the requirements
16 are. By the time you do redirect, I will have
17 figured it out. You can still address it on
18 redirect.

19 MR. MATTSON: Okay.

20 (In open court.)

21 THE COURT: You may proceed.

22 Q (By Mr. Durant) So you got this gun off the
23 street?

24 A Yes, sir.

25 Q And you said that you don't like guns?

1 A No, sir.

2 Q You don't like being around guns?

3 A No, sir.

4 Q You were convicted in 2003 for unlawful
5 possession of a pistol, weren't you?

6 A Yes, sir.

7 Q That's right. So you had --.

8 THE COURT: No editorial comments, questions
9 only.

10 MR. DURANT: Thank you, Your Honor.

11 THE COURT: You're welcome.

12 Q (By Mr. Durant) So you have been around guns?

13 A Actually I wasn't aware that the gun was in
14 the car at the time.

15 Q What are you talking about?

16 A On that conviction, I didn't know the gun was
17 in the car at the time. It was a different situation
18 and the gun was in the car. That came up afterwards.

19 Q Did you plead guilty to unlawful carrying of a
20 pistol?

21 A Yes.

22 Q Thank you. Now you said you sell shoes?

23 A Yes, sir.

24 Q And that's how you were making most of your
25 money?

1 A Not most of my money, no, sir.

2 Q How were you making most of your money?

3 A I get a check a month. So I take my money and
4 try to make some more money.

5 Q Where do you get a check a month from?

6 A From my annuity settlement.

7 Q Because of your arm?

8 A Yes.

9 Q You had a big settlement?

10 A Big settlement, yes.

11 Q You got a lot of money for that, right?

12 A Fairly decent.

13 Q And so in addition to that you sell shoes?

14 A I mean -- I mean, because of my accident I
15 can't work. I mean, that's something that keep me
16 booking.

17 Q That's just what I'm asking you, you sell
18 shoes, right?

19 A Yes.

20 Q And you've done this for a long time?

21 A Not a long, long time, but I mean it was a
22 nice time that people started knowing I sold it.

23 Q About how long?

24 A I'd say a little over a year.

25 Q Where do you get the shoes from?

- 1 A From a person who's selling them.
- 2 Q And then you sell them to somebody else?
- 3 A Yeah.
- 4 Q Do you have a business license?
- 5 A No.
- 6 Q You just sell them to make money?
- 7 A Yes.
- 8 Q Now, you know, you played basketball, right?
- 9 A Yes, sir.
- 10 Q Do you play sports?
- 11 A Mainly basketball.
- 12 Q Are you pretty good?
- 13 A I would say yes.
- 14 Q You can handle your own?
- 15 A Yes.
- 16 Q You can shoot well, right?
- 17 A I know how to shoot.
- 18 Q And you are obviously handicapped?
- 19 A Yes.
- 20 Q You have only one arm?
- 21 A Yes.
- 22 Q Do you let that really get you down?
- 23 A I try not to, that's why I stay busy.
- 24 Q Right. And you coach people in basketball?
- 25 A Well I wasn't really a coach, but I was

1 labeled as a coach. I really was training with the
2 people, but I wasn't the one telling them, doing the
3 plays and stuff.

4 Q You get along pretty good, don't you?

5 A I try to.

6 Q And what about your right arm, it's pretty
7 strong, isn't it?

8 A I don't consider it -- I mean I was living
9 like this since I was 11. So I consider me an
10 average person. I don't know what the next person
11 would think.

12 Q But you don't have any problems with your
13 right arm, do you?

14 A Except for the fact that when I -- because of
15 the harness it does cut circulation off, and
16 sometimes my arm can get like, feel like no blood is
17 getting there, you know. There are situations that
18 go on with this arm too.

19 Q So you do have problems with the right arm
20 sometimes?

21 A Yes, sometimes.

22 Q Let's talk about this day, okay?

23 A Okay.

24 Q Let's talk about the 19th. You said that you
25 were in this area, and whose house did you go to

1 first?

2 A Alicia and Stephanie Jackson.

3 Q And you went there to sell shoes?

4 A Yes.

5 Q About whether time was this?

6 A I think it was like between 7:30, 8 o'clock.

7 I didn't really wasn't looking at the time, you know.

8 I was moving throughout the day.

9 Q But it was later in the day?

10 A Yeah, it was later..

11 Q You went there because they're friends?

12 A Yes.

13 Q And Sam Crawford is a friend?

14 A Yes.

15 Q And Terrence Crawford is a friend?

16 A Yes. I was more than friends with Sam than
17 Terrence.

18 Q You were pretty good friends with Sam, right?

19 A Yeah. I mean, yes.

20 Q And you had been to their house at least a few
21 time?

22 A Yes, I already met their mother.

23 Q You had no problems with them?

24 A No.

25 Q You didn't have a problem with Andrew Rivers?

1 A No.

2 Q In fact you didn't have a problem with Carlton
3 Stretch or Carlos Chisholm either?

4 A No.

5 Q But you did have a problem with Brandon
6 Parker?

7 A No.

8 Q You all didn't have any problems prior to
9 this?

10 A You mean? Not a problem on my end.

11 Q Not a problem on your end?

12 A Yeah, not a problem on my end.

13 Q Are you aware of whether he had a problem with
14 you?

15 A I was kind of aware, but I shooked it off
16 because he wasn't around.

17 Q But your understanding was Brandon had a
18 problem with you?

19 A Well he mentioned something to me over the
20 phone. I gave the phone back, like, I don't know
21 even know what this dude is talking about.

22 Q What did he tell you over the phone?

23 A He said I approached somebody.

24 Q Approached who?

25 A I mean he said his baby's Mama.

1 Q So that's why he had a beef with you?

2 A Like I said, he mentioned something to me, and
3 I was like, you know, because I was going to tell
4 him, hey, what's up, let me send you some canteen
5 because you're from the neighborhood, you know. It
6 turned into something else and I just gave the phone,
7 like hey, he got a problem or something.

8 Q How long before this day did that happen?

9 A That happened like about six months when he
10 had been in jail when I got the call. Well he called
11 a friend and I was in the car with him and he said,
12 hey, Jonta right here, what's up, you know.

13 Q So Brandon Parker had a problem with you
14 because you talked to his baby Mama. That's your
15 understanding?

16 A I mean he mentioned it to me. I didn't know
17 he had a problem. He said, hey, you all met my baby
18 Mama at the club. And I said, who is your baby Mama,
19 and gave the phone up.

20 Q Did it appear to you he was upset with you?

21 A Not really because I mean he was in jail. He
22 didn't sound like very harsh, like, oh, I'm going to
23 beat you up when I get out of jail.

24 Q So he never said anything about that?

25 A No. He just said, you all met my baby Mama at

1 the club.

2 Q Never told you he was going to kill you?

3 A No, he didn't.

4 Q Never threatened your life?

5 A No, he didn't.

6 Q Never made you fear for your life?

7 A Not at the time, no, sir.

8 Q So you pulled up to the residence at the
9 Crawford's around 9 o'clock.

10 A Yes, sir.

11 Q On September 19th?

12 A Yes, sir.

13 Q You and Quantas.

14 A Yes, sir.

15 Q And you were driving?

16 A Yes -- no, Quantas was driving at the time.

17 Q Quantas was driving at the time. And you got
18 out of the car?

19 A No, I yelled out of the car first.

20 Q Well you eventually got out of the car?

21 A I eventually got out of the car.

22 Q And these people that you saw were your
23 friends?

24 A My friends.

25 Q They were people that you knew?

1 A I knew.

2 Q That you didn't have a problem with?

3 A No problems.

4 Q And so you walked up there and talked to them?

5 A Uh-hum. I mean yes.

6 Q Everything was fine at this point, right?

7 A Once again I didn't -- the only thing I did
8 was wave, then went directly to Carlos. I didn't
9 hold a conversation with everybody, you know, it
10 wasn't even that much time.

11 Q But everything was fine when you initially
12 showed up?

13 A Yes.

14 Q Everything was peaceful?

15 A As far as I was concerned.

16 Q It was just another good Friday afternoon;
17 isn't that right?

18 A Yes.

19 Q Where was the gun at that point?

20 A In the glove compartment.

21 Q And why was it in the glove compartment?

22 A Because my brother just to the shot. Some
23 people dealing with the home invasion, they just had
24 went to court. As a matter of fact that August when
25 he got shot, they had got double life on some young

1 people. And, I mean, it was starting to feel that
2 stuff was coming down.

3 Q So you had this gun that you bought off the
4 street in the your glove compartment?

5 A Uh-hum. Yes.

6 Q Yes or no?

7 A I said yes.

8 Q And you had this gun for protection; is that
9 right?

10 A Yes, sir.

11 Q Because you are familiar with guns?

12 A Yes, sir.

13 Q You know how guns work?

14 A Yes.

15 Q You know what guns do?

16 A Well they could do, yes.

17 Q A gun can kill somebody, can't it?

18 A A gun can kill somebody too.

19 Q A gun can hurt somebody very badly, can't it?

20 A A gun can be for recreational purposes.

21 Q It sure can. But a gun can hurt someone
22 pretty badly, can't it?

23 A Yes, it can. If it's used improperly, yes,
24 sir.

25 Q And a gun is also used for defense as well,

1 isn't it?

2 A Yes, sir, it could be.

3 Q And you had this gun in your car for defense?

4 A Not defense, for protection.

5 Q There is a difference?

6 A I mean I'm protecting myself I didn't probably
7 have to use it. For one, from what I heard, you know
8 what I'm saying, dealing with a little of bit or
9 whatever, you can give off a warning shot if you feel
10 threatened to show people, hey, back off. And like
11 that would be protection.

12 Q Have you given off a warning shot before?

13 A No, I never used a gun.

14 Q But you had this gun with you, right?

15 A Yes, I did.

16 Q And the reason you had it with you is because
17 you were prepared to use it if you needed to?

18 A I had it because there was a string of
19 shootings and stuff going around me, I got scared,
20 and I was trying to move out of that situation, but
21 not knowing if I was a target so I got a weapon.

22 Q Were you or were you not prepared to use that
23 gun if you needed to?

24 A Yes.

25 Q And that's why you had it?

1 A Yes.

2 Q And so you didn't have it on your person, you
3 didn't carry it on you when you got out of the car
4 that first time, did you?

5 A No, sir.

6 Q Why not?

7 A Because I didn't -- I mean it was a nice day.
8 Sam owed me some money. I thought I was picking it
9 up. Went to talk to someone else. I mean, it wasn't
10 like no hostile situation. It was no problem or
11 nothing. I didn't even know who was at his house.

12 Q It was not a hostile situation at that time,
13 was it?

14 A No.

15 Q It was not an emotional situation at that
16 time, was it?

17 A No.

18 Q There was nothing to be upset about at that
19 time, was there?

20 A No, sir.

21 Q There was no reason to get the gun out of the
22 glove compartment at that time, was there?

23 A No, sir.

24 Q It was perfectly fine right where it was?

25 A Yes, sir.

1 Q And so it stayed there?

2 A Yes, sir.

3 Q And it couldn't harm anybody as long as it
4 stayed in that glove compartment?

5 A Something happened to it or whatever.

6 Q As long as the gun was in that glove
7 compartment, it couldn't hurt anybody, could it?

8 A No, sir.

9 Q Because it would just stay right there.

10 A Uh-hum. I mean yes, sir.

11 Q Now you got out of the car, and you went to go
12 talk to Carlos, right?

13 A Yes.

14 Q And you talked to Carlos about rims.

15 A Uh-hum.

16 Q And about shoes, right?

17 A Yes, sir.

18 Q And this all happened rather quickly, right?

19 A Yes.

20 Q And did Carlos come back down to your car to
21 look at shoes?

22 A Yes. That's when we looked at by the car. He
23 walked with me from his car to my car.

24 Q And again at this time everybody is still
25 cool, right?

1 A I mean I wasn't observing everybody because
2 once again I'm selling shoes and thinking I'm going
3 to make some money.

4 Q Well to your knowledge, everything was cool?

5 A Yeah, to my knowledge.

6 Q There were no problems?

7 A Not that I know of. I mean -- I mean I kind
8 of got a hint from Carlos he was saying, come to the
9 car, let me see the shoes. I mean I didn't know
10 anything that was going on. I went to show him some
11 shoes, so.

12 Q But then you did get hit, right?

13 A Yes.

14 Q Brandon Parker hit you?

15 A Yes.

16 Q And you all got into a scuffle?

17 A Yes.

18 Q He hit you in the back of your head?

19 A Yes.

20 Q But you didn't fall down?

21 A No.

22 Q You stayed standing up?

23 A I mean I moved.

24 Q You moved, but you didn't fall down?

25 A No, I didn't fall to the ground.

1 Q You didn't like being hit?

2 A Nobody likes being -- no, sir I. Mean I don't
3 like the fact of being hit in the head, no.

4 Q And in fact you were upset?

5 A I mean at the time I was shocked because
6 getting hit and I don't even know what's going on.

7 Q But that wasn't pleasant to you, was it?

8 A No.

9 Q Because you don't like being hit?

10 A It's not that I don't like being hit, there
11 are sports like if you are playing basketball you get
12 hit, you get kneed, you get elbowed. It's ain't the
13 fact of not like getting hit.

14 Q I understand that. But I'm simply saying you
15 didn't like being hit by Brandon Parker, did you?

16 A I didn't even know he hit me, I mean who hit
17 me at first. The whole point it caught me off guard.
18 I mean I didn't know it was Brandon Parker who hit me
19 at first.

20 Q You weren't going to just let somebody hit
21 you, were you?

22 A I mean, no.

23 Q I mean you were going to stop somebody from
24 hitting you, weren't you?

25 A I mean who wouldn't want to know who hit them?

1 Q I'm just asking you.

2 A I mean, can you rephrase that?

3 Q You weren't going to let him continue to hit
4 you, were you?

5 A No.

6 Q And so at this point it really became you and
7 Brandon in a fight?

8 A At that time, after I finally realized who hit
9 me.

10 Q Because you were fighting back too?

11 A After I turned around, yes.

12 Q The two of you were now fighting?

13 A Now fighting, yes.

14 Q And nobody else is getting involved in
15 throwing punches here, are they?

16 A Yes. That's when -- once we started fighting,
17 that's when everybody started jumping in, or whatever
18 they was doing.

19 Q Well let's talk about that?

20 A Okay.

21 Q Were people jumping in to break you up, or
22 were they jumping in to fight?

23 A I don't know what they was doing, all I know
24 was pulling, holding. I mean I'm not saying that
25 they intentionally hit, I mean but you could feel

1 other people getting involved inside this fight.

2 Q But as far as you know the only person you
3 were fighting was Brandon Parker?

4 A Yeah, I mean because he was fighting me.

5 Q And you at least knew that based on your
6 conversation with him a week or two before, that he
7 may be upset with you?

8 A That wasn't a week or two before, that was
9 like six months.

10 Q Six months before.

11 A Yeah, it was way before he even got out of
12 jail. He was in jail when I spoke to him when I
13 found out what was going on. I guess he had a phone
14 and he called a friend. The friend put me on the
15 phone because I was in the car. I didn't talk to him
16 before that.

17 Q But you had least knew that he might have had
18 a problem with you, just Brandon?

19 A I mean he threw up a concern like, hey -- he
20 advised me that he heard some bad news, I guess he
21 was asking me about it. Before we could even get
22 into, I passed the phone away. Like, hey, I don't
23 want to be, you know.

24 Q But nobody else out there you had a problem
25 with, right?

1 A No.

2 Q Nobody else out there was getting involved in
3 this pulling between you and Brandon you had a
4 problem with, right?

5 A Not that I know of, no.

6 Q Nobody?

7 A Nobody.

8 Q And the fight got broken up?

9 A Well Ms. Crawford broke it up with her voice.

10 Q The fight was broken up?

11 A Yes.

12 Q And you didn't have bruises all over you, did
13 you?

14 A I mean I didn't observe myself at the time. I
15 mean --

16 Q Were you bleeding?

17 A I don't believe so.

18 Q Was your nose broken?

19 A No.

20 Q Was your hearing fine?

21 A Sir?

22 Q Was your hearing fine?

23 A As far as I was concerned, yes.

24 Q None of your bones on your body were broken?

25 A No, sir.

1 Q And that's the way that fight ended?

2 A Yes, sir.

3 Q Those were the extent of the injuries?

4 A I mean, I mean because he hit me in the back
5 of the head I mean I felt that. And I mean other
6 than me having a swollen eye, no.

7 Q But it was nothing serious, was it?

8 A I mean it's serious if you get caught off
9 guard.

10 Q There were no serious injuries, were there?

11 A Not serious. I mean what degree you call
12 serious?

13 Q Well for instance a broken bone, you didn't
14 have a broken bone?

15 A No.

16 Q Your nose wasn't broken?

17 A No.

18 Q You weren't bleeding?

19 A No, not that I recall.

20 Q The fight lasted a relatively short amount of
21 time, right?

22 A I wouldn't say it lasted -- it felt like it
23 was, you know, a period of time. But it wasn't like
24 no two hits and then stopped.

25 Q So was this a serious fight, is that what you

1 were saying?

2 A Considering, yes.

3 Q It was pretty serious?

4 A I mean when you got like six people, and you
5 and the person actually going at it too, I mean
6 that's kind of serious.

7 Q So you wanted this thing to end?

8 A How do you mean I wanted it to end?

9 Q You wanted the fight to end?

10 A I mean, who would want to be fighting?

11 Q Sir, I'm just asking you, did you want the
12 fight to end?

13 A I mean, yes, it got ended.

14 Q Did you want it to end?

15 A Yes.

16 Q Did you want it to continue?

17 A No.

18 Q And so it didn't.

19 A It did end.

20 Q And you left?

21 A Yes.

22 Q You got in the car?

23 A Uh-hum. I mean yes.

24 Q With your brother?

25 A Yes.

1 Q Quantas had gotten out of the car at the time
2 of the fight, right?

3 A We both got out of the car -- when I got out
4 of the car and he got out of the car and proceeded
5 the other way while I went to Carlos, yes.

6 Q And you all both got back in the car and you
7 left?

8 A Yes.

9 Q And once you left, nobody was hitting you
10 anymore?

11 A When I left, no.

12 Q Nobody was fighting you anymore?

13 A No.

14 Q Nobody was threatening you anymore?

15 A No.

16 Q There was no reason when you left that you
17 felt your life was threatened?

18 A No. I didn't felt my life was threatened.

19 Q You didn't feel your life was threatened?

20 A No, I mean it was a fight. People fight, you
21 know.

22 Q It was a pretty hostile situation at the
23 house, wasn't it?

24 A What house?

25 Q When the fight was going on, the Crawford

1 house. A I mean I don't know if anybody
2 was trying to gang, but like between me and him, I
3 mean, it was like a regular fight.

4 Q You said it was a serious fight?

5 A I mean, yeah. I mean like both of us
6 fighting, the seriousness when other people joining
7 in, that's when it got serious because you don't know
8 who was who and who was hitting who or whatever, what
9 their intention was. That's why I felt it was
10 serious during that time.

11 Q And when you got out of there, it wasn't
12 serious anymore?

13 A Well kind of it was kind of serious because he
14 start charging at the car so that's why we left. I
15 was going to call Sam to see what was really going
16 on, why did that happen.

17 Q And you left the scene?

18 A Yes, I did.

19 Q Completely gone?

20 A Yes, I did.

21 Q All of that mess at that house was done, it
22 was over?

23 A That's right.

24 Q And you said that you left your glasses there.

25 A I didn't left them there, I noticed it was

1 gone, and the only way it could be gone because of
2 that fight.

3 Q So the glasses were probably there?

4 A Yes.

5 Q And Quantas' cane was probably there as well?

6 A Yes, because we arrived with those on us, on
7 our person.

8 Q It's fair to say you wanted those back, right?

9 A I just spent \$550.

10 Q You wanted them back, didn't you?

11 A Yes, I did.

12 Q And you had options, though, at this point,
13 right?

14 A I mean you can say that.

15 Q I mean you had just left the scene of what you
16 say is a serious fight. And you had just left items
17 that you want back at that scene?

18 A Yes.

19 Q One of the options available to you is you can
20 call the police?

21 A Yes.

22 Q You could have done that?

23 A I couldn't call the police because I didn't
24 have my phone. I was trying to call Sam, so that was
25 the reason why we started even noticing our stuff was

1 gone.

2 Q Was about Stephanie Thomas who lives back
3 behind the Crawford?

4 A She wasn't over there at the time.

5 Q Well one of the options was you could have
6 gone to a convenience store and used a pay phone to
7 call the police, right?

8 A That was an option, yes.

9 Q I mean you could have gotten the stuff back or
10 asked for the stuff back another time?

11 A That could have happened.

12 Q Those are two options. Sam Crawford, good
13 friend of yours, you could have called him at another
14 time?

15 A But when I decided to call him to see what was
16 going on, I noticed my phone was gone and we started
17 noticing stuff was missing.

18 That could have been -- those options could
19 have been available if I had my phone at first and I
20 would not even think about them because I could have
21 called while I was leaving and tell him to gather up
22 anything I needed to gather up.

23 Q But you had options?

24 A Limited options.

25 Q One of those options, and it might not sound

1 so good to you, was you could just leave that stuff
2 forever?

3 A You're right.

4 Q Instead of going back for it?

5 A You're right.

6 Q But there were other options as well?

7 A I mean my mind was cloudy, and was trying to
8 think a lot. You know, at the time, you know, it was
9 very strange. I didn't know what to think.

10 Q I mean one of your options was you could go
11 back there, right?

12 A I could go back, yes.

13 Q You could go back there right then and there?

14 A Right.

15 Q Back to the scene of a serious fight?

16 A Yep.

17 Q Back to a scene of hostility?

18 A Yep.

19 Q And not only that, you could go back to the
20 scene of a serious fight, a scene of hostility with a
21 gun?

22 A Yes.

23 Q Because that was an option?

24 A I mean me knowing Brandon, he had a record, he
25 was in jail when I first --

1 MR. DURANT: Your Honor, may we approach?

2 THE COURT: Uh-hum.

3 (Whereupon, the following discussion was held
4 at the bench.)

5 MR. DURANT: I'm not really sure where I'm at
6 right now, I'd like to not be able to have him list
7 stuff about the victim's record.

8 THE COURT: It is what it is. It goes to his
9 reputation for violence and his frame of mind which
10 is relevant to this incident.

11 MR. DURANT: Right, I'm all for getting
12 clarity. What you are saying is going to be allowed,
13 he doesn't have the --

14 THE COURT: He is allowed to talk about it if
15 it colored his perception of whether he was in
16 danger. I don't know what his record was for. I
17 don't think you want him to go into it.

18 MR. DURANT: I ask if we can get a cautionary
19 instruction.

20 THE COURT: I don't think he needs a
21 cautionary instruction. His perception of what he
22 was protecting which goes to his state of mind, goes
23 exactly to the element of the victim's reputation for
24 violence or propensity for violence. That's really
25 not an element. Element is reputation for violence,

1 if he perceived he was in danger because the person
2 has a record, which presumes that he knows what that
3 record was for, it's relevant and admissible.

4 I would imagine he is not going to mention it
5 again after you finish this questioning, but I don't
6 know.

7 MR. DURANT: I don't know either.

8 MR. MATTSON: He keeps fishing around, he is
9 going to get it.

10 THE COURT: You know, that's the only problem,
11 you asked a question you don't know what the answer
12 is going to be.

13 MR. DURANT: Another thing he is not really
14 directly answering my questions.

15 THE COURT: Actually he was, he was just
16 qualifying them. You asked them. It's the way you
17 ask the questions. He is being responsive or I would
18 have told him he wasn't being.

19 MR. DURANT: All right.

20 (In open court.)

21 THE COURT: You may proceed.

22 MR. DURANT: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 Q (By Mr. Kidd) So you had options available to
25 you, right?

1 A Yes.

2 Q And one of those options did include going
3 back to that scene with that gun?

4 A That wasn't an option until I got permission
5 to be in the yard.

6 Q You had never seen a gun on anybody there when
7 you were there previously?

8 A I didn't have time to actually see, I mean,
9 scope out everybody personally, see what they got
10 going on.

11 Q You never saw a gun on Brandon Parker, did
12 you?

13 A I mean he wasn't there until he actually hit
14 me. So how can I see if I didn't see him the whole
15 time until he came up behind me?

16 Q Did you ever see a gun on Brandon Parker?

17 A Not me, no.

18 Q Did you ever see a gun on anybody else?

19 A No.

20 Q Did you ever see a weapon on anybody else?

21 A No.

22 Q But you wanted a weapon?

23 A What do you mean I wanted a weapon?

24 Q You felt comfortable putting a gun on you?

25 A Yes.

1 Q And where did you put it?

2 A In my waistline.

3 Q Will you show the jury how you put that gun on
4 yourself?

5 A You mean put it on you?

6 Q No, I'm asking you.

7 THE WITNESS: Do I have to, ma'am?

8 THE COURT: No, sir, you do not.

9 THE WITNESS: Thank you.

10 THE COURT: You may ask the next question,

11 MR. DURANT: Thank you, Your Honor.

12 Q (By Mr. Durant) Did you put it in the front
13 of your pants?

14 A Right here on the side.

15 Q Was it visible?

16 A Not to my knowledge because I had a shirt on
17 and I had it, you know what I'm saying, tucked right
18 in here.

19 Q So it was concealed?

20 A Yes.

21 Q You didn't think anybody could see it?

22 A I didn't thought no one could see it.

23 Q And that's how you felt most comfortable?

24 A I mean I didn't -- I mean, I put it in my
25 waistline. I mean after I got permission, I felt I

1 was comfortable and I thought everything was going
2 smooth and I could leave.

3 Q And that gun came out when you got back there,
4 didn't it?

5 A It came out, yes. Not when I got back there.

6 Q But it did come out?

7 A It came out.

8 Q And it came out because you saw the person
9 that you had previously been in a fight with?

10 A That's the question?

11 Q That's the question.

12 A No. Because I didn't see him until he hit me
13 again and we started fighting in front of each other.
14 Like I was walking back, like I said, once I had
15 already gotten my stuff, I was walking back to the
16 car and I got hit again and we started fighting
17 again. And the gun was at my waist.

18 Q And so the gun came out?

19 A It didn't come out. I felt it slipping. I
20 told him, back away, I got a gun on me. He went for
21 it, I went for it, and it was a struggle at that
22 time.

23 Q So you told him you had a gun?

24 A I told him.

25 Q And he saw that you were now back at the scene

1 where you all had fought before?

2 A I don't know if he saw I was back at the
3 scene.

4 Q Well if you were right in front of his face he
5 probably saw you, right?

6 A No. I mean I was talking to Ms. Crawford and
7 I guess if he was hiding he heard me. I was
8 gathering my stuff. Once I got it, I was leaving,
9 and I got attacked again.

10 Q And you had this gun, and you told him you had
11 this gun?

12 A As we was fighting, once he already had hit me
13 and we started fighting again, I told him then.

14 Q And the gun came out?

15 A After I told him, yes, it came out.

16 Q You pulled the gun out?

17 A No, I didn't. I didn't felt I pulled it out.
18 I went for it.

19 Q The gun was in your hand.

20 A The gun was in both our hands.

21 Q The gun was in your hand?

22 A The gun was in both our hands.

23 Q And that includes your hand?

24 A That includes my hand.

25 Q The gun that you brought to the scene was in

1 your hand?

2 A In both our hands, yes.

3 Q And there was a struggle over the gun?

4 A Yes.

5 Q Over the gun that you brought back to the

6 scene?

7 A Yes.

8 Q And the gun went off?

9 A Went off.

10 Q And the gun killed Brandon Parker?

11 A It was.

12 Q The gun killed Brandon Parker?

13 A As a result.

14 Q And if you had never brought that gun back to

15 that scene, that gun would have never killed Brandon

16 Parker, would it?

17 A Probably wouldn't have.

18 Q If that gun had stayed in that glove

19 compartment, that gun would have never killed Brandon

20 Parker, would it have?

21 A If it stayed -- I mean, yes, I don't think it
22 would be able to shoot out of the glove compartment.

23 Q And Brandon Parker would still be alive today?

24 A Don't know. You don't know what can happen.

25 Q He wouldn't have been dead because that gun

1 had shot him, would he?

2 A He wouldn't have died if he wasn't struggling
3 over a gun.

4 Q A gun that you brought to the scene?

5 A Yes, I did.

6 Q He would still be alive?

7 A Probably so.

8 Q But he is not alive?

9 A No, he is not.

10 Q Because you came back to the scene with a gun?

11 A I had a gun on me when -- after I got
12 permission to be in someone's yard, yes.

13 Q You didn't stay on the scene that night, did
14 you?

15 A No, I didn't.

16 Q You left, didn't you?

17 A Yes, I did.

18 Q You were scared?

19 A Yes, I was.

20 Q You were upset?

21 A I mean how do you mean I was upset?

22 Q Were you upset?

23 A When I left?

24 Q Yes.

25 A Yes.

1 MR. DURANT: Thank you. I have no more
2 questions.

3 THE COURT: Any redirect?

4 MR. MATTSON: Yes, Your Honor, I do.

5 THE COURT: Proceed.

6 REDIRECT EXAMINATION

7 BY MR. MATTSON:

8 Q Mr. Green.

9 A Yes, sir.

10 Q Did you put that --

11 A Can you move that?

12 Q Okay, sorry.

13 Mr. Green, when you got out of the car, did
14 you put this gun in your waistband for the purpose of
15 killing Brandon Parker?

16 A No, I didn't.

17 Q What were you and Brandon doing when the gun
18 came out?

19 A Well I told him that I had a gun --

20 Q Listen carefully. What were you all doing
21 when the gun came out?

22 A Struggling over it.

23 Q Fighting?

24 A Basically, yeah. He was trying to take it
25 from me and I was trying to keep it from him.

1 Q How did the second altercation start?

2 A By me getting my stuff, after I asked Ms.
3 Crawford can I get my stuff, got help. As soon as I
4 was leaving, I got hit again.

5 Q Is it fair to say that gun would not have come
6 out if he hadn't assaulted you a second time?

7 A I can say that, yes, sir.

8 Q Did you try to warn him -- what was your
9 purpose in telling him you had this firearm?

10 A I mean just to tell him, I mean, so that he
11 could back off. He probably would have got scared
12 and run or something.

13 Q But we know he was drinking at the time, don't
14 we. Got a blood-alcohol test?

15 A Yeah.

16 Q Were you threatened by anyone, by Stretch, at
17 the scene?

18 A Not at the time, I mean.

19 Q No, when you all were fighting by the car, you
20 and Stretch. You said he said something to you?

21 A I mean he pulled me out of the car, started
22 fighting me, saying, I'm going to kill you, you
23 killed my dog. I'm going to beat you A-S-S, and
24 stuff like that.

25 Q Okay. So you thought that was a pretty good

1 reason when he got off of you for you to leave the
2 scene?

3 MR. DURANT: Objection, leading.

4 A Yes, sir.

5 THE COURT: Sustained leading.

6 Q (By Mr. Mattson) Okay. Did that have
7 anything to do with what you did after the police got
8 him off of you?

9 A Yes. Samuel -- well like basically when he
10 got up off of me I was trying to get safe, not
11 knowing what was going on, and I ran. That was the
12 first thing that came to my mind was to get out of
13 that area.

14 Q And when you talked to Brandon Parker on a
15 cell phone when he said something to you about, I
16 think it was a girl, a woman?

17 A Basically he said --

18 Q Where was he?

19 A In jail.

20 Q When you were being asked about the options
21 you had.

22 A Yes.

23 Q On cross-examination. What were you thinking
24 about?

25 A You mean like right now?

1 Q No, then. You know, he was saying pay phone,
2 your phone, leave the stuff. What were you thinking
3 about after the gun had gone off and -- not the gun
4 had gun off, but what your options were after you
5 left the party the time first time?

6 A Like I was thinking, like me and Quantas was
7 talking because like I mean I was saying like, hey,
8 let's call Sam and see what's going on. And we
9 noticed that our stuff was missing.

10 I mean, so we went back. That's why we didn't
11 come around there and just get out of the car and
12 start going in the yard. We asked permission. If
13 Ms. Crawford had said no, we would have left.

14 So I mean, that was my option. I was going to
15 ask to see if I could get my stuff or our stuff. She
16 said yes, so that's why I entered the yard. If she
17 had said no, I felt I would have left.

18 Q Okay. Did you want to continue your fight
19 with Brandon?

20 A No, sir.

21 Q Did you want to fight him the first time?

22 A No, sir. I wouldn't want to fight somebody
23 with a bunch of people, you know, already been -- I
24 felt was, you know, kind of not being fair at the
25 time. So I wasn't looking to fight anyone.

1 Q You just came in to sell some shoes, get some
2 money from Sam.

3 A I came there to get some money from Sam
4 because he was calling, and that resulted in trying
5 to sell shoes and turned into other stuff.

6 Q It turned into a night from hell?

7 A You're right.

8 MR. MATTSO: No further questions.

9 THE COURT: Sir, you may step down.

10 THE COURT: Could counsel approach for me,
11 please. Actually we will talk about that in a
12 minute.

13 Madam Forelady, ladies and gentlemen, we are
14 going to take advantage of this break in testimony to
15 take our evening recess. Again we appreciate you
16 allowing us to go beyond the 5 o'clock hour to
17 complete this witness. We do not take your time for
18 granted.

19 During this break, again, it is essential that
20 you have no conversation about this case among
21 yourselves or with anyone else. Please don't allow
22 yourselves to be exposed to any media about this
23 case; that includes anything on the radio,
24 television, newspaper or Internet. Don't do any
25 independent research regarding any issue or matter on

1 the Internet.

2 We will resume in the morning at 9:30. You
3 will come directly to your jury room. And again,
4 please don't have any contact with anyone in or about
5 the courthouse.

6 If any of you -- I know it's probably still
7 light outside, but if anyone feels the need to have
8 the deputies escort you to the garage, we certainly
9 can arrange that so please let us know. I'm used to
10 it getting dark early, so I'm used to sending a
11 deputy down to Cumberland because I know it's a
12 little bit of walk for you. With the time changing,
13 people feel differently.

14 So if you need an escort, please let us know
15 so that we can make those arrangements prior to you
16 leaving the courthouse. Please leave your notepads
17 in your seats and have a good evening. See you at
18 9:30.

19 (Whereupon, the jurors exit the courtroom.).

20 THE COURT: Are you, Mr. Mattson, going to
21 have additional witnesses?

22 MR. MATTSON: Not that I anticipate at this
23 time, Your Honor.

24 THE COURT: Well you need to tell me now.
25 Because if you don't have any further witnesses, I'm

1 going to go ahead and let you rest and I'm going to
2 hear motions.

3 I need to determine if the State is going to
4 have any rebuttal witnesses, because I need to know
5 how I am planning for tomorrow.

6 MR. MATTSON: Okay.

7 THE COURT: Did you need time to discuss that
8 with your client?

9 MR. MATTSON: Your Honor, I'm going to --

10 THE COURT: Of course I'm going to let you
11 rest in the presence of the jury.

12 MR. MATTSON: I'm going to rest.

13 THE COURT: Okay.

14 Are there any motions now that the defense has
15 rested their case?

16 Mr. Mattson, are there any motions.

17 MR. MATTSON: Oh, I thought you were referring
18 to them.

19 THE COURT: Well they wouldn't have any
20 motions. You would need to renew your motions,
21 however.

22 MR. MATTSON: Your Honor, I would like to
23 renew the motion that I made earlier for the same
24 reasons and same grounds. I'm not going to go into
25 it verbatim again.

1 THE COURT: You don't have to, it's preserved
2 for the record. If you just want to renew it based
3 on your previous motion, I will note it renewed on
4 the same grounds, deny it on the same grounds.

5 MR. MATTSON: Yes, Ma'am.

6 THE COURT: And it will be preserved for you.

7 MR. MATTSON: Thank you, ma'am.

8 THE COURT: You're welcome.

9 Okay, is the state going to have any rebuttal
10 witnesses?

11 MR. DURANT: Your Honor, we are talking about
12 that right now.

13 THE COURT: Okay. How long do you need to
14 talk about it?

15 MR. MCCOY: 30 seconds.

16 THE COURT: Let me know when you're done.
17 Don't rush.

18 MR. DURANT: Your Honor, the State is not
19 going to call any rebuttal witnesses in this case.

20 THE COURT: Okay. So does the State rest?

21 MR. DURANT: The State rests.

22 THE COURT: Are there any additional -- you
23 are not going to call rebuttal witnesses, I don't
24 know that you have to rest again so I apologize. I
25 was in automatic pilot.

1 What we will do, the hour is well-spent, we
2 will resume in the morning. I think I have a
3 conference call in the morning on a case at 9:15, so
4 we can't start at 9:15, but we will start promptly at
5 9:30.

6 I would ask though that you all come early
7 enough to go through the evidence, make sure
8 everything is in place, go through it with the court
9 reporter, and we will have charge conference and then
10 -- is the State going to open and close, or is the
11 State going to simply close?

12 MR. DURANT: The State is going to open and
13 close.

14 THE COURT: Okay. Then what we will do is
15 have closing arguments and instructs. We will have
16 charge conference, closing argument and instruction.

17 MR. DURANT: Just on those lines. If we have
18 a charging conference, can we have a little bit of
19 time between the charging conference and the opening
20 on the law so that we know what kind of law we are
21 going to open on?

22 THE COURT: Well the law is standard. You all
23 have -- our books don't really change unless the law
24 changes. The only thing that's going to be different
25 is that I won't be charging inferred malice. I can

1 tell you right now, based on the testimony, I am
2 going to charge the lesser included offenses of
3 manslaughter. I probably will charge accident now
4 based on the defendant's testimony. Of course I will
5 instruct self-defense.

6 MR. DURANT: Can we still talk about that
7 tomorrow?

8 THE COURT: Yeah, we are going to have a
9 charge conference. I'm just telling you in advance
10 so that you can be prepared because I have already
11 prepared my instructions.

12 It's up to you all, if you all want to go
13 through it quickly so you can think about it
14 overnight.

15 MR. MATTSON: I'd rather do it in the morning,
16 give me a chance to review things. I'm tired, Your
17 Honor.

18 THE COURT: Well I mean it wouldn't take but
19 five minutes. It gives you a chance to prepare for
20 argument on it.

21 MR. MATTSON: Okay.

22 THE COURT: I'm not doing the actual charge
23 conference, I'm just going to give you a preview.

24 MR. MATTSON: Okay.

25 THE COURT: But it's up to you all, it don't

1 matter to me.

2 MR. MATTSON: Let's go for it then.

3 THE COURT: I'm just going to give a general
4 instruction regarding the jury's function and mine.
5 How they are to judge witness credibility and
6 believability. The prior record of a witness only
7 being used for purposes of credibility. And I
8 probably will now, based on the impeachment testimony
9 about the unlawful carrying, I will instruct that
10 they have heard testimony that the defendant has been
11 convicted of an offense. It's up for them to
12 conclude whether it's true or not. And even if they
13 conclude it's true, it can only be used for purposes
14 of his credibility and for no other purpose.

15 I don't know that I need to instruction on
16 identification, because I don't think there is really
17 any question -- the defendant does not deny being
18 there, and I think all theses individuals knew each
19 other. So I don't really think I need to instruct on
20 identification.

21 I will give a brief instruction regarding
22 expert witness testimony. I probably will give a
23 general charge regarding the fact that there has been
24 testimony elicited about defendant's good reputation
25 and character, and that the jury can consider it only

1 for that purpose, if they are to consider it at all.
2 But that is solely up to them.

3 Give a circumstantial evidence charge from
4 State versus Grippon. I will instruct that the
5 charge, the arrest and the indictment are not
6 evidence. I will instruct a general charge on the
7 presumption of innocence. I will charge Victor
8 versus Nebraska on reasonable doubt.

9 I will instruct on the elements of murder, or
10 homicide as we commonly refer to it. And again I
11 will give the usual elements of homicide. But I will
12 not have the language regarding inferred malice based
13 on State versus Belcher which this comes within those
14 circumstances of mitigation or excuse because he has
15 pled self-defense. so I'm not going to instruct
16 inferred -- a gun being an inference of -- the use of
17 a deadly weapon being inferred malice, so I will not
18 instruct that.

19 MR. DURANT: That's just for the inference on
20 the gun, not for recklessness.

21 THE COURT: That's express malice, that's not
22 inferred malice. Inferred malice may also arise when
23 the deed -- well inferred malice -- the only other
24 inferred malice instruction we have goes from conduct
25 showing a total disregard for human life. And that's

1 the only other thing I'm going to instruct.

2 I'm not going to instruct that the use of a
3 deadly weapon or implement, which we know under case
4 law a deadly weapon isn't just a gun. It could be a
5 fist, it could be ordinary objects, it could be
6 almost anything that once propelled or put into
7 motion could cause somebody to die.

8 But I will simply instruct on express malice
9 which is preparation beforehand, laying in wait and
10 all that stuff. And also that malice may be inferred
11 from conduct showing a total disregard from human
12 life. But I will not instruct that malice may also
13 arise when the deed is done with a deadly weapon.

14 Because under the Belcher precedent, it would
15 not be appropriate. Now it might be appropriate
16 factually to other cases, but it would not be
17 appropriate in a self-defense, in the context of a
18 self-defense case.

19 I will then instruct on the elements of
20 voluntary manslaughter, which we all know what those
21 are. I don't think this is a case of involuntary
22 manslaughter. I don't think factually it meets those
23 elements, nor do I think there is any request for
24 that, but I have to go back and look.

25 MR. MATTSON: Yes, I think there is, Your

1 Honor.

2 THE COURT: Yeah, but I don't think it meets
3 the elements of involuntary. Involuntary
4 manslaughter requires that the person unintentionally
5 killed a person without malice, but while engaged in
6 an unlawful activity not naturally tending to cause
7 death or great bodily harm.

8 whenever a gun is involved, you cannot infer
9 that great bodily harm would not result. Or that --
10 but the key language being, but while engaged in an
11 unlawful activity. which he can be engaged in an
12 unlawful activity for self-defense, but that's a
13 whole 'nother issue.

14 which not naturally tending to cause death or
15 great bodily harm. whenever a gun is involved, you
16 cannot meet that element because you would be saying,
17 the use of a gun would not naturally tend to cause
18 death or great bodily harm.

19 I don't think that's the circumstance that is
20 contemplated by the case law. Or the other element
21 is that unintentionally killed the person without
22 malice while engaged in a lawful activity -- well he
23 was not engaged in a lawful activity -- with reckless
24 disregard for the safety of others.

25 while he may meet factually the other part of

1 that sentence, he does not meet the first part of the
2 sentence because he was not engaged in a lawful
3 activity.

4 So the first part of it is you can be engaged
5 in an unlawful activity, but it has to be one that is
6 not naturally tending to cause death or great bodily
7 injury. I'm still thinking through that, but at this
8 point I'm not inclined to instruct on involuntary
9 manslaughter.

10 MR. MATTSON: Your Honor, I would like to if
11 you don't mind -- excuse me, I only had one copy of
12 it -- refer the court to Supreme Court decision in
13 the State of South Carolina versus Burris, that was
14 decided February 16th, 1999. Citation 334 S.C. 256,
15 513 S.E.2d 104. I will be arguing that tomorrow in
16 the involuntary manslaughter. If you'd like to --

17 THE COURT: I'm familiar with Burris. I think
18 factually that charge does not -- involuntary
19 manslaughter is where you either acting unlawfully
20 you are engaged in some activity that is not designed
21 to kill somebody, and that person inadvertently
22 through mishaps is killed.

23 The other part of that requirement is that you
24 are acting lawful. It's just a reckless standard,
25 basically, that you just disregarded human life but

1 you still were acting lawfully and caused the death
2 of a person.

3 Factually, based on the evidence in this case,
4 this is not an involuntary manslaughter case.
5 Whenever you have -- and there are some -- and what
6 you are talking about is a distinction of having a
7 gun unlawfully but being able to be lawfully armed
8 for self-defense, that's a whole different thing.

9 I'm going to instruct the jury within the
10 confines of self-defense that he can be engaged in an
11 unlawful activity, that being he is armed with a gun
12 to defend himself. That does not preclude his
13 defense of self-defense. The law says he can do
14 that.

15 And then I will instruct on the elements of
16 possession of a firearm during the commission of a
17 violent offense which is like three sentences, it's
18 pretty boilerplate, which includes those requisite
19 elements pursuant to the statute which is 16-23-490.

20 Then I will instruct on the elements of
21 self-defense which we all know those to be without
22 fault in bringing about the difficulty.

23 I will instruct contemptuous language because
24 there has been some testimony that there may have
25 been contemptuous language involved. I will then

1 instruct on imminent danger, which is the second
2 element. And the right to act on appearances, which
3 includes that you don't have to allow somebody to get
4 the drop on you from Starns.

5 And I will instruct prior difficulty, because
6 there has been some evidence on that. I will also
7 instruct size and age, and the other is no other way
8 to avoid the danger.

9 You could also instruct on intoxication, but
10 I'm trying to remember. It seems that the medical
11 examiner's testimony was not -- that his B/A level
12 did not rise to .08, it was .02-something.

13 MR. MATTSON: 047.

14 THE COURT: I cannot remember. I just know it
15 was less than the .08. And .08 creates an inference
16 that somebody is impaired.

17 MR. MATTSON: Which she also testified
18 pursuant to one of my questions that ingestion of
19 alcohol impairs judgment.

20 THE COURT: Ingestion of alcohol and
21 intoxication are two -- intoxication in this state is
22 basically .08. If that were the case, a lot of
23 people driving would be convicted on .02.

24 You know, it depends on how your body
25 metabolizes the alcohol. Some people may have a beer

1 and they're impaired. I don't know. I will study
2 that. I will think about that this evening.

3 You don't have to retreat if by doing so
4 increases the risk of harm to you. I don't know if
5 I'm going instruct lawful guest. He has testified
6 that he was invited or allowed back onto the property
7 by Ms. Crawford. And I don't know that that
8 necessarily puts him within the definition of being a
9 lawful guest and not having a duty to retreat. I
10 have to think about that one a little bit more as
11 well. And I will instruct on the degree of force
12 that is used in self-defense.

13 Then instruct the jury that he has multiple
14 offenses that he is being charged with, they're to be
15 consider each one separately, independent -- actually
16 before I instruct that I will instruct -- I'm at this
17 point inclined to instruct accident based on the
18 defendant's testimony. And of course an accident
19 must be shown to be unintentional, that the defendant
20 was acting lawfully, and that reasonable care was
21 used by the defendant in the handling of the weapon.

22 For example, if a person is lawfully armed in
23 self-defense and the gun accidentally discharges, the
24 defense of accident would apply. And of course we
25 know the burden is on the State to prove that it was

1 not an accident, and that it was caused by the
2 negligence or carelessness on the part of the
3 defendant in handling a dangerous instrumentality.

4 So I am inclined at this point, based on the
5 testimony of the defendant, to instruct on accident.
6 I think it becomes a factual issue at this point.
7 And then I will instruct on the multiple charges,
8 that they have to consider each one separate and
9 independent based on the facts and the law applicable
10 to each of those. And then I will instruct on the
11 form of the verdict.

12 So you all can think about that. We will have
13 our formal charge conference in the morning, at which
14 time the Court will entertain any exceptions to the
15 charges proposed.

16 Anything before we adjourn for the evening
17 from the State?

18 Mr. MATTSON: My secretary is already on time
19 and a half, she is about to hit double-time. So
20 nothing from the defendant.

21 THE COURT: Anything from the State?

22 MR. DURANT: Nothing from the State, Your
23 Honor.

24 THE COURT: You all have a good evening. I
25 will see you in the morning at 9:30.

1 (Whereupon, the proceedings in this matter
2 before the Court were adjourned.)

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1 THE COURT: Good morning. I apologize for the
2 delay, my conference call took a lot longer than I
3 expected it to, and I am sorry that you all had to
4 wait.

5 Last night I did a little research before
6 leaving. And I think based -- I think you all --
7 well why don't we do this differently. I will just
8 go through the charge, allow you to make any
9 exceptions, I will hear any argument, and then we
10 will go from there.

11 I will give the jury a general instruction
12 regarding their responsibility and my responsibility.
13 How they are to judge witness credibility and
14 believability. I will instruct them regarding prior
15 record of a witness, as well as a prior record of the
16 defendant, both of which those can only be used for
17 the purpose of credibility.

18 I will give them a general instruction
19 regarding expert witness testimony. I will also
20 instruct them regarding the fact that they have heard
21 evidence regarding the defendant's good reputation
22 and character, and that they can consider that just
23 like any other testimony, and give it the weight they
24 decide it should have on that issue and that issue
25 alone.

1 I will give a general instruction regarding
2 both direct and circumstantial evidence from State
3 versus Grippon. I will give a general instruction
4 regarding the charge, the arrest and the indictment
5 not being evidence, as well as the presumption of
6 innocence. I will give Victor versus Nebraska on
7 reasonable doubt.

8 And then I will instruct on the elements of
9 homicide or murder, and we know what all of those
10 elements are. As I indicated last night, I will not
11 be instructing the inferred language regarding the
12 deed being done with a deadly weapon, since there has
13 been evidence of mitigation in the nature of
14 self-defense, and pursuant to prevailing case law,
15 that should not be instructed. And I am referring to
16 State versus Belcher.

17 But I will instruct that malice may be
18 inferred from conduct showing a total disregard for
19 human life. I will then instruct on the elements of
20 voluntary manslaughter. I will indicate that, if you
21 feel the State has failed to prove beyond a
22 reasonable doubt that the defendant committed murder,
23 you may consider whether the State has proven beyond
24 a reasonable doubt that the defendant committed
25 voluntary manslaughter.

1 And I will charge the usual elements of
2 voluntary manslaughter, which is sudden heat of
3 passion based on sufficient legal provocation. Which
4 of course will also include the language regarding if
5 the heat of passion had cooled, or if there was
6 enough time between the provocation, if any, and the
7 killing for the passion of a reasonable person to
8 cool, then it would not be voluntary manslaughter.

9 I will then instruct the elements of
10 involuntary manslaughter. And it will include that
11 same language, if you find the State has failed to
12 prove beyond a reasonable doubt that the defendant
13 committed murder, you may consider whether the State
14 has proven beyond a reasonable doubt that the
15 defendant committed involuntary manslaughter.

16 Then I will charge the elements of involuntary
17 manslaughter, which is the unintentional killing
18 without malice while engaged in an unlawful activity
19 not naturally tending to cause death or great bodily
20 harm. Or that the defendant unintentionally killed
21 the victim without malice while engaged in a lawful
22 activity with reckless disregard for the safety of
23 others.

24 Then I will define unintentional, and also
25 reckless disregard for the safety of others is more

1 than mere negligence or carelessness. It is the
2 failure to use the care that a person of ordinary
3 reason would use under the same circumstances.

4 And also define recklessness, which is the
5 conscious failure to use ordinary care. And also
6 proximate cause. Also instruct it's a violation of
7 the statute if it is the proximate cause of an injury
8 or evidence of recklessness.

9 Then I will charge the elements of possession
10 of a weapon during the commission or attempt to
11 commit a violent crime which are, as I indicated,
12 straight from 16-23-490. And they would only -- the
13 State has to prove that he was in the possession of a
14 firearm or visibly displayed what appeared to be a
15 firearm during the commission of a violent crime.
16 Then defining what a firearm is.

17 And then defining a violent crime pursuant to
18 the statute, and murder and voluntary manslaughter
19 are violent crimes as defined by 16-160.

20 I will then instruct the elements of
21 self-defense, which we all know the first element is
22 without fault. I will instruct on contemptuous
23 language which is, self-defense is not available to a
24 person who uses language which is so contemptuous
25 that a reasonable person would expect it to bring on

1 a physical encounter, and which did actually
2 contribute -- bear with me one second. Bear with me,
3 I'm missing a sentence on this.

4 I will instruct the second element which is
5 imminent danger, which is based on the defendant's
6 perception or belief that he was in danger based on
7 the facts and circumstances -- the surrounding facts
8 and circumstances; including the fact that he doesn't
9 have to have been in actual imminent danger, but it
10 is sufficient if he perceived that.

11 And going back to the contemptuous language,
12 actually three words and I actually do have them,
13 would expect to bring on a physical encounter, and
14 which did actually contribute to the physical
15 encounter.

16 That would also include without fault, would
17 include some language regarding mutual combat, which
18 is if the defendant voluntarily participated in
19 mutual combat for purposes other than protection, it
20 would not be self-defense. There is some testimony
21 that these parties were involved in mutual combat in
22 terms of there being a scuffle and a fight.

23 Of course mutual combat requires that there be
24 a mutual intent and willingness to fight. And that
25 may be shown by the acts and conduct of the parties,

1 and the circumstances surrounding the combat.

2 The second element being imminent danger. And
3 again that is based on the defendant's perception. I
4 will instruct on the right to act on appearances,
5 which is the defendant has a right to act on
6 appearances even though his beliefs may have been
7 mistaken. It is then for the jury to decide whether
8 that fear was reasonable and would have been felt by
9 an ordinary person in the same situation.

10 And that once the right to fire or act in
11 self-defense arises, the defendant is not required to
12 wait until his adversary is on equal terms, or until
13 he has fired or aimed his weapon in order to act.

14 Similarly, the defendant does not have to wait
15 until the assailant gets the drop on him, he has the
16 right to act under the law of self-preservation and
17 prevent his assailant from getting the drop on him,
18 which is the standard language in Starns.

19 I will also instruct on prior difficulties,
20 size and age. I'm going to need you all's input
21 whether I will instruct intoxication. Technically he
22 was not impaired under South Carolina law because the
23 presumption of impairment is .08. But we will talk
24 about that in a moment.

25 The last element, which is no other way to

1 avoid the danger. And I will instruct within that
2 context increased risk of harm. In other words, that
3 the person had no duty to retreat if doing so would
4 increase their danger of being killed or suffering
5 serious bodily injury wouldn't decrease.

6 I will also instruct lawful guest based on the
7 testimony that they came to the house at the
8 invitation of Samuel, and then secondarily had the
9 permission of his mother in returning to look for
10 their property. I think being a lawful guest it's
11 not limited to the interior of the residence, but
12 also the exterior, which is the yard.

13 And that language is that a lawful guest in
14 another home has no duty to retreat before using
15 deadly force in self-defense -- actually that is not
16 applicable, I apologize, because that deals in the
17 context of an intruder, I apologize.

18 I will instruct on the degree of force, which
19 is a person cannot be required to make an exact
20 calculation as to the degree or amount of force which
21 may be needed to avoid death or serious bodily
22 injury. I think we all know what the rest of that
23 language dealing with goes to using the amount of
24 force that is necessary for complete self-protection,
25 and that which a person of ordinary reason and

1 prudence would have exercised.

2 I'll also instruct on the defense of accident.
3 And we know the language of that which is, an act may
4 be excused on the grounds of accident if it is shown
5 that the act was unintentional, that the defendant
6 was acting lawfully, and that reasonable care was
7 used by the defendant in handling the weapon.

8 And that goes on to state, for example, if a
9 person lawfully armed in self-defense and the gun
10 accidentally discharges, the defense of accident
11 would apply. The burden is on the State to prove the
12 act was not an accident beyond a reasonable doubt,
13 but was caused by the negligence or carelessness on
14 the part of the defendant in handling a dangerous
15 instrumentality.

16 Then I will instruct on multiple charges,
17 which is that there are two charges in this case, the
18 jury must consider those offenses separately and
19 independently based on the law applicable to it.
20 Then I will instruct on the form of the verdict which
21 I will give you all an opportunity to look at
22 momentarily after we deal with the exceptions.

23 Are there any exceptions to the charges
24 proposed from the State?

25 MR. DURANT: Yes, Your Honor.

1 THE COURT: You may proceed.

2 MR. DURANT: Well there are a couple. Are you
3 going to charge contemptuous language as well?

4 THE COURT: I did say that, uh-hum.

5 MR. DURANT: Okay. State's position is that
6 involuntary manslaughter, accident and self defense
7 shouldn't be charged in this case.

8 And dealing first with involuntary
9 manslaughter, which is charged only in circumstances
10 where you are involving a gun, where there is
11 unlawful conduct involving a gun, it's not to be
12 charged.

13 THE COURT: However, our case law says that he
14 -- unlawfully armed in self-defense is not illegal.

15 MR. DURANT: Exactly, and --

16 THE COURT: And does not indicate a charge of
17 voluntary manslaughter.

18 MR. DURANT: The case law goes on to cite what
19 is being lawfully armed, when somebody can be
20 unlawfully armed and then become armed. In all of
21 the cases that address this are situations in which,
22 for instance, in State v. Light, where the defendant
23 came into a bedroom where a lady had grabbed a gun,
24 and he disarmed her, he became lawfully armed at that
25 point, it was appropriate to charge involuntary

1 manslaughter.

2 THE COURT: Unfortunately the case law does
3 not support that posture. There are cases where
4 people have gone to vehicles and gotten guns. There
5 are cases where people have brought guns to
6 situations where the case law says that you are
7 lawfully armed in self-defense.

8 It's all fact-driven really. And we could
9 probably sit here all day and go through every case.
10 Because the Supreme Court and Court of Appeals has
11 handled each of those cases on a case-by-case basis
12 based on the individual facts.

13 That's why we have so many different, almost
14 innumerable options to instruct where the Court has
15 instructed that you only charge these where the facts
16 support these particular things. Such as, you know,
17 when somebody used their fist or an ordinary object
18 as a dangerous instrumentality, it doesn't always
19 have to be a gun. It could be your fist, ordinary
20 object or other things. But we could go back, I
21 mean.

22 MR. DURANT: There is a case that is pretty
23 much on point, State v. Slater, where the defendant
24 came to the scene with a gun. The Court said this
25 was the proximate cause of the killing. He wasn't --

1 THE COURT: That doesn't fit factually,
2 though, does it? Slater was a complete stranger to
3 the people he shot. He was at North Charleston High
4 School. He was minding his business on another side
5 of the parking lot. He heard a commotion. He went
6 to his car and got a gun. Then went to the some
7 other people's business, shot the gun in the air,
8 then retreated back to his vehicle.

9 And then heard another commotion. And went to
10 another situation that was completely strangers to
11 him that was none of his business. He claims he saw
12 them attacking a man and robbing him. And then he
13 shot them. Well he says they charged at him and then
14 he shot them basically.

15 And the Supreme Court said that under those
16 circumstances that self-defense was not available
17 because he basically -- it's just a totally different
18 factual situation.

19 MR. DURANT: He brought on the danger.

20 THE COURT: He brought on the danger because
21 they were strangers. And he was in a whole 'nother
22 part of the parking lot where he didn't have to get
23 involved at all. He could have simply got in his car
24 and left.

25 MR. DURANT: And in this situation this is

1 even more of a bringing on the danger because he,
2 after recognizing after being in a fight, he brought
3 a gun to the situation he knew had already been
4 escalating. That's even more of bringing on the
5 danger.

6 THE COURT: Well except that you have
7 testimony that the descendant was the first one to
8 strike the blow that incites the situation.

9 MR. DURANT: In a totally different situation.
10 It had already ended.

11 THE COURT: It all becomes factual; whether he
12 had the time to cool, whether he had the duty to
13 retreat, all of that becomes factual issues for you
14 to argue to the jury because I'm not the fact-finder.

15 MR. DURANT: I agree, Your Honor. But the
16 time to cool, I have no problem with the voluntary
17 manslaughter charge. Certainly there is evidence
18 that maybe he was acting in the heat of passion,
19 sufficient legal provocation. But nonetheless, that
20 previous situation had ended and he unlawful came to
21 the scene with a gun.

22 THE COURT: Well I think his testimony,
23 however, flies in the face of that. Because he says
24 he drove up to the house, asked for permission to
25 reenter the premises, was given that permission, he

1 gathered his belongings, and then when he attempted
2 to leave he was attacked again.

3 Again it becomes a factual issue for you to
4 argue to the jury that it was unreasonable, that a
5 reasonable person would not have brought a gun to
6 that situation, that they simply would have arrived
7 unarmed to pick up their things. Again it's all
8 weight.

9 MR. DURANT: Exactly. Again there was no
10 testimony that he was given permission to bring a gun
11 on that property.

12 THE COURT: That's a factual issue. See what
13 you want me to do is act as the fact-finder and I'm
14 not, the jury is. These are all factual issues of
15 weight that you get to argue to the jury for them to
16 flesh out whether all of these things were reasonable
17 or unreasonable.

18 MR. DURANT: Your Honor, just in regard to the
19 involuntary manslaughter. The way I see it is say
20 somebody goes in to rob a clerk at a convenience
21 store. They come in with a gun, they're in the
22 process of armed robbery. The clerk, believing that
23 the only way of saving their life is to struggle over
24 the gun, they reach for the gun, struggle over the
25 gun, the clerk is killed, you don't charge

1 involuntary manslaughter because what the armed
2 robber was doing in the first instance was an
3 unlawful conduct.

4 THE COURT: Except that in South Carolina you
5 can be illegally armed to defend yourself. It's not
6 factually similar, it's factually dissimilar.

7 That's a situation where someone went to the
8 premises to commit a felony. It's not analogous.
9 You went someplace to rob someone with a gun, then
10 you start -- you can't claim self-defense under those
11 circumstances.

12 MR. DURANT: To me it's the same thing as
13 going somewhere with a gun unlawfully.

14 THE COURT: I think you can argue that to the
15 jury, but it's not the same factually from the case
16 law standpoint. And much to my chagrin, I stayed
17 here until 8:30 reading last night to make sure I was
18 accurate. Because I struggled with the very same
19 thing that you are struggling with. I struggled
20 whether involuntary was really appropriate to
21 instruct.

22 But basically our case law, just it really
23 boils down to a lay person's language. It almost
24 says that really accident and involuntary is the same
25 thing. The only difference is that accident is a

1 complete defense, and involuntary you get a penalty.

2 Because one is reckless -- they both are
3 reckless -- an accident is not -- the only other
4 dissimilarity is that reckless requires that you be
5 acting carefully with a gun -- I mean accident
6 requires that you handled the instrumentality
7 appropriately and with care. And voluntary really
8 has more of a reckless, almost like a -- it's more of
9 a reckless kind of a standard.

10 I'm going to make your memo a part of the
11 record, so if you just want to hit the highlights of
12 that you can because I've read it when you first gave
13 it to me. And we have studied all the case law that
14 you have submitted along with it.

15 MR. DURANT: Thank you, Your Honor.
16 As to accident or self-defense or involuntary
17 manslaughter, even State v. Burris where Burris was a
18 person in a pool hall, in a bar playing pool, he was
19 threatened by a man with a pool stick so he pulled
20 out a gun. He was taken out of the bar by the owner
21 and he shot the owner outside.

22 The Court said there was no reason for an
23 involuntary manslaughter, no reason for an accident,
24 he shouldn't have been armed. Any point to him being
25 armed ended.

1 THE COURT: You are talking about Goodsen not
2 Burris. Burris was the Court charged involuntary and
3 accident. And the facts in Burris are more similar
4 to this. Goodsen is the one with the bar. I told
5 you we were reading last night.

6 My poor law clerk. Good thing her husband is
7 studying for exams. I'm not making light of it.
8 When you give us stuff, we really read it. I don't
9 just gloss over it. I mean I read every single case
10 you submit to me because I was to make sure -- my job
11 is to make sure there is a level playing field.

12 And even more importantly, that the
13 appropriate law is instructed based on the facts as
14 they have been presented; not just by the State but
15 by the defense as well.

16 So that any issue or factual issues that have
17 been raised before this jury, that they're equipped
18 to apply the law to those facts. Because ultimately
19 they are the fact finder. You have two factually
20 dissimilar courses of events that have been
21 described. You have the State's posture which is
22 basically that he premediatively decided to take this
23 person's life. That he brought a gun back to the
24 scene and pointed it at this person and shot him.

25 And then you have the defendant's posture

1 which is, I went simply to get some money for some
2 shoes, this person hit me unprovoked, we all got into
3 a scuffle, I thought I was being ganged, basically, I
4 left.

5 He charged the car as I was leaving which
6 increased my, whatever, fear level I guess you could
7 argue it. And then we realized we left our things so
8 we go back. We get permission to come on the
9 premises, I get my stuff, people are helping me find
10 my stuff, then I am hit again.

11 And I tell him I have a gun, to back away. We
12 scuffle for the gun, the gun goes off. Whether
13 that's reasonable or not is not for me to decide, I'm
14 not the fact finder. And any holes, lack of
15 credibility or lack of veracity that the state
16 perceives in that theory, you are free to argue that.

17 MR. DURANT: But before he became or even
18 could possibly become armed in self-defense in that
19 situation, he was unlawfully armed. From the very
20 beginning --

21 THE COURT: I think that's a factual issue for
22 the jury to determine, that's not for me to decide.
23 Whether there was sufficient time for him to cool
24 off, whether it was unreasonable, whether a
25 reasonable person would have gotten in a car and then

1 come back, that's a reasonable-man standard that you
2 are going to have to argue to the jury. I don't know
3 whether it's unreasonable or not.

4 Mr. Mattson is going to argue based on his
5 perception that he was in danger. Which the law says
6 whether his perception of danger was reasonable or
7 unreasonable -- and the law says his perception can
8 be completely unreasonable, it doesn't have to be
9 reasonable to us.

10 You know, if I were to gauge what people do by
11 what I would do, that would be a really unreasonable
12 standard because I'm jaded and I'm overly cautious
13 because I probably never would have gone there to
14 begin with. But see, that's a whole different
15 standard. That's not the standard that's applied.
16 I'm not the fact finder.

17 You have two diametrically factual
18 circumstances that you presented. And it is all for
19 the jury to flesh it out.

20 MR. DURANT: Thank you, Your Honor.

21 THE COURT: Are there any further exceptions
22 to the charge from the State?

23 The defense has also requested a King charge
24 which is -- and I refer to it as the King charge,
25 it's from State versus King -- which is, if you have

1 any reasonable doubt as to the lesser included
2 offenses, that you should resolve that doubt in favor
3 of the lesser included offense.

4 Is there any exception from the State in
5 instructing that?

6 MR. DURANT: Your Honor, I believe that's
7 already included in the general instruction. I think
8 your general instruction that you just told us said
9 that they go to the lesser included charge only if
10 they do not find elements of the greater.

11 THE COURT: Well the King charge is a little
12 stronger than that. My charge says, if you find that
13 the State has not proven this, you can consider the
14 lesser included. And if you find that they haven't
15 proven this, you can consider this lesser included.

16 The King charge says, under the prevailing
17 case law, if you find -- if you have any doubt about
18 the greater offense, that you must resolve that doubt
19 in favor of the lesser included offense. So it's a
20 little stronger than my standard. Some defense
21 lawyers request it, some don't.

22 But Mr. Mattson has requested it and I need to
23 know if the State has any exception to it.

24 MR. DURANT: I would rather just stick with
25 your charge, Your Honor.

1 THE COURT: Okay. I'm trying to find my
2 standard King charge. He submitted charge, and I
3 have numbered it as his number six.

4 MR. MATTSON: Mine came out of Judge Anderson.

5 THE COURT: I'm going to go through the
6 requests that you submitted.

7 And his says, when the defendant is charged
8 with any offense and you have a reasonable doubt as
9 to whether the defendant is guilty of the offense
10 charged, you should find the defendant guilty of one
11 of the lesser included offense of which you have no
12 reasonable doubt.

13 In this case -- then he added some other
14 things I probably would not instruct. Then it says,
15 likewise if you have a reasonable doubt as to whether
16 the defendant is guilty of voluntary -- again, all
17 that is kind of a little more factual than I would
18 want to instruct.

19 We have a standard instruction on that and I'm
20 trying to locate it, if you all bear with me, and I
21 will read it to you prior to making a decision about
22 instructing it.

23 Also we need to discuss, does the State have
24 any exception to the Court instructing, within the
25 ambit of self-defense, that the intoxication of the

1 victim may be considered in deciding whether the
2 defendant's fear of death or bodily harm was
3 reasonable, since there was testimony that there was
4 the ingestion of alcohol at the scene of the
5 incident, and there was some measure of alcohol in
6 his bloodstream, though not rising to the level of .08
7 at the time of the autopsy.

8 MR. DURANT: Your Honor, I think clearly there
9 is really no evidence that he was acting or swayed in
10 any way from any kind of alcohol. His blood-alcohol
11 level was well under the level that South Carolina
12 presumes that you can't drive. He could have still
13 driven a car and been totally fine.

14 THE COURT: Does that become a factual issue,
15 however, when the medical examiner testified that
16 alcohol does impair judgment? I have to deal with
17 that testimony which was elicited, which was even
18 under the legal limit that alcohol still impairs
19 judgment.

20 I'd have to look back exactly at what she said
21 and exactly what the question was. But Mr. Mattson
22 did ask her a couple questions about his
23 blood-alcohol level and does that alcohol -- he
24 didn't go into the points, he didn't deal with the
25 .08, but he asked her if alcohol in the system would

1 impair someone's judgment, and that's my words not
2 his. I'd have to go back and look at the transcript.

3 MR. MATTSON: I purposely asked the question
4 without using the number.

5 THE COURT: I didn't think you made reference
6 to any numbers.

7 MR. DURANT: I'm personally not even worried
8 about that at all. But I would still like for that
9 not to be charged.

10 THE COURT: Okay. All right.

11 Mr. Mattson, are there any exceptions to the
12 charges as proposed?

13 MR. MATTSON: No, ma'am.

14 THE COURT: I need you all to approach to look
15 at the verdict form for me, please. We are going to
16 add an or right there.

17 MR. MATTSON: You will instruct also, I
18 assume, the order in which they're listed has nothing
19 to do with your opinion.

20 THE COURT: I always instruct that, unanimity
21 of the verdict.

22 MR. MATTSON: Right.

23 THE COURT: Are there any exceptions to the
24 verdict forms as proposed from the State?

25 MR. DURANT: None from the State.

1 THE COURT: From the defense.

2 MR. MATTSON: None from the defense. You are
3 going to add the word or.

4 THE COURT: Yes. I'm going to add that word
5 or between the last lesser included or not guilty.
6 We are going to do that right now. We will let you
7 see it before we attach it to the indictment.

8 Now as it regards to the defense's requests to
9 charge, which I have numbered 1 through 14 in the
10 order that they were submitted, when I say that I'm
11 incorporating it, it doesn't mean that I'm using the
12 exact charge, it simply means that the subject matter
13 or the concept is covered.

14 You have asked, and I neglected to cover this,
15 Mr. Mattson, you submitted something on criminal
16 intent. Do you want -- are you asking that the Court
17 instruct separately on criminal intent?

18 MR. MATTSON: I don't think so.

19 THE COURT: So you are withdrawing that
20 request.

21 MR. MATTSON: Yes, I think.

22 THE COURT: Number 1 is withdrawn. Number 2
23 is direct and circumstantial evidence and expert
24 witnesses, which is covered by the Court's standard
25 charge, as well number 3 which is murder.

1 Four is voluntary manslaughter which is
2 covered. Five is involuntary which is covered. Six
3 is the King charge which I am currently looking for
4 my standard language on that to see if I will
5 instruct it. Seven is accident, the Court will use
6 its standard charge. Eight is unlawful
7 possession of a firearm.

8 MR. MATTSON: I think that got put in by
9 accident. That was just in case.

10 THE COURT: You want to withdraw that now?

11 MR. MATTSON: Yes, ma'am.

12 THE COURT: Number 8 is withdrawn. Number
13 nine is self-defense, the Court will instruct its
14 standard instruction, as well as the other elements
15 of self-defense. And 10, and character evidence
16 which is 11, is covered by the Court's standard
17 charge. Prior bad acts is covered by the Court's
18 standard instruction regarding the use of that for
19 credibility which is a prior conviction, not a prior
20 bad act.

21 And 13 is the presumption of innocence.
22 Fourteen is reasonable doubt, which is covered by the
23 Court's standard charge. The State and those have
24 already been marked as a Court's exhibit and will be
25 made a part of the record.

1 MR. MATTSON: Thank you, ma'am.

2 THE COURT: You're welcome.

3 Mr. Durant, I'm going to mark your memo as a
4 Court's exhibit instead of attempting to have that
5 filed and made a part of the file. So it will
6 already be a part of the record. That will be the
7 Court's next in line.

8 And then the State's request number 1, which
9 is sudden heat of passion, legal provocation is
10 already included in the Court's standard instruction.
11 As well as number 2, which is the cooling of passion
12 which is covered by the Court's standard instruction.
13 That has already been marked as Court's exhibit.

14 Why don't you all go ahead and use the
15 restroom and then we will get started.

16 (Whereupon, a recess was taken.)

17 THE COURT: The struggle that I'm having with
18 the intoxication language is that even though we have
19 cases that talk in terms of a victim being
20 intoxicated, none of them refer to B-A levels. Or
21 because it doesn't have to be just alcohol, it could
22 be cocaine, it could be meth. So those cases don't
23 refer to that, it just makes reference to the use of
24 intoxicants that could impair judgment.

25 And the way the question was phrased was --

1 and I almost toyed with instructing the statute which
2 says there is, you know, talking about the -- because
3 actually the language of the statute was changed. It
4 used to be where the language of the statute was far
5 more stronger. Now it says it just merely creates a
6 presumption which leaves open that you don't have to
7 test .08 to be convicted basically, it just creates
8 an inference.

9 So I'm going to instruct intoxication language
10 because I just cannot find any cases that say I have
11 to have a B-A level of .08 to do that, and I think
12 there has been introduction of evidence and it
13 becomes a factual issue as to whether in fact it
14 really impaired judgment such -- it becomes a factual
15 issue, just like any of the others.

16 MR. DURANT: I don't have a problem with it.

17 THE COURT: Okay. Then also I'm going to
18 instruct -- Mr. Mattson submitted number 6 which is
19 from State versus King basically, although he cites
20 some other cases. But I would not use his
21 instruction, I would use my standard instruction from
22 State versus King and State versus Gorum. Which is
23 if you, as jurors, have a reasonable doubt as to
24 whether the defendant is guilty of murder or
25 manslaughter, it is your duty to resolve that doubt

1 -- guilty of murder, voluntary manslaughter or
2 involuntary manslaughter, it is your duty to resolve
3 that doubt in his favor and find him guilty of the
4 lesser offense.

5 MR. MATTSON: I can argue --

6 THE COURT: People toy with whether they
7 really want that level of instruction because what it
8 basically instructs the jury, it steers away from a
9 not guilty finding. Basically it says, if you have
10 any doubt you've got to go down to the least of them
11 and find him guilty. So if he wants that
12 instruction, I'm going to give it to him.

13 MR. MATTSON: Yes, ma'am.

14 THE COURT: But I'm not going to use yours,
15 I'm going to use my standard language which is very
16 neutral.

17 MR. MATTSON: But I can argue.

18 THE COURT: You can argue State versus King
19 all day.

20 MR. DURANT: Just like I can argue the
21 inference of a gun.

22 THE COURT: Yours is too fact specific and I'm
23 not going to use that.

24 MR. DURANT: I can still argue inference from
25 the gun.

1 THE COURT: Absolutely, the law allows you to
2 do that. I think you can always argue that a
3 dangerous instrumentality, that that -- that when
4 somebody puts anything in motion that is designed to
5 cause death they had malice in their heart. I think
6 you can always argue that. I don't think the case
7 law prohibits you from doing that.

8 MR. DURANT: I indicated yesterday that I was
9 going to open on the law. I'm going to waive opening
10 on the law.

11 THE COURT: All right. That's up to you all.
12 That's fine.

13 MR. MCCOY: I have also added a zip-tie to
14 this.

15 THE COURT: There is no ammo, correct?

16 MR. DURANT: No.

17 THE COURT: Okay. Did you all go through the
18 evidence this morning and make sure everything is in
19 place, and all the evidence is in place?

20 MR. DURANT: Yes, ma'am.

21 MR. MATTSON: Yes, ma'am.

22 THE COURT: You all ready?

23 MR. DURANT: Ready.

24 THE COURT: All right, bring in the jury,
25 please.

1 You all may want to make arrangements to order
2 lunch. We have made arrangements for the jury.

3 Could counsel all approach for me one more
4 second.

5 Are there any exceptions to the form of the
6 verdict as proposed from the State?

7 MR. DURANT: None from the State.

8 THE COURT: From the defense?

9 MR. MATTSON: None, Your Honor.

10 THE COURT: Bring in the jury.

11 (Whereupon, the jurors enter the courtroom.)

12 THE COURT: You may be seated. Ladies and
13 gentlemen, I hope you all had a restful evening.

14 And could counsel approach for me again?

15 Bear with me, ladies and gentlemen, there is
16 one thing I neglected to do that I needed to cover
17 with counsel.

18 (Whereupon, the following discussion was held
19 at the bench.)

20 THE COURT: I'm going to let you -- I forgot
21 to mention this, I apologize. I'm going to let Mr.
22 Mattson rest in the presence of the jury and ask if
23 you have rebuttal witnesses, you tell me no. I need
24 to let you all do that.

25 (In open court.)

1 THE COURT: Ladies and gentlemen, I hope you
2 had a restful evening. We apologize for the delay.
3 I had a conference this morning in another case,
4 totally unrelated to this case. As usual the best
5 laid plans took a little longer than I expected it
6 to.

7 That threw us behind in getting started this
8 morning. Also we had some matters of law we needed
9 to deal with so that we could go along with the trial
10 without interruption.

11 So please do not think we take your time for
12 granted. We truly appreciate it. And I hope that
13 thus far you all have had a pleasant morning
14 irregardless of this delay.

15 Mr. Mattson, you may proceed.

16 MR. MATTSON: Your Honor, the defense rests.

17 THE COURT: Okay. Does the State have any
18 rebuttal witnesses?

19 MR. DURANT: State has no rebuttal witnesses.
20 Thank you, Your Honor.

21 THE COURT: Madam Forelady, ladies and
22 gentlemen, both the State and the defense have rested
23 their cases. The next stage of this process are the
24 closing arguments, and the Court's instructs on the
25 law.

1 You will hear from Mr. Mattson, followed by
2 Mr. Durant or Mr. McCoy -- Mr. Durant, then you will
3 hear the Court's instructions on the law.

4 We have anticipated ordering lunch for you.
5 And with the assistance of the clerk, we will try to
6 anticipate getting that lunch to arrive -- I think we
7 will be done before lunch with closing argument and
8 instruction. But we'll try to get that delivered as
9 close to the luncheon hour as possible.

10 So I want you to know that we've prepared
11 beforehand for lunch if that becomes necessary.

12 I would ask that you give the attorneys your
13 undivided attention.

14 Mr. Mattson, you may proceed.

15 MR. MATTSON: Thank you.

16 THE COURT: You are welcome.

17 MR. MATTSON: Okay. Good morning, ladies and
18 gentlemen. When I spoke to you at the beginning of
19 this case, I told you you were the most important
20 people in this courtroom, and that you were going to
21 have a very difficult decision and job.

22 It has now come to the point where you have to
23 decide. On being a juror, when you were selected,
24 you don't leave your life experiences and common
25 sense outside the courtroom. You bring it in with

1 you.

2 You are a mature jury, which is very good.
3 You have many life experiences. Your decision today
4 is not going to bring back Brandon Parker. I wish on
5 a case like this it was like a country song and they
6 say if you play it backwards the man gets his house
7 back, his wife back, his children back and his dog
8 back. Well we can't run life backwards. There is
9 nothing we can do to undue that which has been done.

10 My client sits before you and all he can do is
11 tell you what happened. And the State has to prove
12 my client's guilt beyond a reasonable doubt. I'm not
13 going into that with you, that's part of the Judge's
14 job. She is going to tell you what beyond a
15 reasonable doubt means.

16 But I do -- and the Judge is also going to
17 tell you what your possible verdicts are. And this
18 is very important because the charge is murder. If
19 you have a reasonable doubt as to whether or not the
20 defendant, Jonta Embray Green, is guilty of murder or
21 voluntary manslaughter, which is what is called the
22 lesser included offense, then you must find him
23 guilty of voluntary manslaughter.

24 Likewise, is if after considering murder and
25 voluntary manslaughter you have a question or a

1 reasonable doubt as to whether or not he is guilty of
2 voluntary manslaughter or something lesser, then the
3 lesser charge is involuntary manslaughter. In other
4 words, we are working down the list of seriousness;
5 murder, voluntary manslaughter, involuntary
6 manslaughter.

7 And if you believe Mr. Green, or you have a
8 doubt as to whether or not after you worked your way
9 down to involuntary manslaughter, if you still have a
10 doubt as to whether or not Mr. Green is guilty of
11 involuntary manslaughter, then you have to find Mr.
12 Green not guilty; murder, voluntary manslaughter,
13 involuntary manslaughter, not guilty.

14 The Judge is going to instruct you on the law
15 on self-defense, accident, intoxication, and many
16 other factors that are going to enter into this case.
17 Your job is going to be to take the facts, decide
18 which witnesses you believe and don't believe, and
19 you can disbelieve all of a person's testimony, you
20 can believe all of the person's testimony or none, or
21 you can believe parts and disbelieve parts.

22 You have been a good jury as far as I can
23 tell. What I mean by that is once I'm trying a case
24 I'm not worried, I'm not looking at the jury to see
25 what kind of reactions I'm getting, I'm concentrating

1 on the witness. But every time I looked over here
2 you all have been paying very, very close attention,
3 and my client and I appreciate that. That means you
4 really care about what happens in this courtroom
5 today.

6 what I would like to do is go through very,
7 very quickly some of the testimony that has been
8 given. One of the things that jumped out at me real
9 quick on this case when I got the material from the
10 solicitor, it's called the discovery process or the
11 Rule Five, is that the police, and I believe Mr. Van
12 Horn, Corporal Van Horn who I called yesterday, did
13 not interrogate the phone of my client soon enough,
14 had a dead battery in it, and some evidence was lost.

15 Very important evidence. What was lost was
16 when Sam Crawford called my client to come over to
17 the house. That would have helped in the timing of
18 this case which is extremely important. But it's
19 gone. Not my fault.

20 Because he said he couldn't call up or pull
21 up, because of the condition of the phone, the missed
22 calls from the phone and it would have verified the
23 time that Sam called Jonta when Jonta was sitting
24 around the corner from the Crawford home selling some
25 shoes to the two young ladies.

1 I think it would have been nice to have known
2 the exact time of those phone calls. But it's gone.

3 Pathologist. Testimony is important. It was
4 a contact shooting, contact wound. Which means the
5 gun barrel was almost up against the head of Brandon
6 Parker. And everybody says they were struggling over
7 the weapon. The weapon was up in the air.

8 But the doctor who testified, Dr. Schandl, I
9 think that's how you pronounce her name, wasn't the
10 one who actually did the autopsy. The doctor who did
11 the autopsy wasn't available. And I believe she -- I
12 know she is somewhere out west, mid-west, Arizona or
13 whatever.

14 And the interesting thing -- there is no
15 question the gunshot caused the death. That was
16 something we would never contest. When you get hit
17 by a .45 bullet in the head, if you lived you would
18 probably hoped you died because the destruction is
19 very apparent.

20 They did a very thorough examination of the
21 body of Mr. Parker. And they found some bruises that
22 I know the solicitor wanted to be held consistent
23 with a fight or being hit in the head with the gun,
24 or the cane. But she also indicated those could --
25 abrasions were also consistent with hitting the

1 ground, with people trying to him and drag him in the
2 automobile. And that the abrasions, there had been
3 no attempt to determine whether they were new or old.

4 So that really does not tell us a whole lot
5 one way or the other. There were bruises, where did
6 they come from.

7 Another important thing in her testimony based
8 on the autopsy report, because this young man,
9 Brandon Parker, like almost everybody else there that
10 night or evening, were drinking alcoholic beverages.
11 And he had a blood-alcohol level of .043 percent.

12 Did that impair Brandon Parker? People have
13 different reactions to amounts of alcohol. You know,
14 we have all seen the happy drunk, that's part of your
15 experience. We have all seen the quiet drunk. And
16 we have all seen the mean drunk.

17 Where did Brandon Parker fall in those
18 scenarios? Dr. Schandl testified that alcohol in the
19 blood is in the brain and it causes impairments. The
20 testimony is uncontroverted by the State's witnesses,
21 by Jonta, that Brandon Parker started the physical
22 contact.

23 Brandon Parker, State doesn't like this word,
24 sucker punched Jonta Green from behind while Jonta
25 was talking to Carlos Chisholm. You know sucker

1 punch is a wicked thing. You don't see it coming,
2 you don't know it's coming. Just wham, you are hit.

3 And everything started after that, a sucker
4 punch. I'm gong to apologize right here if you don't
5 mind, sometimes you go back and look, I have a little
6 trouble remembering names. I had brain surgery 12
7 years ago so that's one of the little deficits I have
8 now is remembering a name. So if I get a name
9 confused, just hang in there with me, please. I'm
10 not trying to mislead or anything to you all, okay.

11 The other interesting thing with Mr. Parker
12 was his tattoo. Of course it's also the last page,
13 when you look through several pages, which showed up
14 exactly like a pointed stick or something with a
15 spear point on it, with only the strong survive.

16 Says a lot about a man by what he puts on his
17 body in the form of a tattoo. Only the strong
18 survive. That's what I call a street tattoo. You
19 know, it wasn't a star or fish or whatever.

20 State's witnesses. Carlton Stretch. Very
21 honest, truthful man. When the police officer asked
22 him if he saw anything, his response was, I got there
23 after it was all over. And he classified Jonta as
24 his enemy.

25 But guess what? He was there. He had blood

1 on his shirt. He brought Brandon Parker to the
2 gathering. And why did he tell the police, I didn't
3 see it, I wasn't there, it happened before I got
4 there? What did this lovely gentlemen tell me?
5 Because I wanted to get Jonta and kill him before the
6 police got him. What kind of people are we dealing
7 with?

8 How much of this type of stuff did Jonta know
9 about the people there? Then Stretch comes in, Mr.
10 Stretch excuse me, he actually goes by Stretch, but
11 anyway Mr. Stretch, how does it end up? He is on top
12 of Jonta beating him, after the police get there, to
13 the extent that the officer has to threaten to tazer
14 one of them. Tazer is that nice little electric
15 thing that knocks you flat on your backside and
16 unconscious.

17 And at that point Stretch gets off Jonta and
18 Jonta leaves the party in a big hurry. You look at
19 him leaving in a big hurry you can say, yeah, he is
20 running away? But what did Jonta do? Next day he
21 talked to me and turned himself in.

22 You know, in looking at Stretch and his
23 testimony, he admitted he lied the first time he
24 talked to the police. Fool me once, shame on you,
25 fool me twice, shame on me.

1 I have one question for you, the jury, to
2 answer, I can't. When did Stretch tell the truth?
3 Or did he never tell the truth? Makes me wonder also
4 how much of all of this was contrived and put
5 together.

6 Let me look at something here on my notes, if
7 you don't mind. But even Stretch said, Brandon swung
8 on Jonta Green. He also indicated that Jonta was
9 trying to get Brandon in the car. I'm not sure we
10 will ever know exactly what happened that evening,
11 even the State's witnesses have significantly
12 different testimony.

13 What did Jonta do after he was arrested and
14 turned himself in? He had to produce the pistol that
15 he had that evening. He was trying to get to the
16 truth. He -- that's what Jonta Green wants out of
17 this court, the truth.

18 And, you know, Jonta and his brother, Quantas.
19 I thought Quantas said something that was extremely
20 important because you can have a brother or a sister,
21 you know, they say you can chose your friends, you
22 can't chose your relatives. But Quantas said
23 something, that Jonta was his best friend. That's
24 strong.

25 Quantas and Jonta could have put together a

1 story as to what happened that night. I didn't meet
2 with Quantas a lot as the solicitor wanted to try to
3 say I told Quantas what to say. That's where he was
4 going with it. Okay.

5 I tell every witness in a case, I want to know
6 the truth. Because without the truth, there is no
7 justice. I know that in this day and time, and it's
8 a sad fact, but it's very hard to know where the
9 truth is. Look at the republicans and the democrats.
10 Oh my God. Look at baseball, professional athletes
11 with women, drugs. These are actual heroes. Scary to
12 me. Very, very scary.

13 I hope to God for everyone's sake that you all
14 look at people's testimony and do your best to find
15 the truth because then justice will have been done.

16 In fact I believe Stretch was the gentleman
17 who said -- I know you all were taking notes, so if I
18 am incorrect, don't hold it against me because I'm
19 not trying to mislead you -- that he had to be
20 subpoenaed to the solicitor's office. And he also
21 made a comment that there was some bad blood or he
22 had heard something between -- that there was some
23 bad blood between Jonta and Brandon, something about
24 Jonta talking to Brandon's baby's Mama.

25 You can't talk to somebody of the opposite

1 sex? Talking, nothing else. In fact Stretch even
2 goes into Jonta was speaking with Carlos when Brandon
3 sucker punched him and swung on him. There is
4 something about Quantas having a cane, and maybe
5 getting into the fray. Just think about the physical
6 condition of Quantas at the time. He had to walk
7 with a cane. He had been out of the hospital a
8 couple of weeks because he had been the victim of an
9 attempted carjacking.

10 Shot five times. Still had wounds in his
11 stomach draining. Really wasn't supposed to be out,
12 but he went with Jonta just get out of the house, I
13 think he said away from Mama, whoever he stayed with.
14 Riding around.

15 He sure wasn't much help in a fight. And
16 Jonta was concerned about his brother in this whole
17 thing. And Brandon Parker was a healthy man. I
18 don't remember his exact age, I know it was about
19 mid-20s, 25 is the number that comes to mind, maybe
20 27. But when you are my age, everybody is young.
21 Two arms, two legs, two hands, real hero, sucker
22 punching a one-armed man.

23 I know if I ever did anything like that I
24 would not want my father to ever find out about it
25 because I would have been severely, severely

1 punished. You saw Jonta's arm. Didn't want to have
2 to put you through that. But me showing you and
3 telling about this size, and once it was lost and how
4 little use he had of it. Seeing something is worth a
5 thousand words.

6 Jonta, I have known Jonta for a long time.
7 Knew his family, when he bought his house, when he
8 started a business that didn't go anywhere. Jonta
9 always has a smile on his face. Always. That's
10 Jonta's personality.

11 And Jonta has a reason to smile every day.
12 why? It's very simple. He survived an electrocution
13 that took his arm. Two, nobody in his family was
14 hurt seriously during the home invasion. One person
15 died at the hands of the home invader. Three, his
16 brother survived a carjacking and five bullets.

17 The solicitor's cross-examination of Jonta was
18 vicious, well how do you get your money? I don't
19 know where he was going with it, maybe he was trying
20 to say that Jonta was a drug dealer or something.
21 where do you get your money? A structured settlement
22 and an annuity that pays him money every month for
23 the loss of his arm. Not a fortune, but enough to
24 live on.

25 what does Jonta do with his time? Running the

1 streets, partying, drinking, having children? No.
2 This vicious individual that the State would like to
3 paint him as being goes to church, works with the
4 church, works with the youth choir, picks the
5 children up and brings them to choir practice, picks
6 up the mother of the church, takes her to church and
7 to the doctor. The elder, the other lady, does the
8 same thing for her.

9 He has some money, he can't work, he was
10 trying to pick up a few extra dollars selling shoes.
11 Oh my God, he doesn't have a business license. Yep,
12 that makes him vicious. No business license. I
13 guess Mayor Riley would say the same thing in the
14 City of Charleston. He makes sure ever vendor has
15 that license.

16 That's like wanting the little boy on the
17 corner trying to make a few extra bucks by selling
18 newspapers, somebody come along and arrest him for
19 not having a business license. There are too many
20 laws, too much government.

21 I have been practicing law 43 years. And
22 every now and then somebody will come to me with
23 something violating the law that I didn't even know
24 existed and I look at it and say, good, God, that's a
25 crime.

1 Did you know, think about this, if you go in a
2 bar with your wife, friends, girlfriend or whatever,
3 that it happens to be a Saturday evening, you just
4 want to go in and talk, have an after-dinner drink,
5 you have been out to eat, if you are drinking at one
6 minute past 12:00, which makes it Sunday morning, if
7 the police come in and the bar does not have a
8 special license to serve alcoholic beverages between
9 12:01 and 2 o'clock in the morning on Sunday, you get
10 arrested too if you've got an alcoholic beverage.

11 I mean we have got laws upon laws upon laws.
12 I guess that means if you go in to have a drink and
13 it's late Saturday, you better look at all of the
14 licenses on the wall if you can find them.

15 What was Jonta doing? I don't see what Jonta
16 has done anything in his life to be helpful when he
17 smiles. I also refer to Jonta as Chris Rock with one
18 hand. Chris Rock is always being funny, always
19 smiling, always happy. That's Jonta.

20 Has the solicitor really proven to you
21 anywhere that Jonta has a mean bone in his body? I
22 haven't heard it. And who was the conflict with?
23 Somebody who called Jonta from jail. Think about
24 something else, Ms. Crawford. Ms. Crawford said she
25 heard somebody saying, Ms. Crawford, you remember me?

1 she said, who's that? He says, it's Brandon. But
2 she hadn't seen him in a long time. This was a good
3 friend of everybody, but he hadn't been around. He
4 calls Jonta from jail, you think about that one.

5 There is no evidence that Jonta was mad or
6 angry at Brandon at all in this case. The evidence
7 is that Brandon was angry with Jonta because Jonta
8 talked to his baby's Mama. Why did Jonta go -- have
9 to look, memory problem here on my part -- to

10 ? Because he was hunting down
11 Brandon? No. He went there because he was in the
12 neighborhood. He had talked to Sam Crawford at the
13 Amoco Service Station out on highway 61 -- excuse me,
14 wrong road -- Highway 17 near, I believe those two
15 subdivisions are close together, East Oak and West
16 Oak Forest, pretty nice subdivisions.

17 And then he got a bunch of calls from Sam
18 Crawford who owed Jonta 50 bucks. Jonta said, maybe
19 I'll go get my money. Jonta didn't pick up the phone
20 because Jonta knew Sam, knew where Sam lived, and
21 Jonta was here at -- oops
22 don't want to break the State's evidence --

23 right here, and he knew that Sam
24 Crawford was right there, right around the block.

25 Jonta didn't know who was there. He knew Sam

1 was there, figured Sam was there because he had
2 gotten the phone call. So he went around there, not
3 hunting Brandon. When he got there he saw Carlos
4 Chisholm. And he was talking to Carlos, number one,
5 about buying some rims from Carlos to change the rims
6 on his car. And about selling him, showing him some
7 shoes.

8 There's a little confusion as to the witnesses
9 as to whether Jonta saw Brandon or not. But we do
10 know that everybody says almost, they either said, I
11 didn't see the fight get started, or they say that
12 Jonta got sucker punched.

13 After the sucker punch they're flocking around
14 and hitting and shoving each other. Then a whole
15 bunch of people jump in to try to break it up. Jonta
16 doesn't know what is going on. He's fighting
17 somebody of equal size, equal age with two hands, two
18 arms, with his one. And he probably didn't
19 know who was trying to break up what. He just knew
20 he had a lot of people on him. I think at one time
21 somebody said that there were three people involved
22 with Jonta when they were scuffling.

23 Now how in the heck do you think that looks to
24 a one-armed man. You got six arms coming at you, and
25 you've got one. That would upset me a little bit,

1 that would scare me. Especially if you are not
2 trained in how to defend yourself.

3 Three people to one, six arms to one. So
4 Jonta didn't get out of there, some kind of way to
5 get lose and he and his brother head for the car.
6 Car is parked here. They get in the car and Jonta is
7 behind the wheel. Jonta is backing out this way to
8 go this way.

9 Brandon, the victim, the non-aggressor they
10 would have you believe, comes running down the
11 driveway after him, whoops.

12 And there is a ditch in here between the
13 property and the pavement, as Jonta backs out, like
14 so maybe, and starts to go forward, Brandon, who has
15 run out there maybe gets brushed by the car.

16 Who is the aggressor? Jonta did make a bad
17 decision that evening. Wishes to God he had never
18 done. But Jonta lost his glasses, I'm not going to
19 go through this, but you will see the glasses were
20 pretty expensive. I think he bought them on
21 September 2nd because he needed them to go back and
22 get his GED.

23 Why? Because he and his fiance were planning
24 on getting out of town, moving, and starting their
25 own life. Because Jonta said they couldn't do it

1 here because his family was being a financial drain
2 on him. Jonta will give you the shirt off his back.

3 Those glasses, if I read this thing correctly,
4 I always have trouble with computerized bills and
5 interpreting them. But you can look at it.
6 Somewhere I believe it shows they cost \$500. Excuse
7 me, that's the one that shows \$500. I had the wrong
8 thing in my hand.

9 What does Jonta do? Basketball champions.
10 Several age brackets. This is the one that went to
11 the state and won. It's keeping young people off the
12 street. He doesn't want young people hanging around
13 like Brandon and Stretch and everyone else was. He
14 knows there is trouble on the street.

15 He is one mean, vicious person with one arm,
16 who when the second fight started, while he was
17 around there looking for his glasses, his cane and
18 his Palm Treo phone, everybody says it, that's why he
19 came back. That is why he came back.

20 And I'm going to be a little bit long in
21 talking to you because this is the last time I get to
22 talk to you. I have got a duty to my client to make
23 sure you understand the evidence as it was presented.
24 Okay. You will be able to take this back into the
25 jury room.

1 And we showed you the photograph as to the
2 lighting conditions at the time of the assault. But
3 my client came back to get items lost. Everybody
4 says, and I want you to think about this, he came
5 screeching up, his tires were screeching. Well
6 screeching tires do what? They leave black marks on
7 the pavement.

8 They had more crime scene investigators and
9 photographs out there at the scene and there isn't a
10 single solitary set of tire marks in any of these
11 photographs that would have been tires screeching on
12 the pavement. One picture is worth a thousand words.

13 But you know something? I don't believe
14 hardly anything any of the State's witnesses said.
15 And the fact that there is no picture with that
16 police force they had out there, all those experts
17 with all that training, if there had been tire marks,
18 there would be pictures of them in here.

19 And somebody told me something a long time
20 ago. If it ain't in writing it doesn't exist. And
21 if it ain't in the photographs it doesn't exist with
22 what they were doing out there. They even found a
23 cigarette butt for God sake.

24 And, the solicitor didn't want you to hurt
25 yourselves with this thing so they took the white one

1 off and put a big red one on, that is the dang gun,
2 this chrome gun I have even seen in my life. Why was
3 everybody seeing this chrome gun? Because they were
4 getting together and getting their stories and lies
5 straight, that's why. But the more people who saw
6 the chrome gun, the more you know they were
7 collaborating and they were doing it wrong.

8 When I turned this gun in, Jonta's, no idea
9 what color gun was in the thing. Jonta wanted this
10 gun where he could never see it again, and hoped that
11 when this gun told the story it would help him in his
12 case.

13 What was Brandon doing when the gun was there?
14 Oh my God. One witness said, Jonta stood there
15 pointing the gun at Brandon like this for two
16 minutes. Why?

17 Another said, Jonta appeared to be hitting
18 Brandon in the head with the gun when it went off.
19 Well you don't intend to shoot somebody if you are
20 hitting them with the gun, do you? You step back and
21 shoot them, not stand up there hitting them in the
22 head with it.

23 Another one said, the gun was up in the air --
24 a couple of witness said the gun was up in the air
25 and they were struggling over it.

1 Jonta says the gun was in his belt, he felt it
2 slipping, it wasn't in a holster because they were
3 struggling. And he showed the gun to Brandon and
4 said, I got a gun, trying to get him to back off.
5 Trying to disengage. Trying to disengage.

6 And Brandon, the master of the sucker punch,
7 instead of disengaging goes for the gun. Jonta beat
8 him to it. And if you remember, this is important,
9 one witness, I don't remember which one, for the
10 State said Jonta had the gun like this. That's
11 important. Because when Jonta got the gun, he
12 managed, according to his testimony, to swing the gun
13 over here away from Brandon and himself and hopefully
14 the other people. And the next thing he knew the gun
15 got drawn up into the air, we are talking about two
16 hands and arms against one, and then the gun got
17 jerked down and on the way down it fired.

18 Jonta did not mean to shoot anyone. No one
19 said any of this whose finger was on the trigger.
20 They were scuffling over the gun. And that's an old
21 gun, been around a long time. I didn't need their
22 expert to tell me that. You can look at the gun, but
23 I figured, you know, lets ask the questions because I
24 know it's an old gun. And it doesn't have the grip
25 safety.

1 The interesting thing also was the lady from
2 SLED who did the -- she didn't perform hand swab, she
3 was the one who finished off the test. No residue on
4 Brandon Parker's palm of his hand, residue on the
5 back.

6 I asked her, and she'd also said that you get the
7 residue on the palms of your hands primarily off the
8 weapon. But she says if the weapon had been cleaned,
9 or hadn't been fired in a long time, it may not have
10 had any residue on it.

11 She also said it was indicative that the hands
12 were closed. Three hands fighting over a gun.
13 Because the residue was on the back of his hands came
14 from when the gun was fired, very close contact
15 wound.

16 And she also said the bullet went from left at
17 an angle going back and slightly up. Jonta had to
18 have had the gun in his right hand because he sure
19 doesn't have a left one. And that's consistent with
20 the traveling bullet and the gun coming down and
21 firing at very close range.

22 I did not mean to shoot Brandon. I did not
23 want to shoot Brandon. I do not remember pulling the
24 trigger. I don't know what made the gun go off.

25 In showing Brandon the weapon and attempting

1 to disengage is very important. No one, no one heard
2 Jonta Green pull up and say, is Brandon here, the
3 first time like he was looking for him? Because he
4 wasn't.

5 The second time he wanted to know where
6 Brandon was because was Brandon still around and
7 somebody told him he had left. But you got to
8 remember a minute-and-a-half, two minutes earlier how
9 many people were on top of Jonta so he grabbed that
10 gun and stuck it in his belt.

11 Because he didn't know what he was going to be
12 facing. He was hoping it was nothing more than, hey,
13 you can come on in the yard and look for your missing
14 stuff. And people were helping him; turned on the
15 car lights, looking in the grass. Jonta is looking
16 in the grass. Sam Crawford found the glasses.
17 Cannot remember who found the piece of the cane, they
18 didn't find the cell phone.

19 And here comes Brandon. What does Jonta do?
20 Brandon is on the ground. Come on, get up, man, get
21 up, quit playing. He realized what was going on and
22 what was happening and he started pleading with
23 somebody to help him put Brandon in the car to take
24 him to the doctor, or to the hospital.

25 It's not the action of someone who wants to

1 kill someone. Jonta is a relatively intelligent
2 young man. Do you shoot somebody at a gathering
3 where everybody know who you are? Think about that.
4 why? Unless you are totally crazy and mentally
5 deranged.

6 If you are going to shoot somebody you try to
7 do it where nobody sees you who knows you. You don't
8 do it in a yard full of friends, especially when
9 they're more Brandon friends than your friends.

10 We had different people in the car behind the
11 steering wheel. Andrew River is another one who said
12 Jonta was now the enemy. You hear the witnesses
13 saying words were exchanged. The most amazing thing
14 is, what words?

15 These people who can remember small details
16 about the fight didn't hear a single word because
17 they weren't spoken. When you are jumping somebody
18 from behind you don't say, here I come. And you
19 know, Jonta may have reacted a little differently
20 than you would have reacted, but you have to keep one
21 thing in mind whether you like it or not, there are
22 two societies out there and one lives entirely
23 different than the other. Shouldn't be that way, but
24 it is.

25 I may not like President Obama's politics or I

1 may, but it sure the heck isn't because of the color
2 of his skin. He won the election, he is our
3 President, and all Presidents are going to make
4 mistakes and errors. And he inherited a pretty bad
5 situation with the economy going in the tank, the war
6 over in the Mideast, the terrorist over in Africa,
7 North Korea building the nuclear weapons. This world
8 is a mess.

9 But I'd certainly never want to kill him or
10 harm the man. I think he is doing the best he can.
11 Look at how many people would like to see him dead.
12 And most of them it's because it's not his politics
13 but the color of his skin. I hate that. I hate
14 that.

15 But in this society, Jonta Green, in his short
16 life, has been through a lot. He has a tendency, I
17 suggest, a reason to be more cautious than most
18 people. How many of you have been the victim of a
19 home invasion where a neighbor gets killed? How many
20 of you have had a brother shot five times and
21 darn-near killed in a carjacking? How many of you
22 have had somebody threaten you on the phone from jail
23 because you were talking to a female that he knew?
24 Or a male that he knew? Talking.

25 How many of you go to a gathering and have

1 somebody, when you're there innocently trying to talk
2 to somebody about buying some rims, wanting to talk
3 to Sam about getting your 50 bucks and see what else
4 he wanted, and trying to sell some shoes, and you
5 have some fool run up behind you and punch you, bam.

6 I think Jonta lives in fear. Life hasn't been
7 very good to Jonta. He is a happy individual because
8 he knows he has a life in front of him.

9 You know, the Judge is going to get into some
10 very important law with you all. She is going to
11 give you instructions on self-defense. She is going
12 to tell you that even though somebody may be in the
13 unlawful possession of a firearm, that that does not
14 make them a criminal. She is going to use a little
15 different words than that.

16 She's going to instruct you on accident. But
17 as to the murder charge, where is the malice
18 aforethought in this case? I can give you a perfect
19 example of malice aforethought from somebody right
20 there on the stand. I didn't tell the police about
21 Jonta myself because I wanted to hunt him down and
22 kill him. That's malice aforethought.

23 I didn't have a gun because I was going to get
24 one. You go arm yourself, hunt somebody down, that
25 is a perfect example of murder which you can get life

1 in prison for.

2 MR. DURANT: Objection.

3 THE COURT: Basis?

4 MR. DURANT: Improper.

5 THE COURT: Sustained.

6 MR. MATTSON: Excuse me I was doing it in
7 reference not to this case but to the witness.

8 THE COURT: Sustained. Please clarify the
9 remarks as regards to any proposed penalty because
10 that is not appropriate for the jury's consideration.

11 MR. MATTSON: So, look at these elements. You
12 cannot bring Brandon back. But we can help Jonta.
13 we can help the man who believes in youth. We can
14 help the man who uses his money to help the youth.

15 We can believe in the man who uses his
16 gasoline in his car to pick people up, sponsor the
17 youth basketball team, help with the choir. I never
18 knew Jonta could sing. Help the people in the
19 church.

20 Jonta is not rich. He is not living in high
21 society. Jonta is kind of what I call the salt of
22 the earth. If you need it and he can give it to you
23 to help you, he will. It's not about him hunting
24 people down. Gunning people down.

25 And you are going to hear an entirely

1 different story. How Jonta had a black heart. I
2 hope that you, ladies and gentlemen of the jury, can
3 look at my client, what has been said about him, what
4 he has said, what he feels, what he wants to do with
5 his life, about the fact he wants to get away with
6 his fiance who has a brain tumor. How many people do
7 you know would go, I'm out of here, babe.

8 You've got to look at Jonta as an individual,
9 as a human being. What has happened to him, how he
10 has survived it, what he does, what he can do in the
11 future for society because Jonta is not going to
12 change his personality, and that is not the
13 personality of a violent, depraved killer.

14 Remember you have to be convinced beyond a
15 reasonable doubt of whatever crime you find Jonta
16 guilty of. And if you don't think beyond a
17 reasonable doubt that he is guilty of any of these
18 things, then you must find him not guilty.

19 And the judge is going to tell you about
20 self-defense, accident, et cetera, a whole bunch of
21 law. And I kind of describe self-defense as -- well,
22 let me go back one step, and I'm just about to sit
23 down. And that is Jonta does not have to prove his
24 innocence. The State has to prove each and every
25 element of the crimes they're accusing him of beyond

1 a reasonable doubt. And that's why it was so
2 important for you to know about Jonta's character.

3 He is not a street person. He is not running
4 around doing things that everybody else does that I
5 call criminals. He is a humanitarian in his own
6 right. Of course he hasn't set up the Carnegie
7 Foundation or anything like that, but he can help
8 people, and that's what he is doing with his life.

9 If -- and also, Jonta does not have to prove
10 his guilt -- his innocence. The solicitor wants
11 murder. And he is going to try to do everything he
12 can to convince you that Jonta carrying that weapon
13 shows a black heart, shows a scared man under the
14 circumstances, and probably should not have gone back
15 for the glasses. We don't know how clearly he was
16 thinking.

17 But he did take some precautions. He got
18 permission from Ms. Crawford to look. And even asked
19 if Brandon was still there. And had people helping
20 him look for the stuff.

21 I have nothing more to say to you except do
22 what you think is fair, do what you think is just.
23 Four choices basically, murder; voluntary
24 manslaughter; involuntary manslaughter, which means
25 it's almost purely an accident and he didn't intent

1 for it to happen but it did; or not guilty.

2 I think under the circumstances if you really
3 listen to the Judge, and listen to the facts as they
4 are in determining who's telling the truth and who is
5 lying. And I will tell you what, I could have made
6 my case a heck of a lot better if I had gotten
7 Quantas cornered and said, this is what you are going
8 to do to save your brother.

9 Nobody tells the same story who's telling the
10 truth. It's just human nature people say things
11 differently. And I wasn't going to twist anybody's
12 arm. And I don't think Jonta wouldn't have let me do
13 it anyway. Jonta wants to see me for a minute, hold
14 on. I must have forgotten something. And Jonta
15 wanted me to remind you that somebody had Brandon
16 hidden in the carport. So somebody knew he was still
17 there when Jonta asked if Brandon was still there.

18 But anyway, my client's fate is in your hands.
19 We have evidence and we have lack of evidence. We
20 have evidence that the police didn't develop, such as
21 the cell phone. I think the timing is pretty
22 important because Sam says he thought he talked to
23 Jonta around 5 o'clock or so in the evening. Jonta,
24 the ladies to whom he was selling the shoes said it
25 was more like dark. But we will never know.

1 I like little things that substantiate my
2 client is telling the truth. Little things like that
3 can be important in a case like this, but the
4 prosecution lost it, didn't get it. Don't have
5 photographs of the squealing tires. My theory is, it
6 didn't exist. Just look at the whole case.

7 Thank you very much. You have been an
8 attentive jury. And the good news is you will not
9 have to listen to me again. Thank you very much.

10 THE COURT: Madam Forelady, ladies and
11 gentlemen, you all have been sitting over an hour.
12 I'm going to give you an opportunity to use the
13 restroom. As soon as you have completed using the
14 restroom, please knock on the door and let the
15 bailiffs know and we will immediately resume closing
16 arguments.

17 Please do not discuss the case. Please leave
18 your notepads in your seats.

19 (Whereupon, the jurors exit the courtroom.)

20 (Whereupon, a recess was taken.)

21 THE COURT: Is the State ready to proceed?

22 MR. DURANT: State is ready.

23 THE COURT: Defense ready?

24 MR. MATTSON: Yes, Your Honor.

25 THE COURT: Please bring in the jury.

1 (Whereupon, the jurors enter the courtroom.)

2 THE COURT: Ladies and gentlemen, we will now
3 resume with the closing argument. I ask you give
4 counsel your undivided attention.

5 Mr. Durant, you may proceed.

6 MR. DURANT: Thank you, Your Honor, may it
7 please the Court.

8 THE COURT: Yes, sir, the Court is pleased.

9 MR. DURANT: Ladies and gentlemen, we are
10 going to bring this right back to squarer one. This
11 never had to happened. Point blank, this never, ever
12 had to happen. It never had to be this way, and the
13 only reason that it was this way is because he came
14 back with a gun.

15 He came back, something that he didn't have to
16 do. And when he did that, Brandon Parker's death may
17 as well have been written in stone because it was
18 going to happen. It was foreseeable. And it did
19 happen. And it was senseless.

20 This thing never had to happen. That is the
21 entire focal point of this whole ordeal. It's why he
22 is charged with murder. It's why the State has
23 charged him with murder. Why we have to show malice,
24 intentional killing of another person with malice
25 forethought. And one of the reasons you know what

1 malice is is because you can infer from acts and
2 conduct a total disregard for human life.

3 It's that simple. A total disregard for human
4 life. And that's what it came down. Bringing a gun
5 back after being in a fight made absolutely no sense.

6 There may have been reasons to come back. Was
7 that reasonable? Was it reasonable to come back with
8 a gun? Did somebody have to die? If Brandon was
9 there, didn't the chances go through the roof that
10 this gun is going to have to be used? Sure it did.
11 Everyone can see that.

12 And so there is no surprise when he got back
13 and the gun had to be used, or that the gun came out.
14 We can talk about all this evidence and what
15 everybody saw and who testified to what, but it
16 really just comes down to that one thing, that one
17 issue, where there was no problem at all. The fight
18 had ended. There was peace. Brandon was going to
19 live.

20 You don't get to hear about Brandon. You
21 don't even know what he looks like. But you get to
22 determine how he died. Was he murdered? Was it
23 voluntary manslaughter? Did he have to die? Was
24 this a chance that he should have taken? Is he all
25 right in taking this chance, in bringing this gun

1 back? Is that okay to Brandon? Is that fair to
2 Brandon? It's not. It's just not.

3 Because when it comes down to it, you are
4 talking about human life. Something we obviously all
5 agree we regard very highly. In this State, in every
6 state in our country we have a premium on human life.
7 And then we are talking about some objects, some
8 things just under show, these glasses or a cane.

9 Are these glasses and this cane worth that
10 chance on human life? That's what we are talking
11 about. And we don't expect people in our society to
12 act that way. That's not reasonable. That is not
13 right conduct. That is a total disregard of human
14 life.

15 And Brandon did die a very real death.
16 whether he was meant to be killed, whether he
17 intended for him to be killed or not, it makes no
18 difference. That has nothing to do with it.

19 He could have intended just to come back with
20 that gun and get his stuff. But the chance he took
21 in doing that with that gun, knowing what he knew
22 after that fight, knowing what the situation was at
23 the Crawford house, coming right back was
24 unreasonable and unwarranted. It was senseless. And
25 Brandon died a senseless death. That is the point.

1 Now the defense has tried everything they can
2 to make this and cast this on the best light
3 possible. And that's their job. They have to do
4 that. They have got to make this thing look at least
5 a little bit better. But if you notice every time
6 they have to confront the issue of this choice, it's
7 an, oh boy, you made a bad decision.

8 But he has to talk about it. He has to
9 confront that. There is no getting around it. It
10 was a choice, like we all have in life and that's
11 what life is about, choices and accountability.

12 We are accountable in our own lives for the
13 choices that we make, whether they are right or
14 wrong, we can be a good person, we can be a bad
15 person, good people do bad things. We are not here
16 to judge who's good, who's bad. Was Brandon good?
17 Was Brandon bad? Is Jonta Green good? Is he bad?
18 It makes no difference, so what.

19 We are only talking about this one thing, how
20 Brandon died. How his choice affected Brandon's
21 life.

22 We can all agree, Brandon should never have
23 hit him. Right? That shouldn't have happened. We
24 wish that didn't happen. Unfortunately that did
25 happen. And we have got different stories about what

1 happened here, about coming back to the scene.

2 The defendant, putting everything in the best
3 light possible, says, came back to the scene, drove
4 up, Ms. Crawford said, oh yeah, come back up in the
5 yard. That's not what she said.

6 If you recall what she said, he got out of
7 that car and he told her, excuse me -- I'm going to
8 use her words though. She said, you got some pussy
9 in your yard that needs to get out, and I can't let
10 him sneak me like that. Does that sound like a man
11 who believes that Brandon isn't there?

12 Is there any reason for Ms. Crawford to lie?
13 She has no dog in this fight. Her sons are both
14 living. These witnesses that I presented were the
15 witnesses who were at the scene. I didn't pick them.
16 I didn't go down to the market and say, you'll do,
17 you'll do. They are just the people who are in this
18 case.

19 And you know initially it might be hard to
20 understand why Carlton Stretch, Brandon's best
21 friend, wouldn't want to say what happened to his
22 best friend that day. It might be hard to
23 understand. But he told you why. He wanted to
24 handle it his own-self. Okay. Then he thought about
25 it a little bit more, that's not the thing to do.

1 Did any of these witnesses come in here and
2 all say, we saw Jonta Green get out of the car with a
3 pistol? No. Only one of them did. Only Andrew
4 Rivers. They could have all said it. They didn't
5 all say it. They didn't all see it.

6 They weren't telling you a lie. If they
7 wanted to make this case the best case possible, they
8 would have all come in here and said, yeah, we all
9 saw him get out of the car with a gun. He went right
10 up to Brandon and killed him. They didn't say that.

11 In fact, they didn't do anything to make this
12 case better. They told you only what they knew.
13 They didn't have to tell you that Brandon hit Jonta
14 first. How was that good for us? That's what
15 Stretch said, Brandon hit Jonta first. Okay, fine.
16 So he did.

17 What else do you know? You know what else
18 Stretch didn't know? He never saw the shot. He
19 never told you he did because he didn't see it. He
20 is not coming in here trying to tell you something
21 that he didn't see.

22 These are just simply people telling you what
23 happened on a particular Friday afternoon. There was
24 an incident that shouldn't have happened. There was
25 a fight. Nobody wants a fight to happen. Fights

1 shouldn't happen. But fights do happen.

2 Was this a bad fight? Probably not because
3 there weren't injuries. I mean that has been
4 testified to. Nobody was really hurt here. Does he
5 have one arm, was he hit by somebody who has two?
6 Yes. Does that seem a little unfair? Yes.
7 Shouldn't have happened. Did happen.

8 Did he hold his own? All the testimony says
9 he did. Doesn't matter. That has nothing to do with
10 it.

11 But he says, you know what, this is the only gun I
12 have ever owned. That's what he testified to. Only
13 gun I ever purchased. Purchased it off the street.
14 Don't like guns, I don't like being around guns. Not
15 really involved with guns. Convicted of unlawful
16 carrying 2003 of a pistol.

17 His brother who he shows up with, riddled with
18 gunshot wounds, bleeding from gunshot wounds still,
19 that's the kind of company he keeps. His home, they
20 have had incidents like that before. This is where
21 he comes from. He is around guns. He knows about
22 guns. He knows about this gun.

23 The issue with the chrome, I don't know. If
24 this is in your pocket, in your front waist, and this
25 handle here is obviously white. This one isn't.

1 That's a pretty light-reflective surface. Could it
2 have appeared chrome? Maybe it could have.

3 Was anybody trying to lie to you? You have to
4 make that decision on your own. I won't say that
5 they weren't, but that's your decision because you
6 analyze obviously all of the evidence.

7 The defendant says he came back in the yard,
8 witnesses testify that he is calm. He's moving, he
9 is looking for these glasses and he says this stuff
10 to Ms. Crawford. And he keeps going up. And there
11 is testimony that he saying agitating words. And
12 Brandon is up under the carport.

13 Brandon is not here to testify. He cannot
14 tell you what he was thinking, what was happening.
15 But you can infer from the facts what likely happened
16 when Brandon saw the man who had just left, who he
17 has been in a fight with, returning with a gun.

18 Fair to say he might have thought his life was
19 in danger? Probably so. Fair to say he wanted to
20 live? Probably so. His tattoo, only the strong
21 survive, I don't see how that's a bad thing at all.
22 It's an old Jerry Butler song. Only the strong
23 survive. He wanted to live. Everybody wants to
24 live. Everyone has a right to live.

25 And our laws protect everybody's right to live

1 because our laws value human life. And we don't just
2 let human life go and turn a blind eye. We don't
3 just let people do whatever they want to do when the
4 chances are substantial that somebody could lose
5 their life when it doesn't have to be the case.
6 Doesn't have to be so. Doesn't have to happen.
7 Somebody doesn't have to stop breathing.

8 And so that's how we ended up here. To judge
9 the conduct of someone whose actions directly caused
10 the death of someone else.

11 What do we know about this struggle for the
12 gun? Brandon probably wants to save his life. This
13 guy has got a gun. He is back at the scene. He has
14 returned from a place of safety. Once everything was
15 totally fine, now things are not again. Things are
16 very much hostile again. Even more so. Because now
17 there is a gun at a place where there had not been a
18 gun before.

19 Brandon doesn't want to be shoot. Brandon
20 doesn't want to be killed. But he is killed with a
21 contact wound to his forehead that does not go up, it
22 goes down through his forehead, a complete target red
23 zone.

24 And a man with two hands is allowed to have
25 this gun just right here, can't move that at all?

1 And supposedly the gun just goes off right there with
2 his hands on there and no gunshot residue on his
3 palms? When the SLED expert said, you would expect to
4 have gunshot residue on the palms if you are handling
5 a gun, firing a gun. It's not on the palms though,
6 it's on the back of the hands. Consistent with being
7 shot, not firing.

8 Brandon wanted to live. His actions in
9 punching this defendant in that earlier incident are
10 to be looked down upon. They're not condonable, I'm
11 not condoning it, it wasn't right. It shouldn't have
12 happened to Jonta Green.

13 But when he left, he held all of the cards.
14 When he came back, as he told you, he told you, he
15 put that gun on him for control. That's what he
16 said, he was in control.

17 And the man with gun holds all of the cards.
18 It's that simple. Murder is a very simple crime. It
19 doesn't take much to commit. Just a gun and a
20 squeeze of the trigger and somebody's life ends.
21 That's all it take. Just a split second. Done.
22 Over. Forever.

23 I want to go over with you the law that you
24 are going to be charged, and how it applies to these
25 facts. We define murder in South Carolina as the

1 unlawful killing of another with malice aforethought.
2 And we define malice. Malice is hatred or ill-will
3 or hostility towards another person. The intentional
4 doing of a wrongful act without just cause or excuse,
5 and with an intend to inflict an injury, or under
6 circumstances that the law will infer an evil intent.

7 Mr. Green was upset, he was angry. He had
8 some hostile words for Ms. Crawford, that's part of
9 the evidence, when he came back to the scene. It
10 does not need to exist for any particular amount of
11 time before the act is committed, but malice must
12 exist in the mind of the defendant just before, and
13 at the time that the act is committed.

14 Bringing that gun back was a malicious act.
15 Malice can be expressed or inferred. You can talk
16 about it. You can say, I'm going to go kill
17 somebody, and go kill somebody. Or you can just use
18 your actions just to tell the story of what you are
19 thinking, what you are doing.

20 Express malice is when a person speaks these
21 words of hatred or ill-will for another. Or maybe
22 they have prepared beforehand to do the act which was
23 later accomplished. Inferred malice, may be inferred
24 from conduct showing a total disregard for human
25 life.

1 You may also infer malice from the use of a
2 gun. That's malicious. To bring a gun back was
3 malicious. It was plain as day what was going to
4 happen. You do not have to intend to kill.

5 voluntary manslaughter will be charged to you
6 as a lesser-included offense of murder. These are
7 the elements of voluntary manslaughter. Unlawful
8 killing of a human being in the sudden heat of
9 passion upon sufficient legal provocation. These two
10 must exist at the same time; sudden heat of passion,
11 sufficient legal provocation.

12 To help us understand this just a little bit
13 more, sudden heat of passion upon sufficient legal
14 provocation which mitigates a felonious killing to
15 manslaughter, while it need not be shown reason
16 entirely or shut out knowledge and volition, must be
17 such as would naturally disturb the sway of reason
18 and render the mind of an ordinary person incapable
19 of cool reflection; and produce, what according to
20 the human experience may be called, an uncontrollable
21 impulse to do violence.

22 An ordinary person in this situation
23 uncontrollable impulse to do violence? That's not
24 this case. Voluntary manslaughter is best
25 understood in a context such as, or in a scenario,

1 when a husband comes home, sees his wife in bed with
2 another man -- this is often the case -- and becomes
3 so enraged, sufficiently and legally provoked, that
4 in the sudden heat of passion takes the gun from off
5 the nightstand, kills one or both, done, over like
6 that. Over.

7 Voluntary manslaughter, mitigated from a
8 malicious killing down to a sudden heat of passion,
9 uncontrollable impulse to do violence. That is not
10 what we have here. If that same husband had come
11 into that room, seen what he had seen going on, takes
12 stock of it, goes outside, goes out to the car and
13 gets a gun, come back in, that is not sudden anymore.
14 He has left.

15 If there is a cooling-off period, did he have
16 any opportunity to think about this? You've got to
17 decide what was going on with him. Was he
18 uncontrollable? When an ordinary person in his
19 situation having left that fight be uncontrollable,
20 have the impulse to do violence, and uncontrolled
21 impulse to come back and do violence. That's not
22 even when he testified to.

23 He didn't say he came back and killed him. He
24 tried to just say, the gun just went off. Not my
25 fault. Not my fault that I brought this gun back.

1 The gun just went off. Although he happened to do
2 everything to make that situation possible. He
3 brought that gun there.

4 And you will be charged on involuntary
5 manslaughter. Two ways, the unintentional killing of
6 another without malice, but while engaged in an
7 unlawful activity not naturally tending to cause
8 death or great bodily harm. Number one, guns do tend
9 to cause death or great bodily harm. And that is a
10 fact.

11 Unlawful activity. Showing back up with a
12 concealed weapon, unlawful. Someone else's property,
13 gun on you, unlawful. Any reason in the world for
14 it? Absolutely not.

15 There wasn't a reason to come back with a gun.
16 The only foreseeable consequence of coming back with
17 a gun is what happened. The unintentional killing
18 without malice while engaged in a lawful activity
19 with reckless disregard for the safety of others.
20 Lawful activity.

21 Ladies and gentlemen, nothing about showing
22 back up with that gun was lawful. But this is for
23 you to decide. This is all your decision. Human
24 life and how it left is in your hands.

25 You will make that decision. And you have

1 choices. Please make that choice. Please
2 understand, as I know you do, the value of human
3 life. What it means, what the consequences to
4 everybody's actions mean in our society. What we
5 will allow to happen. And what we will not tolerate
6 to happen. What we will say is okay, and what we
7 will say is not okay.

8 It is not okay to come back with a gun.
9 Coming back with a gun was the be-all, end-all in
10 this case. There was no reason for it. The
11 inevitable happened. Brandon's death may as well
12 have been written in stone, and it was.

13 You will be charged on the law of accident.
14 For a homicide to be excusable on the ground of
15 accident it must be shown that the killing was
16 unintentional, that the defendant was acting
17 lawfully. That due care was exercised in the handling
18 of the weapon.

19 Ladies and gentlemen, if that's an accident,
20 and you are going to see next the defense of
21 self-defense, you have to fulfill every single
22 element. If you fail on any one of them, you do not
23 get the defense.

24 It's like getting a driver's license. You
25 have got to do a lot of things to get a driver's

1 license. And if you don't, you don't earn the right
2 to drive. You got to be of age, you've got to pass a
3 sight test, a written test, a road test. You have to
4 have insurance. That's five things. If you have not
5 one of those, you are not driving. You don't earn
6 the right to drive.

7 The defendant was acting lawfully. He fails
8 on this element. It's for you to decide. But when
9 he came back on this property with a gun, that was
10 not lawful. He had no right to do that. Not to
11 chance human life for earthly possessions. That's
12 not fair. That's not fair to Brandon, that's not
13 fair to anyone.

14 Life and death, in his hands. He held all of
15 the cards. He was in control.

16 Self-defense. The defendant must be without
17 fault in bringing on the difficulty. Imminent danger
18 of life or serious bodily injury. In order to use
19 self-defense. No other way to avoid the danger than
20 to act as the defendant did. No other way.

21 Right at the very top, without fault in
22 bringing on the difficulty. That is for you to
23 decide. Is there any fault for him bringing this gun
24 back to this scene. Think about it.

25 That's everything. If he wouldn't have

1 brought that gun back, none of this would have ever
2 happened. Leave it in the glove compartment, none of
3 this would have ever happened. Leave it right where
4 it is, none of this would have ever happened. You
5 can get these glasses back another way. You can get
6 this cane back another way. You can't bring Brandon
7 back another way. That can't happen.

8 Choices and accountability and a murder which
9 took no effort at all. Didn't require much thinking
10 in the least. And it just happened.

11 Reasonable doubt. My job, to prove my case
12 beyond a reasonable doubt. Not beyond all doubt, you
13 can have doubt. You have to have a reasonable doubt.

14 There are few things in this world we know
15 with absolute certainty. And if any of you knew with
16 an absolute certainty what happened out there on
17 September 19th of 2008, you wouldn't be where you are
18 and you would have taken the witness stand and told
19 the jury what you knew.

20 The law requires me to prove this beyond a
21 reasonable doubt that Brandon was murdered, that the
22 actions of Jonta Green were malicious because they
23 were a total disregard for human life. It was
24 foreseeable, inevitable, going to happen, did happen,
25 and we are here.

1 At the beginning of the case you all raised
2 your hand and you took an oath to find the truth. I
3 ask that you fulfill your oath, find the truth. The
4 truth is that this was a murder, didn't have to
5 happen. Find Jonta Green guilty of murder because it
6 was murder. Thank you.

7 THE COURT: Ladies and gentlemen, why don't
8 you stand up and stretch a little bit.

9 During this trial, ladies and gentlemen, you
10 and I have certain duties to perform. As the trial
11 judge, it is my responsibility to preside over the
12 trial of this case. I also have the duty to rule
13 upon or pass upon the admissibility of evidence that
14 has been offered during the course of this trial.

15 You are to consider only the competent
16 evidence that is before you. And you are to
17 disregard and disabuse from your mind any testimony
18 that may have been ordered stricken from the record
19 during the course of this case if there has been any.

20 You are to consider only the testimony which
21 has been presented from the witness stand, together
22 with any other exhibits that may have been introduced
23 into evidence as part of the record of this trial.
24 As well as any stipulations of counsel which have
25 been made for the record.

1 And just for your, so that you can understand,
2 a stipulation is an agreement between the parties.
3 And it requires no further proof.

4 I have the additional duty, ladies and
5 gentlemen, to charge or instruct you on the law
6 applicable to this case. As the presiding judge I'm
7 the sole judge of the law of this case. And it is
8 your duty as jurors to accept and apply the law as I
9 precisely now state it to you.

10 If you have a preconceived idea as to what the
11 law is or what the law ought to be in a case, or in
12 this case, and it should not agree with what I now
13 tell you the law is, you are required and obligated
14 under the oath which you have taken to abandon this
15 preconception on your part because you are required
16 and sworn to accept the law and apply the law
17 precisely as I now state it to you.

18 In every case tried in this court before a
19 jury, the jury becomes the sole and exclusive judges
20 of the facts in a case. You, the jury, are the sole
21 judges of the facts in this case. This Court is
22 judge of the law.

23 The constitution of our state has declared
24 that a trial judge shall not state, intimate, comment
25 upon or make any statement to a trial jury about the

1 facts in a case. The law does not allow me to have
2 an opinion about the facts of a case. Since you the
3 jury are the sole judges of the facts in this case,
4 you are not to infer anything from what I have said
5 during the progress of this trial in ruling upon
6 admissibility of evidence or otherwise, or anything I
7 say to you now during the course of this instruction
8 to you, that I have any opinion about the facts in
9 this case.

10 The law does not allow me to have an opinion
11 about the facts. This is a matter solely for you,
12 ladies and gentlemen, to determine. As jurors then
13 it is your duty, as I have instructed, to determine
14 the effect, the value, the weight, and the truth of
15 the testimony and evidence presented during this
16 trial.

17 Necessarily, you must assess the credibility
18 of witnesses who have testified in this case.
19 Credibility is simply a legalistic term that we use
20 meaning believability. It becomes your duty as
21 jurors to analyze, and to evaluate the evidence, and
22 determine that evidence which convinces you of its
23 truth.

24 I instruct you that in determining the
25 question of the credibility or believability of

1 witnesses who have testified you may believe one
2 witness as against several witnesses, or several
3 witnesses as against one witness.

4 You may believe a part of the testimony of a
5 witness and reject the remaining part of the
6 testimony of that same witness. If you have a good
7 and sound reason, you may believe the testimony of a
8 witness in its entirety, or reject the testimony of a
9 witness in its entirety.

10 You may consider whether any witness has
11 exhibited to you any interest, any bias, any
12 prejudice or other motive in this case. You may
13 consider the demeanor of the witness, that is the
14 appearance and manner of the witness from the witness
15 stand.

16 I instruct you, ladies and gentlemen, that a
17 person who has a past criminal record is competent to
18 testify during a trial. A past record does not
19 affect the ability of that witness to testify. The
20 past record may only be considered by you, if at all,
21 in determining the witness's believability.

22 Remember, ladies and gentlemen, you are the
23 sole judges of the facts in this case, and of the
24 believability of any and all of the witnesses.

25 I further instruct you that you have heard

1 evidence that the defendant was convicted of a crime,
2 other than the one for which he is now on trial.
3 This evidence may be considered by you, if you
4 conclude it is true, only in deciding whether the
5 defendant's testimony is believable and for no other
6 purpose. You must not consider the defendant's prior
7 record as any evidence of the defendant's guilt of
8 the charge we are trying to today.

9 You've also heard evidence of the defendant's
10 good reputation and character to show that it would
11 be inconsistent with the defendant committing the
12 crimes charged. The weight you give to that
13 testimony, like all other testimony in this case, is
14 for you the jury to decide in your good judgment.
15 You may consider testimony of the defendant's good
16 character, along with all of the other evidence, in
17 deciding whether or not the defendant committed the
18 crime.

19 And again, ladies and gentlemen, it is for you
20 to determine the effect, value and weight of that
21 testimony, and give it the weight you think it
22 deserves.

23 Our rules of evidence ordinarily do not permit
24 witnesses to testify to opinions or conclusions. An
25 exception to this rule exist for witnesses we call

1 expert witnesses. A witness who by education,
2 training and experience has become an expert in some
3 art, science or profession may state an opinion as to
4 relevant and material matters in which the witness
5 claims to be an expert. And may also state the
6 reasons for that opinion.

7 You should consider any expert opinion
8 received in evidence in this case like any other
9 evidence. Give it the weight you think it deserves.

10 If you decide that the opinion of the expert
11 witness is not based on sufficient education and
12 experience, or if you conclude that the reasons given
13 in support of the opinion are not sound, or that the
14 opinion is outweighed by other evidence, you may
15 disregard the opinion entirely.

16 An expert witness's testimony is to be given
17 no greater weight than that of other witnesses simply
18 because the witness is an expert. Further, you are
19 not required to accept an expert's opinion, even
20 though it is not contradicted.

21 Ladies and gentlemen, there are two types of
22 evidence which are generally presented during the
23 course of a trial; direct evidence and circumstantial
24 evidence. Direct evidence is the testimony of a
25 person who asserts of claims to have actual knowledge

1 of a fact, such as an eyewitness. Circumstantial
2 evidence is proof of a chain of facts and
3 circumstances indicating the existence of a fact.

4 The law makes absolutely no distinction
5 between the weight or value to be given to either
6 direct or circumstantial evidence. Nor is a greater
7 degree of certainty required of circumstantial
8 evidence than of direct evidence.

9 You should weigh all of the evidence in the
10 case. After weighing all of the evidence, if you are
11 not convinced of the guilt of the defendant beyond a
12 reasonable doubt, you must find the defendant not
13 guilty. Conversely, if you are convinced of the
14 guilt of the defendant beyond a reasonable doubt,
15 then you must find him guilty.

16 Ladies and gentlemen, I instruct you that the
17 fact that the defendant was arrested, charged and
18 indicted in this case is not evidence in this case,
19 and cannot be considered by you as evidence of guilt
20 in this case. Nor does it create any presumption or
21 inference of guilt.

22 This documentation is simply the written
23 instruments which contain the charge or charges made
24 against the defendant. They simply serve as the
25 formal documents by which this case is processed or

1 brought into this court.

2 The defendant has pled not guilty to the
3 indictments. And that plea casts the burden on the
4 State to prove the defendant guilty. Because a
5 person charged with committing a criminal offense in
6 South Carolina is never required to prove himself or
7 herself innocent.

8 I instruct you, Madam Forelady, and ladies and
9 gentlemen of the jury, that it is a cardinal and
10 important rule of the law of evidence that the
11 defendant in a criminal trial, no matter what the
12 seriousness of the charge or charges made against him
13 may be, will always be presumed to be innocent of the
14 crime for which he is indicted, unless his guilt has
15 been proven by evidence satisfying you of that guilt
16 beyond a reasonable doubt.

17 This presumption of innocence does not cease
18 when you retire to deliberate. But it accompanies
19 the defendant from the time of his appearance,
20 throughout this trial, until you reach a verdict
21 based upon evidence satisfying you beyond a
22 reasonable doubt.

23 Our Supreme Court has said that the
24 presumption of innocence is like a robe of
25 righteousness placed about the shoulders of the

1 defendant. And it remains with him and assigns him
2 to that class, the innocent, until that presumptive
3 robe of righteousness has been stripped from his
4 person by evidence satisfying you of that guilt
5 beyond a reasonable doubt.

6 Madam Forelady, ladies and gentlemen of the
7 jury, the presumption of innocence is not mere legal
8 theory. It is not just a legal phrase. It is a
9 substantial right to which every defendant is
10 entitled unless you the jury are satisfied from the
11 evidence of his guilt beyond a reasonable doubt.

12 You may ask, what is a reasonable doubt in the
13 law? The state has the burden of proving the
14 defendant guilty beyond a reasonable doubt. Some of
15 you may have served as jurors in civil cases where
16 you were told that is it only necessary to prove that
17 a fact is more likely true than not true, such as by
18 the greater weight or the preponderance of the
19 evidence.

20 In criminal cases the State's proof must be
21 more powerful than that. It must be beyond a
22 reasonable doubt. Proof beyond a reasonable doubt is
23 proof that leaves you firmly convinced of the
24 defendant's guilt.

25 There are very few things in this world that

1 we know with absolute certainty. And in criminal
2 cases the law does not require proof that overcomes
3 every possible doubt. If based on your consideration
4 of the evidence you are firmly convinced that the
5 defendant is guilty of the crime charged, you must
6 find the defendant guilty.

7 If on the other hand you think there is a real
8 possibility that the defendant is not guilty, you
9 must give the defendant the benefit of that doubt and
10 find him not guilty.

11 The defendant, ladies and gentlemen, in this
12 case is charged with murder. The State must prove
13 beyond a reasonable doubt that the defendant killed
14 another person with malice aforethought.

15 Malice is hatred, ill-will or hostility
16 towards another person. It is the intentional doing
17 of a wrongful act without just cause or excuse, and
18 with an intent to inflict an injury or under
19 circumstances that the law will infer an evil intent.

20 Malice aforethought does not require that
21 malice exist for any particular time before the act
22 is committed. But malice must exist in the mind of
23 the defendant just before and at the time the act is
24 committed. Therefore, there must be a combination of
25 the previous evil intent and the act.

1 Malice aforethought may be expressed or
2 inferred. These terms, expressed and inferred, do
3 not mean different kinds of malice, but merely the
4 manner in which malice may be shown to exist. That
5 is either by direct evidence or by inference from the
6 facts and circumstances which are proven.

7 Express malice is shown when a person speaks
8 words which express hatred or ill-will for another,
9 or when the person prepared beforehand to do the act
10 which was later accomplished. For example, lying in
11 wait for a person, or any other act of preparation
12 going to show that the deed was within the
13 defendant's mind, would be express malice.

14 Malice may be inferred from conduct showing a
15 total disregard for human life. If you have find,
16 ladies and gentlemen, that the State has failed to
17 prove beyond a reasonable doubt that the defendant
18 committed murder, you may consider whether the State
19 has proven beyond a reasonable doubt that the
20 defendant committed voluntary manslaughter.

21 To prove voluntary manslaughter, the State
22 must prove beyond a reasonable doubt that the
23 defendant took the life of another in the sudden heat
24 of passion based on sufficient legal provocation.
25 Both heat of passion and sufficient legal provocation

1 must be present at the time of the killing to
2 constitute voluntary manslaughter.

3 Sudden heat of passion may for a time affect a
4 person's self-control, and temporarily disturb a
5 person's reason. The sudden heat of passion must be
6 the type that would make an ordinary person unable to
7 coolly reflect on his actions, and would produce an
8 uncontrollable impulse to do violence.

9 Sufficient legal provocation must be the type
10 that would make a person of ordinary reason and
11 caution become enraged and to lose control
12 temporarily. The provocation needed for voluntary
13 manslaughter must come from some act of or related to
14 the victim.

15 Words alone, however vulgar or insulting, are
16 not enough to be legal provocation. Where death is
17 caused by the use of a deadly weapon, the words must
18 be accompanied by some overt threatening act, which
19 could have produced the heat of passion. The
20 exercise of a legal right, no matter how offensive it
21 is to another, is never sufficient legal provocation
22 for voluntary manslaughter.

23 If the heat of passion had cooled, or if there
24 was enough time between the provocation, if any, and
25 the killing for the passion of a reasonable person to

1 cool, the killing would not be voluntary
2 manslaughter. In deciding whether a reasonable
3 person would have had enough time to cool off, you
4 should consider all of the circumstances surrounding
5 the killing.

6 You may consider the nature of the
7 provocation, if any; the defendant's mental and
8 physical state; and the circumstances and
9 relationship between the parties..

10 If you find that the State has failed to prove
11 beyond a reasonable doubt that the defendant
12 committed murder, you may also consider whether the
13 State has proven beyond a reasonable doubt that the
14 defendant committed involuntary manslaughter.

15 To prove involuntary manslaughter, the State
16 must prove beyond a reasonable doubt that the
17 defendant unintentionally killed the victim, without
18 malice, but while engaged in an unlawful activity not
19 naturally tending to cause death or great bodily
20 harm. Or that the defendant unintentionally killed
21 the victim without malice while engaged in a lawful
22 activity with reckless disregard for the safety of
23 others.

24 Unintentional means that the defendant did not
25 intend for anyone to be killed or seriously injured.

1 Reckless disregard for the safety of others is more
2 than mere negligence or carelessness. Mere
3 negligence or carelessness is the failure to use the
4 care that a person of ordinary reason would use under
5 the same circumstances.

6 Recklessness is a conscious failure to use
7 ordinary care. Reckless disregard for the safety of
8 others means that you are not interested in the
9 consequences of your acts, or the rights and safety
10 of others.

11 If a person who knows or should know that
12 ordinary care requires certain precautions to be
13 taken for the safety of others when using a dangerous
14 instrumentality such as a gun or car, but that person
15 fails to use those precautions without concern, the
16 person's actions are considered reckless.

17 The State must also prove beyond a reasonable
18 doubt that the defendant's act was the proximate
19 cause of death. Proximate cause is the direct cause.
20 It is the immediate cause. It is the efficient
21 cause. It is that cause without which the death of
22 the victim would not have resulted. There must be a
23 chain of causation from the time of the injury
24 inflicted by the defendant until the time of the
25 victim's death.

1 Proximate cause does not necessarily mean that
2 it occurred immediately prior to death. There may be
3 more than one proximate cause. The act of two or more
4 persons may combine together to be a proximate cause
5 of the death of a person. The defendant's act may be
6 regarded as a proximate cause if it is a contributing
7 cause of the death of the victim.

8 The fact that other causes also contribute to
9 the death of the victim does not relieve the
10 defendant from responsibility. The defendant's act
11 need not be the sole cause of the death, but must be
12 a proximate cause contributing to the death of the
13 victim.

14 It is not a defense to show that the victim
15 might have recovered had he been treated according to
16 the most approved surgical or medical standards, or
17 as a reasonably prudent doctor would have treated in
18 the case, or even by showing that the treatment was
19 negligent.

20 If, however, the death was caused not by the
21 wound or the injury that the victim had; but was
22 caused by the gross, erroneous, willful, deliberate
23 treatment, the defendant would not be liable. In
24 other words, negligence on the part of someone else
25 would not relieve the defendant from liability, if

1 the injury was the proximate cause of the victim's
2 death.

3 The violation of the statute, if it is the
4 proximate cause of an injury, is evidence of
5 recklessness.

6 I instruct you, ladies and gentlemen, that if
7 you as jurors have a reasonable doubt as to whether
8 the defendant is guilty of murder, voluntary
9 manslaughter or involuntary manslaughter, it is your
10 duty to resolve that doubt in his favor and find him
11 guilty of the lesser offense.

12 I further instruct you, ladies and gentlemen,
13 that the defendant is charged with possession of a
14 weapon during the commission of or attempt to commit
15 a violent crime. The State must prove beyond a
16 reasonable doubt that the defendant was in possession
17 of a firearm, or visibly displayed what appeared to
18 be a firearm during the commission of a violent
19 crime.

20 A firearm means any machine-gun, automatic
21 rifle, revolver, pistol, or any weapon which will, is
22 designed to, or may be readily converted to expel a
23 projectile. In order to find the defendant guilty of
24 possession of a weapon during the commission of a
25 violent crime, you must first find the defendant

1 guilty of either committing a violent crime or
2 attempting to commit a violent crime.

3 I instruct you, ladies and gentlemen, that
4 murder and voluntary manslaughter are violent crimes
5 as specified by code section 16-1-60.

6 The defendant has raised the defense of
7 self-defense. Self-defense is a complete defense.
8 And if it is established, you must find the defendant
9 not guilty.

10 The State has the burden of disproving
11 self-defense by proof beyond a reasonable doubt. If
12 you have a reasonable doubt of the defendant's guilt
13 after considering all of the evidence, including the
14 evidence of self-defense, then you must find the
15 defendant not guilty.

16 On the other hand, if you have no reasonable
17 doubt of the defendant's guilt after considering all
18 of the evidence, including the evidence of
19 self-defense, then you must find the defendant
20 guilty.

21 The following elements are required to
22 establish self-defense. First, the defendant must be
23 without fault in bringing on the difficulty. If the
24 defendant's conduct was the type which was reasonably
25 calculated to, and did provoke a deadly assault, the

1 defendant would be at fault in bringing on the
2 difficulty and would not be entitled to an acquittal
3 based on self-defense.

4 Self-defense is not available to a person who
5 uses language which is so contemptuous that a
6 reasonable person who expect it to bring on a
7 physical encounter, and which did actually contribute
8 to the physical encounter.

9 If the defendant voluntarily participated in
10 mutual combat for purposes other than protection, the
11 killing of the victim would not be self-defense.
12 This is true even if during the combat the defendant
13 feared death or serious bodily injury.

14 However, if before the killing is committed
15 the defendant withdraws and tried in good faith to
16 avoid further conflict, and either by word or act
17 makes that fact known to the victim, he would be
18 without fault in bringing on the difficulty.

19 For mutual combat there must be a mutual
20 intent and willingness to fight. This intent may be
21 shown by the acts and conduct of the parties, and the
22 circumstances surrounding the combat. In addition,
23 it must be shown that both parties were armed with a
24 deadly weapon.

25 The second element of self-defense is that the

1 defendant was actually in imminent danger of death or
2 serious bodily injury, or that the defendant actually
3 believed he was in imminent danger of death or
4 serious bodily injury. If the defendant was actually
5 in imminent danger, it must be shown that the
6 circumstances would have warranted a person of
7 ordinary firmness and courage to strike the fatal
8 blow to prevent death or serious bodily injury.

9 If the defendant believed he was in imminent
10 danger of death or serious bodily injury, it must be
11 shown that a reasonably prudent person of ordinary
12 firmness and courage would have had the same belief.

13 In deciding whether the defendant was actually
14 or believed he was in imminent danger of death or
15 serious bodily injury, you should consider all of the
16 facts and circumstances surrounding the crime,
17 including the physical condition and characteristics
18 of the defendant and the victim.

19 The defendant does not have to show that he
20 was actually in danger. It is enough if the
21 defendant believed he was in imminent danger, and a
22 reasonably prudent person of ordinary firmness and
23 courage would have had the same belief.

24 The defendant has the right to act on
25 appearances even though the defendant's beliefs may

1 have been mistake. It is for you to decide whether
2 the defendant's fear of immediate danger of death or
3 serious bodily injury was reasonable and would have
4 been felt by an ordinary person in the same
5 situation.

6 Once the right to act in self-defense arises,
7 a defendant is not required to wait until his
8 adversary is on equal terms, or until he has fired or
9 armed his weapon in order to act. Similarly, the
10 defendant does not have to wait until his assailant
11 gets the drop on him. He has the right to act under
12 the law of self-preservation and prevent his
13 assailant from getting the drop on him.

14 Evidence of prior difficulty between the
15 defendant and the victim may be considered in
16 deciding whether a threat existed, whether the
17 defendant had a reason to believe the threat existed,
18 and how serious that threat was. The relative size,
19 age and weight of the defendant and the victim may be
20 considered in deciding the apparent or actual need
21 for force in self-defense, and the amount of force
22 needed.

23 The intoxication of the victim may be
24 considered in deciding whether the defendant's fear
25 of death or bodily harm was reasonable. The final

1 element of self-defense is that the defendant had no
2 other probable way to avoid the danger of death or
3 serious bodily injury than to act as the defendant
4 did in this particular instance.

5 The defendant had no duty to retreat if by
6 doing so the danger of being killed or suffering
7 serious bodily injury would increase.

8 I further instruct you that a person cannot be
9 required to make an exact calculation as to the
10 degree or amount of force which may be needed to
11 avoid death or serious bodily harm. Therefore, in
12 self-defense the defendant has the right to use the
13 force needed to avoid death or serious bodily harm.

14 The force used in self-defense does not have
15 to be limited to the degree or amount of force used
16 by the victim. The defendant has the right to use so
17 much force as appeared to be necessary for complete
18 self-protection, and which a person of ordinary
19 reason and firmness would have believed to be needed
20 to prevent death or serious bodily harm.

21 The defendant has also raised the defense of
22 accident. An act may be excused on the ground of
23 accident if it is shown that the act was
24 unintentional, that the defendant was acting
25 lawfully, and that reasonable care was used by the

1 defendant in that handling of the weapon.

2 For example, if a person is lawfully armed in
3 self-defense, and the gun accidentally discharges,
4 the defendant -- the defense of accident will apply.
5 The burden is on the State to prove beyond a
6 reasonable doubt that the act was not an accident,
7 but was caused by the negligence or carelessness on
8 the part of the defendant in the handling of the
9 dangerous instrumentality.

10 Ladies and gentlemen, there are two
11 indictments in this case. Those being
12 2009-GS-10-113, which is an indictment for murder;
13 and 2009-GS-10-116, which is an indictment for
14 possession of a weapon during the commission of a
15 violent crime.

16 Each indictment charges a separate and
17 distinct offense. You must decide each indictment
18 separately on the evidence and the law applicable to
19 it, uninfluenced by your decision as to any other
20 indictment. The defendant may be convicted or
21 acquitted on any or all of the offenses charged, and
22 you will be asked to write a separate verdict for
23 each of the indictments.

24 Ladies and gentlemen, there are four possible
25 verdicts on the indictment 113, which is the offense

1 charged of murder; and two possible verdicts on
2 indictment 113 -- should be 116, we have a little
3 typo and I will get that fix -- which is the
4 indictment for the possession of a weapon during the
5 commission of a violent crime.

6 Ladies and gentlemen, there is absolutely no
7 significance whatsoever to the order in which I state
8 these possible verdicts, it is simply that one must
9 be stated first and so forth. And you don't have to
10 try to write this down because these forms will go
11 into the jury room with you. And again there is no
12 significance whatsoever to the order in which I state
13 these possibilities.

14 As to indictment 113, which is the indictment
15 for murder. We the jury, by unanimous consent, find
16 the defendant guilty of murder; or as to the lesser
17 included offense, guilty of voluntary manslaughter;
18 or as to the lesser included offense, guilty of
19 involuntary manslaughter; or not guilty..

20 And as to indictment 116, which is possession
21 of a firearm during the commission or attempt to
22 commit a violent crime. We the jury, by unanimous
23 consent, find the defendant guilty of possession of a
24 weapon during the commission of a violent crime; or
25 not guilty.

1 Again, ladies and gentlemen, there is
2 absolutely no significance whatsoever to the order in
3 which I state these possible verdicts. Ladies and
4 gentlemen, your verdict must be a unanimous one which
5 means that all 12 of you must agree in order to reach
6 a verdict.

7 Madam Forelady, when the jury has reached a
8 verdict, it is your responsibility to fill out the
9 verdict forms, and sign and date the forms. It is
10 also your responsibility to knock on the door and
11 advise the bailiff that the jury has reached a
12 verdict.

13 Also, if the jury has any questions during
14 deliberations, it is your responsibility to write out
15 those questions in longhand and follow the same
16 procedure, knock on the door and advise the bailiff
17 the jury has a question.

18 Ladies and gentlemen, if you have any
19 questions during deliberations, please know that
20 there will be a delay in us responding to you.
21 Please don't think we are ignoring you. It is simply
22 that there is a procedure we must follow in answering
23 your questions. So if you ask a question and there
24 is a delay, please know that we are simply following
25 that procedure and that you are not being ignored.

1 I'm going to ask you now to return to the jury
2 room, but please do not yet begin your deliberations.
3 Please leave your notepads in your seats. There are
4 some matters of law that I have to take up with the
5 attorneys that may require me to give an additional
6 instruction or to correct an instruction.

7 So I would ask again that you not yet begin
8 your deliberations. But if there is no further
9 instructions we will send in your notebooks and the
10 evidence and the verdict forms. And at that time the
11 alternates will be excused and you will be allowed to
12 begin your deliberations.

13 Your lunch is here and we have gotten that set
14 up in the jury room for you. If you would go with
15 the bailiff for me, please.

16 (Whereupon, the jurors exit the courtroom.)

17 THE COURT: You may take your seat.

18 Are there any exception to the charge from the
19 State?

20 MR. DURANT: None from the State, Your Honor.

21 THE COURT: From the defense?

22 MR. MATTSON: None, Your Honor.

23 THE COURT: Okay. Can you all please go
24 through the evidence for me one more time and make
25 sure it's all in place.

1 Mr. Robinson, you can start collecting the
2 notebooks except for the alternates. Then go ahead
3 and prepare to bring the alternates in for me,
4 please.

5 There was a little typo on indictment 116,
6 there was a typographical error on the number. I'm
7 having Lucy correct that so -- in the body of it has
8 the wrong indictment number.

9 MR. DURANT: In the verdict form?

10 THE COURT: Yeah, the verdict form.

11 Mr. Robinson, if you can bring in the
12 alternates for me, please. Have them bring out their
13 lunch with them, please.

14 (Whereupon, the alternate jurors enter the
15 courtroom.)

16 THE COURT: I just wanted thank you both for
17 the time and attention that you've devoted to this
18 case. Being an alternate is so very necessary but
19 also very thankless in some instances.. You have the
20 same responsibility, and you put in the same time,
21 but you don't get to deliberate regarding the case
22 unless someone is ill or otherwise has to be excused.

23 So on behalf of the State and the defendant
24 and defense counsel, we thank you for your time and
25 your attention to this case. Your lunch is here, we

1 have it separated in another room. You are welcome
2 to eat here if you would like, or you're welcome to
3 take it with you.

4 We have left your notepads. We can destroy
5 your notes, or you can destroy them, whatever you
6 prefer, just let Mr. Robinson know. You are welcome
7 to discuss this case, but I would ask you not do that
8 until after Friday when the entire panel is dismissed
9 for the week.

10 Also, if someone should persist in trying to
11 speak with you and you don't want to speak with them,
12 please make the clerk's office aware of it so that we
13 can take all action necessary to preserve your
14 privacy.

15 You are excused with the Court's profound
16 thanks.

17 A JUROR: Thank you.

18 A JUROR: Thank you.

19 (Whereupon, the alternate jurors exit the
20 courtroom.)

21 THE COURT: Okay, the record should reflect
22 the jury has begun its deliberations at 1:19, and the
23 jurors were excused at 1:19 as well.

24 You all may want to get something to eat. I
25 would expect if there is any questions they will be

1 forthcoming because the jury has already started to
2 eat.

3 (Whereupon, a recess was taken.)

4 THE COURT: We have a question from the jury,
5 it reads as follows: we the jury request a copy of
6 all the definitions of the possible verdicts for this
7 case signed by the foreperson.

8 And how I would respond is always follows:
9 Ladies and gentlemen of the jury, our procedures do
10 not allow for a copy of the jury charge slash
11 instructions to be given to you. If there is a
12 specific instruction that you would like to be given
13 again, or the entire instruction, please advise us
14 and I will accommodate your request immediately.

15 Is there any exception to that response from
16 the State?

17 MR. DURANT: No, Your Honor.

18 THE COURT: From the defense?

19 MR. MATTSON: No, Your Honor.

20 THE COURT: Okay. It will be marked as a
21 court's exhibit then I will have Mr. Robinson take it
22 in. And they will be advised to make sure they don't
23 throw that away. And we will await further
24 instruction from the jury.

25 (Whereupon, a recess was taken.)

1 THE COURT: We got a note from the jury, it
2 reads as follows: To Judge Jefferson, we the jury
3 are requesting to hear again -- we the jury are
4 requesting to hear again all explanations of the
5 possible verdicts in this case. I assume that means
6 I need to re-instruct them.

7 I'm sorry I got tickled. I apologize. But
8 I'm going to have to re-instruct them -- bear with me
9 one moment -- on murder, voluntary manslaughter,
10 involuntary manslaughter, and possession of a firearm
11 during the commission of a violent crime. And I
12 think that probably will cover what they're asking.

13 I don't think they're asking for anything
14 other than that. Well self-defense and accident. So
15 basically all the substantive law of the instruction.

16 Is there any exception from the state?

17 MR. DURANT: Sounds about right, Your Honor.

18 THE COURT: Any exception from the defense?

19 MR. MATTSON: None, Your Honor.

20 THE COURT: Please bring in the jury, Mr.
21 Robinson. And the note will be marked as a Court's
22 exhibit.

23 (Whereupon, the jurors enter the courtroom.)

24 THE COURT: Thank you, you may take your
25 seats.

1 Ladies and gentlemen, in response to your
2 request I re-instruct you as follows.

3 The defendant is charged with murder. The
4 State must prove beyond a reasonable doubt that the
5 defendant killed another with malice aforethought.

6 Malice is hatred, ill-will or hostility
7 towards another person. It is the intentional doing
8 of a wrongful act without just cause or excuse, with
9 an intent to inflict an injury or under circumstances
10 that the law will infer an evil intent.

11 Malice aforethought does not require that
12 malice exist for any particular time before the act
13 is committed. But malice must exist in the mind of
14 the defendant just before and at the time the act is
15 committed. Therefore, there must be a combination of
16 the previous evil intent and the act.

17 Malice aforethought may be expressed or
18 inferred. These terms, expressed and inferred, do
19 not mean different kinds of malice, but merely the
20 manner in which malice may be shown to exist. That
21 is either by direct evidence or by inference from the
22 facts and circumstances which are proven.

23 Express malice is shown when a person speaks
24 words which express hatred or ill-will for another,
25 or when the person prepared beforehand to do the act

1 which was later accomplished. For example, lying in
2 wait for a person, or any other act of preparation
3 going to show that the deed was within the
4 defendant's mind would be expressed malice.

5 Malice may be inferred from conduct showing a
6 total disregard to human life. If you find that the
7 State has failed to prove beyond a reasonable doubt
8 that the defendant committed murder, you may consider
9 whether the State has proven beyond a reasonable
10 doubt that the defendant committed voluntary
11 manslaughter.

12 To prove voluntary manslaughter the State must
13 prove beyond a reasonable doubt that the defendant
14 took the life of another in sudden heat of passion
15 based on sufficient legal provocation. Both heat of
16 passion and sufficient legal provocation must be
17 present at the time of the killing to constitute
18 voluntary manslaughter.

19 Sudden heat of passion may, for a time, affect
20 a person's self-control and temporarily disturb a
21 person's reason. The sudden heat of passion must be
22 of the -- must be the type that would make an
23 ordinary person unable to coolly reflect on his
24 action, and would produce an uncontrollable impulse
25 to do violence.

1 Sufficient legal provocation must be the type
2 that would make a person or ordinary reason and
3 caution become enraged and to lose control
4 temporarily. The provocation needed for voluntary
5 manslaughter must come from some act of or related to
6 the victim.

7 Words alone, however vulgar or insulting, are
8 not enough to be legal provocation. Where death is
9 caused by the use of a deadly weapon, the words must
10 be accompanied by some overt threatening act which
11 could have produced the heat of passion.

12 The exercise of a legal right, no matter how
13 offensive it is to another, is never sufficient legal
14 provocation for voluntary manslaughter. If the heat
15 of passion had cooled, or if there was enough time
16 between the provocation, if any, and the killing for
17 the passion of a reasonable person to cool, the
18 killing would not be voluntary manslaughter.

19 In deciding whether a reasonable person would
20 have had enough time to cool off, you should consider
21 all of the circumstances surrounding the killing.
22 You may consider the nature of the provocation, if
23 any; the defendant's mental and physical state; and
24 the circumstances and relationship between the
25 parties.

1 If you find that the State has failed to prove
2 beyond a reasonable doubt that the defendant
3 committed murder, you may consider whether the State
4 has proven beyond a reasonable doubt that the
5 defendant committed involuntary manslaughter.

6 To prove involuntary manslaughter, the State
7 must prove beyond a reasonable doubt that the
8 defendant unintentionally killed the victim without
9 malice but while engaged in an unlawful activity not
10 naturally tending to cause death or great bodily
11 harm. Or that the defendant unintentionally killed
12 the victim without malice while engaged in a lawful
13 activity with reckless disregard for the safety of
14 other.

15 Unintentional means that the defendant did not
16 intend for anyone to be killed or seriously injured.
17 Reckless disregard for the safety of others is more
18 than mere negligence or carelessness. Mere
19 negligence or carelessness is the failure to use the
20 care that a person of ordinary reason would use under
21 the same circumstances.

22 Recklessness is a conscious failure to use
23 ordinary care. Reckless disregard for the safety of
24 others means that you are not interested in the
25 consequences of your acts, or the rights and safety

1 of others.

2 If a person who knows or should know that
3 ordinary care requires certain precautions to be
4 taken for the safety of others when using a dangerous
5 instrumentality, such as a gun or car, but that
6 person fails to use those precautions without
7 concern, the person's actions are considered
8 reckless.

9 The State must also prove beyond a reasonable
10 doubt that the defendant's acts were the proximate
11 cause of death. Proximate cause is the direct cause.
12 It is the immediate cause. It is the efficient
13 cause. It is that cause without which the death of
14 the victim would not have resulted.

15 There must be a chain of causation from the
16 time of the injury inflicted by the defendant, until
17 the time of the victim's death. Proximate cause does
18 not necessarily mean that it occurred immediately
19 prior to death. There may be more than one proximate
20 cause. The act of two or more persons may combine
21 together to be a proximate cause of the death of a
22 person.

23 The defendant's act may be regarded as the
24 proximate cause if it is a contributing cause of the
25 death of the victim. The fact that other causes also

1 contribute to the death of the victim does not
2 relieve the defendant from responsibility.

3 The defendant's act need not be the sole cause
4 of the death, but must be a proximate cause
5 contributing to the death of the victim.

6 It is not a defense to show that the victim
7 might have recovered had he been treated according to
8 the most approved surgical or medical standards, or
9 as a reasonably prudent doctor would have treated in
10 the case, or even by showing that the treatment was
11 negligent.

12 If, however, the death was not caused by the
13 wound or injury that the victim had but was caused by
14 the gross, erroneous, willful, deliberate treatment,
15 the defendant would not be liable. In other words,
16 negligence on the part of someone else would not
17 relieve the defendant from liability if the injury
18 was the proximate cause of the victim's death.

19 The violation of the statute, if it is the
20 proximate cause of an injury, is evidence of
21 recklessness.

22 If you as jurors have a reasonable doubt as to
23 whether the defendant is guilty of murder, voluntary
24 manslaughter or involuntary manslaughter, it is your
25 duty to resolve that doubt in his favor and find him

1 guilty of the lesser offense.

2 The defendant is charged with possession of a
3 weapon during the commission of or attempt to commit
4 a violent crime. The State must prove beyond a
5 reasonable doubt that the defendant was in possession
6 of a firearm, or visibly displayed what appeared to
7 be a firearm during the commission of a violent
8 crime.

9 A firearm means any machine-gun, automatic
10 rifle, revolver, pistol, or any weapon which will, is
11 designed to, or may be readily converted to expel a
12 projectile.

13 In order to find the defendant guilty of
14 possession of a weapon during the commission of a
15 violent crime you must first find -- you must first
16 find the defendant guilty of either committing a
17 violent crime, or attempting to commit a violent
18 crime.

19 I instruct you that murder and voluntary
20 manslaughter are violent crimes pursuant to South
21 Carolina code section 16-1-60.

22 The defendant has raised the defense of
23 self-defense. Self-defense is a complete defense.
24 And if it is established, you must find the defendant
25 not guilty. The state has the burden of disproving

1 self-defense by proof beyond a reasonable doubt.

2 If you have a reasonable doubt of the
3 defendant's guilt after considering all the evidence,
4 including the evidence of self-defense, then you must
5 find the defendant not guilty. On the other hand, if
6 you have no reasonable doubt of the defendant's guilt
7 after considering all of the evidence, including the
8 evidence of self-defense, then you must find the
9 defendant guilty.

10 The following elements are required to
11 establish self-defense. First, the defendant must be
12 without fault in bringing on the difficulty. If the
13 defendant's conduct was the type which was reasonably
14 calculated to, and did provoke a deadly assault, the
15 defendant would be at fault in bringing on the
16 difficulty and would not be entitled to an acquittal
17 based on self-defense.

18 Self-defense is not available to a person who
19 uses language which is so contemptuous that a
20 reasonable person would expect it to bring on a
21 physical encounter, and which did actually contribute
22 to the physical encounter.

23 If the defendant voluntarily participated in
24 mutual combat for purposes other than protection, the
25 killing of the victim would not be self-defense.

1 This is true even if during the combat the defendant
2 feared death or serious bodily injury.

3 However, if before the killing is committed
4 the defendant withdraws and tried in good faith to
5 avoid further conflict, and either by word or act
6 makes that fact known to the victim, he would be
7 without fault in bring on the difficulty.

8 For mutual combat there must be a mutual
9 intent and willingness to fight. This intent may be
10 shown by the acts and conduct of the parties, and the
11 circumstancing surrounding the combat. In addition,
12 it must be shown that both parties were armed with a
13 deadly weapon.

14 The second element of self-defense is that the
15 defendant was actually in imminent danger of death or
16 serious bodily injury. Or that the defendant
17 actually believed he was in imminent danger of death
18 or serious bodily injury.

19 If the defendant was actually in imminent
20 danger it must be shown that the circumstances would
21 have warranted a person of ordinary firmness and
22 courage to strike the fatal blow to prevent death or
23 serious bodily injury.

24 If the defendant believed he was in imminent
25 danger of death or serious bodily injury, it must be

1 shown that a reasonably prudent person of ordinary
2 firmness and courage would have had the same belief.

3 In deciding whether the defendant actually was
4 or believed he was in imminent danger of death or
5 serious bodily injury, you should consider all of the
6 facts and circumstances surrounding the crime.
7 Including the physical condition and characteristics
8 of the defendant and the victim.

9 The defendant does not have to show that he
10 was actually in danger. It is enough if the
11 defendant believed he was in imminent danger, and a
12 reasonably prudent person of ordinary firmness and
13 courage would have had the same belief. The
14 defendant has the right to act on appearances even
15 though the defendant's beliefs may have been
16 mistaken.

17 It is for you the jury to decide whether the
18 defendant's fear of immediate danger of death or
19 serious bodily injury was reasonable, and would have
20 been felt by an ordinary person in the same
21 situation.

22 Once the right to act in self-defense arises,
23 a defendant is not required to wait until his
24 adversary is on equal terms, or until he has fired or
25 armed -- aimed his weapon in order to act.

1 Similarly, the defendant does not have to wait
2 until his assailant gets the drop on him. He has the
3 right to act under the law of self-preservation and
4 prevent his assailant from getting the drop on him.

5 Evidence of prior difficulties between the
6 defendant and the victim may be considered in
7 deciding whether a threat existed, whether the
8 defendant had a reason to believe a threat existed,
9 and how serious that threat was. The relative sizes,
10 ages and weights of the defendant and the victim may
11 be considered in deciding the apparent or actual need
12 of force in self-defense, and the amount of force
13 needed.

14 The intoxication of the victim may be
15 considered in deciding whether the defendant's fear
16 of death or bodily harm was reasonable.

17 The final element of self-defense is that the
18 defendant had no other probable way to avoid the
19 danger of death or serious bodily injury then to act
20 as the defendant did in this particular instance.

21 The defendant had no duty to retreat if by
22 doing so the danger of being killed or suffering
23 serious bodily injury would increase. A person
24 cannot be required to make an exact calculation as to
25 the degree or amount of force which may be needed to

1 avoid death or serious bodily harm.

2 Therefore, in self-defense, the defendant has
3 the right to use the force needed to avoid death or
4 serious bodily harm. The force used in self-defense
5 does not have to be limited to the degree or amount
6 of force used by the victim. The defendant has the
7 right to use so much force as appeared to be
8 necessary for complete self-protection, and which a
9 person of ordinary reason and firmness would have
10 believed to be needed to prevent death or serious
11 bodily harm.

12 The defendant has raised the defense of
13 accident. An act may be excused on the ground of
14 accident if it is shown that the act was
15 unintentional, that the defendant was acting
16 lawfully, and that reasonable care was used by the
17 defendant in the handling of the weapon.

18 For example, if a person is lawfully armed in
19 self-defense and the gun accidentally discharges, the
20 defense of accident would apply. The burden is on
21 the state to prove beyond a reasonable doubt that the
22 act was not an accident, but was caused by the --
23 that the act was not an accident but was caused by
24 the negligence or carelessness on the part of the
25 defendant in the handling of a dangerous

1 instrumentality.

2 Ladies and gentlemen, the indictments in this
3 case alleged two different offenses, they are murder
4 and possession of a firearm during the commission of
5 a violent offense. Each indictment charges a
6 separate and distinct offense, and you must decide
7 each indictment separately on the evidence and the
8 law applicable to it, uninfluenced by your decision
9 as to any other indictment.

10 The defendant may be convicted or acquitted on
11 any or all of the offenses charged. And you are
12 asked to write a separate verdict of guilty or not
13 guilty for each indictment.

14 Ladies and gentlemen, that concludes the
15 additional instruction. Please let us know if you
16 need anything further. If you would go with the
17 bailiff for me, please.

18 (Whereupon, the jurors exit the courtroom.).

19 THE COURT: Is there any exception by the
20 state?

21 MR. DURANT: No, Your Honor.

22 THE COURT: by the defense?

23 MR. MATTSON: None, Your Honor.

24 THE COURT: Thank you all very much. We will
25 await further instructions from the jury.

1 (Whereupon, a recess was taken.)

2 THE COURT: I have been advised that the jury
3 has reached a verdict. Is there anything before we
4 bring in the jury from the State?

5 MR. DURANT: Nothing from the State, Your
6 Honor.

7 THE COURT: From the defense.

8 MR. MATTSON: Nothing from the defense, Your
9 Honor.

10 THE COURT: Now I will say to the gallery that
11 I know that there are individuals here interested in
12 the outcome of this trial. And I know people can be
13 very emotionally invested in the outcome of a trial.

14 However, I do not expect there to be any
15 visible signs or reaction one way or the other.
16 There is security in the courtroom. And if there are
17 any reactions. You will be removed from the
18 courtroom.

19 So I expect everyone to comport themselves
20 appropriately, and that the decorum of the courtroom
21 be maintained.

22 Please bring in the jury, Mr. Robinson.

23 (Whereupon, the jurors enter the courtroom.)

24 THE COURT: Madam Forelady, is it correct that
25 the jury has reached a verdict?

1 A JUROR: Yes, Your Honor

2 THE COURT: If you would give the verdict
3 forms to the bailiff for me, please.

4 Would the defendant stand for publication of
5 the verdicts.

6 THE CLERK: Verdict form in the matter of the
7 State of South Carolina versus Jonta Embray Zomane
8 Green, defendant. As to indictment number
9 2009-GS-10-113, as to lesser included offense, guilty
10 of voluntary manslaughter. Signed by the foreperson
11 of the jury on April 22nd, 2010.

12 Ladies and gentlemen of the jury, if this was
13 your verdict, please raise your right hand.

14 (Whereupon, all comply.)

15 THE CLERK: Thank you. Please let the record
16 reflect that all 12 jurors raised their right hand.

17 As to indictment 2009-GS-10-116, we the jury
18 by unanimous consent find the defendant guilty of
19 possession of a weapon during the commission of a
20 violent crime. Signed by the foreperson of the jury
21 on April 22nd, 2010.

22 Ladies and gentlemen of the jury, if this was
23 your verdict, please raise your right hand.

24 (Whereupon, all comply.)

25 THE CLERK: Thank you. Please let the record

1 reflect that all 12 jurors raised their right hand.

2 THE COURT: Is there any request to poll the
3 jury from the State?

4 MR. DURANT: Not from the State, Your Honor.

5 THE COURT: From the defense?

6 MR. MATTSON: Yes, Your Honor, please.

7 THE COURT: Poll the jury.

8 Ladies and gentlemen, if you can give the
9 clerk your attention..

10 You all may take your seats.

11 THE CLERK: Ladies and gentlemen of the jury,
12 what we are going to do now is called polling the
13 jury. When I call your juror number, if you'll
14 please raise your hand, I will then acknowledge you,
15 you can put your hand down.

16 I will then ask you two questions; if this was
17 your verdict, and is this still your verdicts.
18 Please answer back to me verbally.

19 Juror number 220. Were those your verdicts?

20 A JUROR: Yes, sir.

21 THE CLERK: Are they still your verdicts?

22 A JUROR: Yes.

23 THE CLERK: Thank you. Juror number 5.

24 Were those your verdicts?

25 A JUROR: Yes.

1 THE CLERK: Are they still your verdicts?

2 A JUROR: Yes.

3 THE CLERK: Thank you. Juror number 36.

4 Were those your verdict?

5 A JUROR: Yes.

6 THE CLERK: Are they still your verdicts?

7 A JUROR: Yes.

8 THE COURT: Thank you. Juror number 41.

9 Were those your verdicts?

10 A JUROR: Yes.

11 THE CLERK: Are they still your verdicts?

12 A JUROR: Yes.

13 THE COURT: Thank you. Juror number 53.

14 Were those your verdicts?

15 A JUROR: Yes.

16 THE CLERK: Are they still your verdicts?

17 A JUROR: Yes.

18 THE CLERK: Thank you. Juror number 120.

19 Were those your verdicts?

20 A JUROR: Yes.

21 THE CLERK: Are they still your verdicts?

22 A JUROR: Yes.

23 THE CLERK: Thank you. Jury 167.

24 Were those your verdicts?

25 A JUROR: Yes.

1 THE CLERK: Are they still your verdicts?

2 A JUROR: Yes.

3 THE CLERK: Thank you. Juror 236.

4 Were those your verdicts?

5 A JUROR: Yes.

6 THE CLERK: Are they still your verdicts?

7 A JUROR: Yes.

8 THE CLERK: Thank you. Juror 242.

9 Were those your verdicts?

10 A JUROR: Yes.

11 THE CLERK: Are they still your verdicts?

12 A JUROR: Yes.

13 THE CLERK: Thank you. Jury number 250.

14 Were those your verdicts?

15 A JUROR: Yes, sir.

16 THE CLERK: Are they still your verdicts?

17 A JUROR: Yes, sir.

18 THE CLERK: Thank you. Juror number 308.

19 Were those your verdicts?

20 A JUROR: Yes.

21 THE CLERK: Are they still your verdicts?

22 A JUROR: Yes.

23 THE CLERK: Thank you. Juror number 319.

24 Were those your verdicts?

25 A JUROR: Yes.

((1 THE CLERK: Are they still your verdicts.

2 A JUROR: Yes.

3 THE CLERK: Thank you, sir.

4 Was there any juror whose number I did not
5 call, please stand at this time.

6 Thank you.

7 Your Honor, the jury has been polled and the
8 verdicts stand.

9 THE COURT: Madam Forelady, ladies and
10 gentlemen of the jury, we thank you for your time and
11 your attention to this case. We know that jury
12 service is a great sacrifice to you. However, it is
((13 my sincere hope that it has been educational for you.

14 I hope that you learned that real court is
15 nothing like what you see on television. It's
16 nothing like Judge Judy, Judge Joe Brown, People's
17 Court, and all those shows people find so very
18 entertaining. And I hope that you have learned from
19 this process how integral and important you are to us
20 doing what we do every day.

21 We hold court probably in Charleston, because
22 of the size of our circuit, 46 weeks out of the year.
23 And we usually run about five courts every week. So
24 we have a tremendous amount of court. We would not
((25 be able to do that without you all being willing to

1 MR. DURANT: It's on its way.

2 THE COURT: Okay.

3 Mr. Mattson, you can take your seat.

4 MR. MATTSON: Thank you.

5 THE COURT: We got everything together now?

6 MR. DURANT: Yes, Your Honor.

7 THE COURT: Are there any post-trial motions?

8 MR. MATTSON: Your Honor, motion for a new
9 trial.

10 THE COURT: Based on?

11 MR. MATTSON: The evidence does not support --
12 the verdict is not supported by the evidence.

13 THE COURT: Would the State like to respond.

14 MR. DURANT: Your Honor, I believe that there
15 was ample evidence presented upon which the jury
16 could base its verdict. It did find this verdict.
17 You found that the charge was appropriately submitted
18 to the jury beforehand. I think that's how this case
19 stands.

20 MR. MATTSON: Just for the record, make that a
21 verdict for -- a directed verdict and a motion for a
22 new trial. Same grounds.

23 THE COURT: The Court is constrained by a very
24 limited standard in motions for a new trial. And I'm
25 going to take them in the reverse order that they

1 have been made, I guess, to some extent.

2 Where there is competent evidence to sustain
3 the jury's verdict, the Court cannot substitute its
4 judgment for that of the jury, and the verdict and
5 the evidence has to stand.

6 And in this case there is competent evidence
7 to sustain the jury's verdict. It is not within my
8 province to substitute my judgment for that of the
9 jury, nor do I have any desire to do that. I have
10 great confidence in juries and their ability to go
11 through evidence and make credibility and decisions
12 and in their fact-finding capacity.

13 It appears that this jury gave great
14 consideration to this matter. They were deliberating
15 a little over five hours, close to five hours, just
16 shy of five hours. They also asked to be
17 re-instructed on the law which gave me some real
18 indication that they were giving very serious
19 consideration to the charges and having a great depth
20 of discussion regarding it.

21 And the Court can only grant a new trial when
22 there is no evidence to support a conviction,
23 otherwise the jury's verdict should be upheld.

24 In order to prove voluntary manslaughter, the
25 state has prove that the defendant took the life of

1 another in sudden heat of passion based on sufficient
2 legal provocation. There is certainly substantial
3 circumstantial evidence as well as direct evidence of
4 sudden heat of passion based on sufficient legal
5 provocation. And that both of those elements were
6 present at the time of the killing.

7 Therefore, the motion for a new trial is
8 denied. And considering the motion -- the renewal
9 for the motion for directed verdict, the Court
10 likewise denies that motion. Again it is not for the
11 Court to be the fact-finder. The Court is concerned
12 with the existence or nonexistence of evidence and
13 not its weight.

14 There is direct evidence and substantial
15 circumstantial evidence reasonably tending to prove
16 the defendant's guilt, or from which his guilt can be
17 logically and fairly deduced, and that evidence does
18 rise above the level of suspicious, therefore the
19 motions are denied.

20 Do you have the sentence sheets?

21 MR. DURANT: We do, Your Honor.

22 THE COURT: Thank you.

23 Is there anything further from the State
24 regarding sentencing?

25 MR. DURANT: Your Honor, I believe you've

1 heard all of the facts in this case. I believe you
2 even heard his prior record. He does have a failure
3 to stop for blue light and unlawful possession of a
4 pistol from 2002; and assault from 2003, as well as
5 malicious injury to property 2003.

6 The State is not going to make any
7 recommendation as to sentence here. This was
8 discussed in conjunction with the family. There are
9 members of Brandon Parker's family who would like to
10 address the Court at the appropriate time.

11 THE COURT: This is the appropriate time.

12 Each needs to identify themselves for the
13 record prior to speaking so that the court reporter
14 can take down their names.

15 MS. PARKER: My name is Kristin Parker.

16 THE COURT: I'm sorry, ma'am, I need you to
17 repeat your name for me.

18 MS. PARKER: My name is Kristin Parker, I'm
19 Brandon Parker's sister. I feel so offended, Jonta,
20 I have to say, so offended when you were being
21 questioned and in between I sat here and watched you
22 laugh between.

23 How could you sit there and laugh while being
24 questioned about a human life? What is funny about
25 that? What is funny about that? You've seen what

1 guns can do. From your mother and her home invasion,
2 your little brother being shot up. You've seen what
3 guns do.

4 And I just pray, I just pray today that a
5 message will be sent just through sentencing and to
6 show the rest of society that you just cannot -- God,
7 just to walk around with guns. Come on. I am so, so
8 offended, you just don't understand.

9 During some of the questioning you laughed.
10 You don't even understand how much that hurts. I
11 mean at least your mother -- your mother made it
12 through the home invasion. At least your little
13 brother is here today to sit with you in court.

14 But where is mine? Where is mine? And you
15 laugh. You laugh like something is funny. What is
16 funny about it? Doesn't matter who made the first
17 blow, you came back with a gun. You came back with a
18 gun, Jonta. And you took a chance.

19 You know my father told me once, he's dead
20 now, he died of cancer years ago. He said, you know
21 what, he said, baby when I came up, a fight was a
22 fistfight where we lived to tell about it.

23 Regardless of one arm, two arms, you know, you
24 shot an unarmed man. And you laugh about it. I just
25 want you to know, I want you to know how bad that

1 hurts. And I have to sit here and listen to how
2 great Jonta is. Okay. Okay, whatever. So great,
3 but you sit up and you laugh.

4 A human life was taken, there is nothing funny
5 about that. I really hope, I hope today when you go,
6 when you leave here you think about that, and how you
7 have you offended all of my family, deeply offended.
8 There is nothing funny about it. I have nothing else
9 to say.

10 THE COURT: Mr. Durant.

11 MR. DURANT: Anybody else?

12 MS. JENNINGS: My name is Shonda Jennings. I
13 just wanted to say that I'm mother the mother of
14 Brandon's son, he is four now. He was two when the
15 incident happened. Brandon's father died when he was
16 13 years old.

17 He -- when I met him, he would always talk
18 about how he missed his daddy, how so many things
19 went wrong with him. How he started to become a
20 different person when he didn't have his father. He
21 told me these things like constantly.

22 He has a lot of problems. There were a lot of
23 things that went wrong. Brandon was not the perfect
24 person. But he always referred to the fact of losing
25 his father when he was 13. My son's daddy died when

1 he was two.

2 Like now, he can picture up a picture of
3 Brandon and he can say that that's his daddy. He
4 can't give you a memory. He, you know, he can't, you
5 know, he used to call his dad and speak with him
6 every day. Every morning when he got up he would
7 call Brandon if he wasn't already at the house.

8 He doesn't remember Brandon. He knows Brandon
9 by his picture because I told him that that's his
10 daddy at the age of two.

11 Now in the years coming my son is going to ask
12 me about his father, and I'm going to have to explain
13 to him that someone else took his father's life. And
14 I'm going to have to explain to him why. I still
15 don't know the answer to that. I still don't know
16 how to address that.

17 For the past two years I have been still
18 trying to build up a story about what to tell him
19 about his father, about what -- I even made a
20 scrapbook. I figured that would be the easiest way
21 when the time came. I made a scrapbook of his baby
22 pictures, pictures of us together like a family
23 setting, even though we weren't together when this
24 happened.

25 He loved his son. For you, Jonta, to take him

1 from my son at the age of two, he can't even remember
2 him. And then as she said, you sat up there and you
3 laughed about it like it's funny. And I want you to
4 know, you know what I'm talking about, no amount of
5 money can bring Brandon back, so I don't care about
6 that. That's it.

7 THE COURT: Thank you, ma'am.

8 MR. DURANT: Your Honor, I have been handed
9 some photos since we have not had a chance to see who
10 Brandon Parker was. They'd like for you to at least
11 see some pictures of him.

12 THE COURT: Absolutely.

13 Any other family members who wish to address
14 the court? Or any other members of the gallery who
15 wish to speak on behalf of the state?

16 MR. DURANT: Your Honor, there is one.

17 THE COURT: Yes, sir.

18 MR. PARKER: Yes, my name is Arnold Parker,
19 I'm an uncle of Brandon Parker. I agree with my
20 niece Kristin when she said that family has been
21 offended.

22 I am a good guy, basically. Mr. Rutledge is a
23 good guy. So is Detective Fleming, he is a good guy.
24 Mr. Mattson, he is a good guy. We all basically good
25 people.

1 Lot of us going to church. A lot of us serve
2 in the church in different capacity, on the choir,
3 deacon, probably ministers. We all do a lot of
4 charitable work. We give to certain charities. We
5 help out around the community. We all do that.

6 But despite that, it does not exempt us if we
7 broke the law. I grew up where they said that for
8 every action there is consequences that you have to
9 pay. Jonta's consequence to me should still be the
10 highest for what he did. He had a lot of time to
11 think about what he was going to do on that night.
12 But he left. He had time to think about what he did.

13 He could have -- there was two scenarios he
14 could have chose. Yeah, he chose the wrong one, the
15 one that said to come back. But he should have chose
16 -- he could have chose a scenario where he could have
17 stopped and he said, you know, I left my stuff, but
18 that's all right. I will call and I will have
19 somebody to get it for me. I'm going back, that's a
20 hostile situation, I'm not going back into that. But
21 he chose the first scenario to do.

22 I feel that was just a plan just to get back
23 in the yard. Because when he approached Ms. Crawford
24 he told her, he snuck me. I can't let that go like
25 that. When you say, I can't let that go like that

1 that tell me you want to do something about it. You
2 are going to even the odds or whatever.

3 When he proceeded to go up the driveway he was
4 told, you all the sudden back there, why are you
5 coming all the way up here. All of that finding and
6 laughing to me was just a ruse, just a plan to get
7 back into the yard. When he got up to the driveway
8 he confronted Brandon again. He produced the weapon,
9 and he fired that weapon.. I felt he did exactly what
10 he wanted to do. He did exactly what he wanted to
11 do.

12 You asked why we feel the way we feel right
13 now? Well I will tell you the reason why I fight so
14 hard right now. Because there is a little boy that
15 still goes around the house looking for the young man
16 that used to pick him up and play with him from time
17 to time. There is a little boy who will never learn
18 the experience of having a father to teach him how to
19 tie his shoes.

20 There is little boy that will never have the
21 experience of throwing out a baseball or playing
22 catch with his father. There is a little boy who
23 will never have the experience of learning the sports
24 that his father liked like playing basketball or
25 playing football.

1 why? Because there was a person who just
2 allowed anger and hate and malice to overcome him.
3 And he decided to take the law into his own hands and
4 become judge, jury, and executioner.

5 And I feel that he took somebody from our
6 lives, each one of us, he took that person away. But
7 mostly he took that person away from a little boy.

8 And that's what I think you should be
9 considered today. A little boy who will grow up
10 fatherless because of the actions of one man.
11 Because of the action that Jonta Green.

12 Because of that, he'll never experience
13 growing up like other little boys who have fathers.
14 He'll never play with him again. I believe that the
15 act was malicious, it was plotted out, and he went
16 ahead and he did exactly what he wanted to do.

17 You took from us a loved one. I hope nobody
18 else have to go through something like we have been
19 through today, this week because it hurts. It hurts
20 this whole family. It hurts this whole family.

21 That's all I have to say.

22 THE COURT: Thank you, sir.

23 Anything further, Mr. Durant?

24 MR. DURANT: No, Your Honor.

25 THE COURT: Anything from the defense, Mr.

1 Mattson?

2 MR. MATTSON: Yes, Your Honor.

3 As I said during the closing argument, I wish
4 this was like a country western record where you can
5 play it backwards and undo what was done. And I know
6 Jonta would love to do that also because he honestly
7 did not mean to hurt Brandon. Those are very, very,
8 very unfortunate situation. Jonta made a very bad
9 choice.

10 I apologize to Brandon's family because
11 unfortunately what you saw with Jonta smiling is part
12 of his demeanor in life. It's not that he was happy
13 about anything. Jonta is one of these people who
14 always smiles. And for that, might have been what
15 the jury saw, I don't know.

16 This whole thing came about for the most
17 ridiculous reason in the world. It really, really
18 did. Brandon was in the penitentiary for burglary
19 second and a drug charge.

20 Jonta was out at a party and he saw the former
21 girlfriend of Brandon, the young lady, Shonda, who
22 just spoke. Jonta being the type of person he is
23 that speaks to everyone walked over to this young
24 lady and basically said hello to her.

25 And some kind of way that got back to Brandon.

1 Brandon managed to get a phone call. He wasn't
2 calling Jonta he was calling Carlos Chisholm --
3 excuse me, some other guy -- and Jonta was in the car
4 with him. Brandon spoke to Jonta and was not very
5 happy that Jonta was talking to his baby's Mama is
6 the way he referred it her.

7 Jonta had no malice at all towards Brandon.
8 Shonda, I believe that's how you pronounce the name,
9 yes, sent a letter to Jonta dated November the 10th,
10 2008. But one thing in here that I want to tell her
11 to a question she asked. I want to know if I was
12 really the reason for all of this. I have heard it a
13 lot and don't understand.

14 Neither Shonda nor Jonta did anything wrong
15 that night. They said hello. And I will present
16 this letter for the Court. It has a lot of what she
17 has already said this evening.

18 I didn't know Brandon Parker. I can assume
19 from everything that I have heard that he was a good
20 father, and that his son is really going to miss him.
21 There is nothing we can do to bring him back. I have
22 never lost a child, so I don't know how it feels, but
23 I can imagine.

24 Your Honor, you've heard of the type of person
25 Jonta is. What people and church members think of

1 him. I know he is looking at a sentence that could
2 run as long as 30 years plus 5. No matter what the
3 sentence, it's not going to return Brandon. I don't
4 think you'll ever see my client with a weapon in his
5 hand again.

6 I represented Jonta on that blue light
7 offense, and on the possession of a weapon offense.
8 And I want the Court to know that Jonta was not
9 running around like a fool with a pistol.

10 On that evening Jonta had a cousin or someone
11 in town and he borrowed his mother's SUV and went
12 riding around on James Island area. And he was in an
13 area that his mother didn't want him in riding
14 around. He was speeding a little bit and an officer
15 got behind him. Jonta took off because he knew his
16 Mama was not going to be happy if he got a ticket
17 that was where he should not have been. Tried to
18 outrun the officer, wrecked the car. No drugs or
19 anything were found.

20 Under the seat of the vehicle was his mother's
21 pistol. And she had purchased it herself from a gun
22 dealership and had all the paperwork for it. So this
23 is not a, I have got the gun in my belt. This was a
24 situation of a parent making a mistake and leaving it
25 in the car and the son bearing the brunt.

1 I'd like to comment on the assault charge.
2 When Jonta's intended testified she said she and
3 Jonta started off like cousins and it grew into
4 something else. But before it grew into something
5 else, Jonta was seeing another young lady. And he
6 had loaned her his cell phone and she would not
7 return it and he went to get it.

8 She was playing games with him, holding it out
9 the window of the car and pulling it back in when
10 he'd go to reach it and backing up, and holding it
11 out and backing up. And he finally grabbed her hand,
12 got the cell phone as she was backing up, caused her
13 to get excited and she backed into something. That
14 was the property damage.

15 Crazy juvenile things. Of all the clients
16 that I have represented over the years, I never
17 thought I would see Jonta in this type of a
18 situation. It's totally out of character.

19 And not only is it totally out of character,
20 well it is totally out of character because Jonta
21 loves children. He doesn't like crime on the
22 streets. He is sponsoring basketball teams trying to
23 keep the children off the street corners to make them
24 responsible. Takes them to the church, youth choir.

25 Takes people around who need help going to and

1 from doctors, going to and from church. You know, I
2 had a great aunt who has been dead many, many years,
3 she was an invalid and I took her meals every day and
4 what have you. And she had a saying, show me your
5 friends and I will tell you who you are.

6 I didn't quite understand it, but then I was a
7 teenager. But the older I have got, the more sense
8 it made.

9 And if you look at Jonta's friends from the
10 church, what he has done, what he has done for the
11 community, we have someone who still has something to
12 give the community as far as help.

13 I realize that he has to go to jail. I have
14 got family support here; his fiance, his mother, his
15 aunt, his uncle, his brothers, and cousin. Had the
16 minister here, the elders from the church. I'm
17 asking the Court to please take all of these things
18 into consideration. And to also consider that this
19 is a 95 or 97 percent sentence.

20 THE COURT: 85 percent, most serious and
21 violent.

22 MR. MATTSON: Okay. Okay, sorry.

23 THE COURT: No, don't apologize.

24 MR. MATTSON: I knew it had a percentage on
25 it.

1 THE COURT: Yes, sir. It is a most serious
2 offense.

3 MR. MATTSON: And that the five years for the
4 weapon don't start to tick a minute until he's served
5 the sentence for the voluntary manslaughter.

6 You know how the family feels on both sides.
7 One has lost a son, and one is about to have a son go
8 to the penitentiary over a gun that he was carrying
9 because of events in his life.

10 I don't know what else to say to the Court.
11 But if the Court would look at the report from Dr.
12 Randolph Wade, the neuropsychological that I
13 presented.

14 THE COURT: I have read it.

15 MR. MATTSON: Jonta had some problems coming
16 up that weren't of his making and doing.

17 THE COURT: That's correct.

18 MR. MATTSON: I'm going to ask Jonta if there
19 is anything he would like to say to the Court and
20 possibly to the family of Brandon.

21 THE DEFENDANT: Well I want to talk to the
22 family. I truly am sorry. I mean I'm not sorry, I
23 apologize. I mean, I feel I'm a good person. I
24 don't feel I want to be doing anything negative
25 toward anyone. As you can see I don't even have a

1 record too bad.

2 But the simple fact that I wasn't trying to
3 hurt anybody. I was trying to protect myself like
4 how anybody else would. Same way how you would, you
5 know. I know Brandon. Me and him ain't never had a
6 problem. I mean, we never fuss or yell at each
7 other.

8 I mean, due to his friends or whatever they
9 had gathering that night, I don't know what happened.
10 I was just minding my business, doing like I would
11 do, you know, moving on with my life. I apologize
12 deeply for what resulted to that night.

13 I don't feel that was 100 percent my fault.
14 There was other people involved too. I didn't, like
15 hey, you know, I had a conversation now I'm looking
16 for him to get out of jail. I mean, it was never
17 like that, I was just doing my life.

18 I mean it never was came back to you all
19 family that he disrespected me on the phone, nothing.
20 It was never nothing. We have friends, you know,
21 together, mutual friend who got the phone call who
22 passed it to me. I wish he could have been here so
23 he could tell but, you know, I cannot make nobody do
24 what they don't want to do.

25 My personally I don't feel I tried to hurt

1 him, in any kind of way, no kind of way at all. I
2 didn't feel that when I armed myself that he would
3 have been there, that's why I asked. I'm not blaming
4 that because he keep coming at me that that gave me
5 the right to do whatever I wanted to do to him.

6 I paid attention to everybody inside there,
7 give my undivided attention. I apologize that due to
8 me trying to cope with all my situations I smile, I
9 laugh, I keep me strong. I tried to cry, you know.

10 what made me cry when my best friend Dorothy
11 Thomas was trying to express her whole heart for me.
12 An old lady. You know, that make me feel good. That
13 make me feel like I was actually doing something,
14 like actually trying to be a person, trying to move
15 away, and school.

16 You know, like trying to not even be around
17 that mess. I know there is a lot of stuff. Hey,
18 trying to move my family, you know, doing stuff with
19 my stuff that, you know, to provide and make a
20 living.

21 I mean, I don't even feel that you all ever
22 thought that I'm evil as it was to any one of you
23 all. It's I'm asking for mercy. I apologize. I mean
24 I was getting upset because I knew the prosecutor has
25 to do his job. I mean, that's his job. Even if he

1 feels I'm right or I'm wrong too he's got to still do
2 his job.

3 I mean, I reacted. I apologize. I didn't
4 want to lose control. I wanted to try to stay in
5 control, the same way I tried to do it that night.

6 Honestly a lot has been happening in my life.
7 It's hard to walk around like this every day, people
8 trying to take advantage of you. Going to school,
9 people calling you fry egg, burn up, captain hook,
10 this and that. And I still ain't never retaliated on
11 them people. I see them a lot.

12 They want to still tell me hi. You know what
13 I do? Hey, what's up, you know what I'm saying,
14 yeah. I mean honestly ain't no evil bone. Because
15 if it was like that, when he first attacked I could
16 have, like how you all said, do something, get away.
17 And, you know, I mean I was wrong. I still would
18 have been wrong.

19 I felt it was wrong that, you know, he keep
20 coming at me. I tried to, you know, warn him to turn
21 to something else. And I did want to take
22 responsibility, that's why I turned myself in.
23 That's why I gave whatever they needed.

24 When I got bond, you can ask my lawyer, I
25 tried everything to work hard to help myself, to help

1 what I needed to be done with this case. I mean, I
2 even keep telling him from day one, I want to accept
3 my responsibility. But it was not all on me. But
4 with his friends too, the same one that testified
5 being reckless, I mean that ain't right.

6 I understand, you know, you are the mother,
7 ma'am. You miss your child. Honestly, I regret
8 every day I have to wake up knowing that one day I
9 have to go to court to face this. Honestly I have
10 been ready to get it over with.

11 But the simple fact is that, you know, I'm
12 grieving too. Somebody died by both our hands. But
13 I'm apologizing because I was in that. That was two
14 people. We have proof that it was two people. Your
15 people, the witnesses that you all had explained that
16 was both us.

17 Not intentional. As I was leaving I got
18 attacked, I tried to warn him. Ain't no he attacked
19 me and I just went off on him. No. You had other
20 people even saying that they were involved in them
21 and everything. That was a hectic situation, you
22 know.

23 And all I'm saying is that I won't accept my
24 responsibility, all I am saying that, hey, I should
25 be free. Everybody is wrong, everybody is picking on

1 me.

2 But, I mean, life is life. And, you know,
3 just like you read in these documents they don't make
4 a difference now because we had 12 people who made
5 the decision, that's why I chose to do a trial, I
6 could have plead.

7 But I chose to want to get my side of the
8 story because I wanted you all family to see that. I
9 tried to help this guy. I didn't leave him there. I
10 didn't just worry about myself and get try to get to
11 safety on my own. I tried to help him. All the way
12 to the end until I got jumped again.

13 If I didn't get jumped, I would have stayed
14 there. I would have done whatever I needed to do.
15 The same way when I left we tried to call my lawyer
16 to figure out what did we need to do. I would have
17 turned myself in that night, and not wait until the
18 next day.

19 From what I heard, there wasn't even a warrant
20 until we actually started calling and getting it.
21 That's how fast I was trying to explain my behalf I
22 wasn't responsible, I was inside the situation, and
23 what led it to this.

24 I sent flowers. I tried to, you know, be
25 there as much as I can but not hurt myself in the

1 process. And I understand you all are grieving. I
2 understand, sir, you are upset, Mr. Uncle. But, was
3 no intention, no, none of that.

4 I feel you got whatever said in your heart,
5 but if you can please just listen to me, I mean, I
6 apologize deeply. I mean I have a whole family right
7 here. We have been going through stuff, you know, we
8 have been struggling. You know, hey, wake up one day
9 in the hospital no arm. Felt like killing myself
10 then, didn't even want to go into the world.

11 I keep pushing myself, doing like trying to
12 get myself, you know. And I mean I'm not saying that
13 that's all gone because I may be able to come home
14 and I'm going to still be trying to do the same
15 thing, even when I'm way, I'm going to still be
16 trying to do the same thing.

17 But the simple fact is that please don't look
18 at me as an enemy or an evil person. I truly say
19 that because I mean I'm not trying to bring her in,
20 this lady right here, she know me. Even during the
21 trial during her family. She already know I always
22 used to be happy, you know, even though my mom was
23 going through stuff and trying to help out, we didn't
24 lie, we didn't -- we let whatever, anything you
25 needed we open our house do whatever. whoever.

1 Everything always was open.

2 And ain't no -- just like I received a letter
3 from Shonda because, you know, do all kinds of stuff
4 due to the simple fact that, I mean, she realized
5 that, hey, I haven't got to Brandon, he was in jail.
6 I didn't talk to him. I didn't know he even, you
7 know, was coming home or how long he had to stay.

8 I knew he was in jail for certain things, but
9 the simple fact is that, you know, there is a God up
10 there, and there is mercy, you know. And I know you
11 know that, you're an older lady, you an older man,
12 you have a family.

13 I mean, the only expression I have to say is
14 that I'm deeply sorry, I regret, I apologize because
15 I wouldn't want nobody to go through this. I didn't
16 even want to go through this. But I felt my side of
17 the story needed to be said, and how I tried to help,
18 and how I tried to stop the whole situation. I mean
19 there was nothing that I could have done except for
20 do what I could do to prevent it and stop it and
21 whatever. This is my life, you know.

22 MR. MATTSON: I understand, okay.

23 THE DEFENDANT: I want to deeply express what
24 I want, you know. We have been here all day, had to
25 wait all day. I mean, this day right here changed my

1 life, changed my whole family's life. I couldn't
2 even look at them, you know, and that's sad.

3 For the simple fact that, you know, from what
4 I seen of him he was a good person. I knew him in
5 the park, we had been talking, whatever.

6 But due to whatever happened, I want you all
7 to know that I had a caring heart at the time,
8 through the whole time. Ain't like I left him there,
9 I ran, you know, I tried to hide things. I didn't
10 hide nothing. I gave whatever needed to be given.

11 I just hope that you all can please have mercy
12 on me, the Judge too. I love my family and that's
13 why, you know, I'm expressing all these feelings.
14 And I hope that, you know what I'm saying, I can get
15 dealt with properly. Thank you.

16 THE COURT: You're welcome, sir.

17 Anything further, Mr. Mattson?

18 MR. MATTSON: Yes. Any member like to say
19 anything to the Court?

20 MS. GREEN: I'd like to apologize to you.
21 Trust me right now, I feel the way you do. You love
22 your child, I love mine. If I had to wonder how to
23 turn back that hand of time and do it all over again
24 and make things better heaven knows I will do it.

25 And I want you to know I'm so sorry, and I

1 know your pain. If I didn't know it then, trust me,
2 I know it now. And I wouldn't want one day to go by
3 that if I pass you on the street we carry malice in
4 our heart because I'm not that kind of person. I'm a
5 forgiving person. You can slap me on one side I will
6 turn the other cheek and still be your friend.

7 And I feel for you. I feel for you from the
8 bottom of my heart. Please don't you all think that
9 we hate you for anything. This is God's will. He
10 knows what he is doing. We are not the one to
11 question why this is happening, he knows why it's
12 happening.

13 Just like she said, this could be an
14 eye-opener not just for one, not just for Jonta but
15 for all of us. Because we are not perfect people
16 here on this earth. Because if we all were perfect
17 there wouldn't be no world because you'd be where he
18 is on that throne.

19 And I'm not God, sister, and neither are you.
20 We are praying people trying to get to heaven because
21 God knows I don't want to go to hell. Because we are
22 living in hell today. And if I can get everybody to
23 pull it together and join hands and pray and be as
24 one, we all can be better people.

25 But I love you, whether you accept it or not.

1 I'm sorry, and I can't change happened. But if you
2 need anything my door is open, my heart is open, my
3 hands are open. Feel free. That's all I have to
4 say.

5 THE COURT: Anything further, Mr. Mattson?

6 Ma'am, I'm sorry, could you say your name for
7 the record?

8 MS. GREEN: My name is Patricia Anne Green.

9 THE COURT: Thank you, ma'am.

10 Yes, sir.

11 MR. GRANT: My name is Author Grant, uncle of
12 Jonta.

13 THE COURT: Yes, sir.

14 MR. GRANT: Please the Court I would like to
15 make a brief statement

16 THE COURT: Yes, sir.

17 MR. GRANT: On behalf of the family members
18 and Jonta's Green himself, though he has spoken. We
19 are all saddened by the events of September 19th,
20 2008. We don't have the power to reverse the tragic
21 events that occurred on that day, or to reverse the
22 moments preceding it or right after it.

23 But we do know that to show proper human
24 understanding in a civil society, we must be able to
25 express our real serious condolences to what

1 happened. And it happened now to two families; one
2 family who's left us, and another about to be a
3 member of that family.

4 I, as well as I know Jonta, I have spoken to
5 him many, many times since this event. I came down
6 from New York City more than one time just to talk
7 with him. I came down just me to be with him. It is
8 true that he is an unusual young fellow. And I hope
9 the court will take some of the consideration that
10 some of the people who testified into consideration.

11 Jonta, as well as I, I believe in history and
12 fortune. And as John Dunn the quick poet said, every
13 man's death diminishes me, for I am involved in
14 mankind. And I would like to know that this young
15 man had the same thoughts, not now but before.

16 So that family members, his family members, we
17 must still go on trying to make a better world,
18 making our contribution for a better world and better
19 place.

20 And asking that you too realize that you, as
21 well as I, have a responsibility to search for truth
22 -- it hasn't come out yet -- to find the truth even
23 beyond human truth. What happened? What led to that
24 happening? What was the motive, force to bringing
25 this about? You and I need to find out. Thank you.

1 THE COURT: Thank you, sir.

2 Anything further, Mr. Mattson?

3 MR. MATTSON: Nothing further, Your Honor.

4 THE COURT: Mr. Durant, I'm certain they would
5 like to have this back.

6 MR. DURANT: Thank you, Your Honor.

7 THE COURT: Mr. Mattson, were you asking for
8 this letter to be made a part of the record? It
9 looks like the original.

10 MR. MATTSON: It is.

11 THE COURT: Do you want it back for your file?

12 MR. MATTSON: Thank you.

13 THE COURT: Sir, please stand for sentencing.

14 Sir, on the charge of possession of a firearm
15 during the commission of a violent crime, which is
16 2009-GS-10-1116, you are sentenced to the state
17 department of corrections for a period of five years.

18 On the offense of voluntary manslaughter,
19 which is 2009-GS-10-113, you are sentenced to the
20 state department of correction for a period of 23
21 years.

22 These sentences will run concurrent with one
23 another. You will get credit for any time that you
24 have served to be calculated and applied by the
25 department of corrections.

1 THE DEFENDANT: I've got a question, run
2 concurrent?

3 THE COURT: That means they run all together,
4 sir. Possession of a firearm during the commission
5 of a violent crime is not mandatory consecutive
6 anymore. At least not my understanding how the
7 statute is. But you will have to serve the voluntary
8 manslaughter at 85 percent. They will explain that
9 to you at reception.

10 (Whereupon, the proceedings in this matter
11 before the Court were adjourned.)

12 * * * * *

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record, and of all the proceedings had and evidence introduced in the above captioned case, relative to appeal, in the Circuit Court for South Carolina, on the indicated date.

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

-----*Anne Bouley Meyer*-----

Anne Bouley Meyer, RPR
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
2009-GS-10-00113, 00116

3 STATE OF SOUTH CAROLINA)
4 Plaintiff)

5 V.)

TRANSCRIPT OF RECORD

6 JONTA EMBRAY GREEN,)

7 Defendant.)
8

9 MOTION TO RECONSIDER

10 MAY 11, 2011
11 CHARLESTON, SOUTH CAROLINA
12

13 B E F O R E:

14 THE HONORABLE DEADRA L. JEFFERSON, JUDGE
15
16
17

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

19 MR. RUTLEDGE DURANT, Assistant Solicitor
20 Representing The State

21 MR. DEMAL MATTSON, Esquire
22 Representing The Defendant

23 Anne Bouley Meyer, RPR
24 Circuit Court Reporter

25 THE COURT: State versus Jonta Embray Green,

1 2009-GS-10-0116, which is possession of a firearm
2 during the commission of a violent crime. He was
3 convicted on 4/22 of 2010. And indictment
4 2009-GS-10-113, which was originally an indictment for
5 murder, he was convicted of voluntary manslaughter on
6 the same date.

7 He was sentenced to 5 years and 23 years
8 respectively in the state department of corrections. A
9 motion for reconsideration was received by my office on
10 April 30, 2010 and signed April 29th. I do not know
11 the date that was actually filed with the court. I
12 don't have a file copy. Do you have a file copy?

13 MR. MATTSON: I believe it was filed the day
14 after.

15 THE COURT: All right, you may proceed.

16 MR. MATTSON: Good morning, Your Honor, may it
17 please the court.

18 THE COURT: Yes, sir.

19 MR. MATTSON: Your Honor, Mr. Green didn't
20 intend for what happened to happen. A human life was
21 taken. No matter what the sentence, it is not going to
22 bring back the victim of this crime.

23 I'm asking the Court to reconsider the sentence
24 putting more emphasis on the fact that Mr. Green was
25 carrying the gun as a result of the home invasion in

1 which one person was killed, one was wounded, and his
2 mother was pistol-whipped a couple years earlier.

3 And then about a month or so before this crime,
4 Mr. Green's brother was the victim of an attempted
5 carjacking and shot several times. Mr. Green then
6 obtained a pistol for his own protection.

7 Mr. Green was actually a contributing member of
8 society, very involved in the church, started the youth
9 choir, picked up elderly and infirm people and brought
10 them to church, started a youth community basketball
11 team which he helped coach and paid their expenses and
12 they actually won the state championship.

13 Dr. Wade, and has indicated in his statement,
14 that he engaged, Mr. Green engaged well with all
15 aspects of the evaluative procedures, was quite open in
16 discussing the alleged behaviors that resulted in his
17 criminal arrest, and has also noted that this was the
18 account of his behaviors in this incident were
19 consistent between the sessions which he conducted
20 between October 2008 and August 2009.

21 Basically indicates that Mr. Green has an
22 average IQ of 101. And he also reported there were
23 lingering fears and being on guard associated with a
24 history of a home invasion and recent carjacking
25 attempt with his brother being shot.

1 He also indicates that in multiple sessions
2 there were repetitive views of the alleged offense
3 leading up to Mr. Green's criminal arrest. And that
4 his -- the details provided by Mr. Green were
5 consistent across multiple accounts.

6 THE COURT: Is this an evaluation that you are
7 referring to?

8 MR. MATTSON: Yes, Your Honor.

9 THE COURT: When was it done?

10 MR. MATTSON: This was done after the incident.
11 It was done between October 20, 2008 and completed
12 August 17th, 2009.

13 Your Honor, I presented this to the Court for
14 consideration on this --

15 THE COURT: I just wanted the record to be clear
16 what you were referring to.

17 MR. MATTSON: -- on the sentencing. Thank you.

18 The Court is familiar with the facts of the case
19 having sat through it for a week with me and Mr. Green.
20 My client went to the house where the shooting occurred
21 for a perfectly legitimate reason, and he was attacked
22 by the victim, Mr. Parker.

23 My client left with his brother, who was still
24 recuperating from the gunshot wounds in the carjacking.
25 They realized he had lost his glasses, his cell phone

1 and his brother's cane and he went back.

2 He was told that everything was okay. He could
3 get the items he was looking for. He didn't see the
4 victim at that time. But when he got out of the car he
5 did put a pistol in his belt.

6 The victim again engaged Mr. Green. They
7 struggled over the gun. The gun went off wounding the
8 victim fatally in the head.

9 Thereafter Mr. Green ran around trying to get
10 people to help the victim, Mr. Parker. Tried to get
11 him in the car to take him to the hospital. And then
12 turned himself in the next day.

13 Dr. Wade's report says Mr. Green's test-taking
14 approach to the MMPI-II indicated that he presented
15 himself in an honest and straightforward fashion.

16 I had represented Mr. Green before, and he has
17 always been 100 percent straight with me, which I find
18 sometimes quite unusual in the practice of criminal
19 law. Mr. Green has always admitted anytime he did
20 something wrong, he has always gave an accurate
21 account, and I find that to be true here and Dr. Randy
22 Wade found that to be true.

23 Dr. Wade says in his last paragraph, by all
24 accounts it is not evident that Mr. Green had
25 premeditated the plan to confront or to be involved in

1 an assault on the victim.

2 I can only ask the Court to reconsider the
3 sentence. I don't want to sound crass or hard or
4 disrespectful, especially in any way to the victim's
5 family. But no matter what this Court does, it will
6 not bring Mr. Parker back.

7 Mr. Green showed by his action and by witnesses
8 that he had a kind heart for helping others, and that's
9 what he was doing. Not at the time, but as far as
10 forming the church choir, et cetera.

11 Whether Mr. Green remains in the penitentiary
12 for his full sentence, or whether Mr. Green, when he
13 completes -- let me rephrase that, when he completes
14 his full sentence, he will walk out of the prison.

15 I'm asking the Court to give Mr. Green an
16 opportunity to prove himself that he is and can be a
17 functioning beneficial member of society.

18 Mr. Green totally regrets that evening, knows he
19 made a very bad choice in arming himself under the
20 circumstances. But he was also scared for his own
21 life. And he was assaulted twice that same night by
22 the victim.

23 I'm asking the Court to consider a reduction of
24 Mr. Green's sentence to 10 years with 5 years
25 probation.

1 THE COURT: I'm sorry, repeat that. I didn't
2 hear you.

3 MR. MATTSON: I'm asking the Court to consider a
4 reduction of Mr. Green's sentence to 10 years with 5
5 years probation and credit for time served.

6 It would put Mr. Green in a slightly better
7 possession within the penal system by having a sentence
8 of 10 year or less. Or to give Mr. Green a 15 year
9 sentence, suspend 5 of it, and place him on 5 years
10 probation which would basically give him almost the
11 same amount supervision as the original sentence.

12 With the original sentence when he walk out the
13 door there is no probation, he will have maxed out
14 because of the law.

15 I don't know what else to say on behalf of Mr.
16 Green other than the fact that he has family in support
17 here. Mr. Green has asked me to tell you that he is
18 very sorry for what he did. He is very sorry for the
19 family of Mr. Parker.

20 And that night, at this point in time, is kind
21 of a blur and bad dream to him. If he could undue it,
22 he would. And right now Mr. Green would like to say
23 something to the Court.

24 THE COURT: Yes, sir. The Court will be glad to
25 hear from you.

1 THE DEFENDANT: Good morning. I would like to
2 say that during my year so far in SCDC, I'm trying to
3 learn a lot and work on myself mentally. I see a lot
4 of myself, I'm making the right decision. I'm
5 surrounded by a bunch of people who make bad decisions.
6 That's already being a hard place to be in.

7 I'd like to apologize to the family. You know,
8 I mean, that was a bad mistake that night on both
9 behalves. You know what I'm saying, I give my heart
10 out to them. We kind of close like family. This
11 shouldn't have never happened.

12 But, you know, my family is grieving too. It's
13 real hard on me. I would prefer, like he said, if I
14 can get, you know what I'm saying, a sentence reduction
15 I can be able to work, you know, within the system,
16 work time off instead of just sitting around. I mean
17 it's not doing nothing. So if it please the Court,
18 please have mercy on me. I appreciate that.

19 MR. MATTSON: Mr. Green has explained to me,
20 Your Honor, if it's a 10 year or less sentence and you
21 give him 10 years, give him 15 years, only give him 10
22 of it, he will be able to function in the prison, do
23 work in the prison, and this is under prisoner
24 classification.

25 He feels it would also give him a better chance

1 for improvement.

2 THE COURT: Anything further from the defendant?

3 MR. MATTSON: Nothing further, Your Honor.

4 Other than the fact that he has his family here, his
5 mother and brothers and cousins and relative who would
6 also be his support for Mr. Green.

7 I realize the family of Mr. Parker is also here.
8 And I know they're going to oppose the motion. That's
9 all that I have to say.

10 THE COURT: Mr. Durant.

11 MR. DURANT: Thank you, Your Honor, may it
12 please the Court.

13 THE COURT: Yes, sir.

14 MR. DURANT: I'd like to first start off by
15 saying that this is very difficult for everybody
16 involved.

17 This is very difficult for Brandon Parker's
18 family. Over two-and-a-half years ago they lost a son.
19 They lost a brother. They lost a nephew. They lost a
20 very important loved one in their lives.

21 For two-and-a-half years now they have endured
22 agony. They have endured a trial. And they have
23 endured knowing that their son was killed as the result
24 of a stupid decision and a resort to a gun when a gun
25 should have had no place at all involved in this

1 situation.

2 And it has hurt a lot. Brandon essentially got
3 the death penalty. And this defendant has his life.
4 You sentenced him to 23 years. This family would do
5 almost anything they could to reverse these rolls. To
6 have their son Brandon be the defendant, be sentenced
7 to 23 years, or even life in prison, that way they
8 would have him.

9 But they don't have him. And no sentence will
10 ever make that right for them. They understand that.
11 But it still hurts. And it hurts to be here today.

12 I know that it's difficult for the defendant to
13 make this motion, to come back in front of Your Honor
14 and say, Your Honor, you were wrong the first time and
15 we need you to reconsider..

16 THE COURT: I don't think that's what they're
17 saying. They're just asking me to reconsider. I don't
18 think any defendant says I'm wrong when they ask me to
19 reconsider.

20 MR. DURANT: Well it is still difficult for
21 them, Your Honor. It is a difficult for them to come
22 before the court today. We know that it is also
23 difficult, one of the most difficult things about being
24 a judge is sentencing someone. We do not envy Your
25 Honor at all in this position today.

1 But still Brandon Parker is gone as a result of
2 this defendant's action to retrieve the gun back on
3 September 19th of 2008. To come back to a house where
4 there was a conflict with Brandon Parker, to bring a
5 gun, and to walk all the way up to the driveway and
6 Brandon Parker was shot right in the forehead right in
7 the center and he died.

8 He was only 25 years old at the time. He had a
9 whole life ahead of him. He was born, as we all were,
10 just a baby to a loving mother, loving father, sister.
11 He was a good person.

12 When a baby comes into this world, a mother
13 looks at her baby and says, this is a life. I'm going
14 to do the best I can for this baby. And I wonder what
15 all this baby will do in its life. There is a lot that
16 could be done.

17 Mrs. Parker is here today. She has told me
18 about these things, how this feels to her. She'd like
19 to addresses Your Honor at the right time. But her son
20 was snubbed way too early. And it hurts way too much.

21 And our position is simple. We ask that the
22 sentence not be reconsidered. We ask that this
23 sentence stay the same, that this violence has got to
24 end, and that this defendant should know that he has
25 this sentence to serve for Brandon Parker's death.

1 At the appropriate time the family would like to
2 address Your Honor.

3 THE COURT: Certainly. You may proceed.

4 MS. PARKER: Your Honor, my name is Sandra
5 Parker, I'm the mother of the late Brandon Parker.
6 And, Your Honor, I have totally feel that Jonta Green
7 should not be -- not be given a reduction in sentence.

8 My son is currently dead. And he resides at
9 Live Oak Memorial Gardens. I can't wake him up. I
10 can't touch him and he moves. Jonta Green's mother can
11 do all of this, I can't. I will never see Brandon
12 again, never.

13 It hurts more than life itself and really and
14 truly does. I went through this last year, and I am
15 here again today. I went through it last year dealing
16 with breast cancer and I was here every day. Excuse
17 me.

18 THE COURT: Take your time.

19 MS. PARKER: This is entirely too much for my
20 family to have to endure. It truly is. Jonta, I
21 understand you said that you didn't mean to do what you
22 did. But, son, in this life we have to pay for
23 consequences. Brandon has paid for his, he will not
24 return ever.

25 I know when he was born here in Charleston at

1 St. Francis Xavier Hospital, Saturday [REDACTED],
2 1982. His dad and I were there. I gave birth to him
3 there.

4 And the night that he was shot and killed,
5 Friday, September the 19th, 2008, it felt like my world
6 came to an end. You see not only did I lose my son, I
7 lost my husband to colon cancer December 23rd, 1995.

8 You have ripped my family another one. I don't
9 wish any harm to you, but I honestly don't see where
10 you should have a reduction in your sentence. Brandon
11 is not having a reduction in his. At no given point
12 will he get out from Live Oak Memorial Gardens and come
13 back to the house. He doesn't have that choice. You
14 saw to that.

15 And I'm here to see to it that there is no
16 reduction. I am not in favor of it. I think if you
17 were man enough to do what you did, you should be man
18 enough to do the time.

19 I have grandchildren. My son's little boy used
20 to look at the picture that I had on the refrigerator
21 of you sitting there with the article. He looked at me
22 and he said, Nani, that's the man that killed my daddy?

23 Even Ariel, which is my daughter's oldest child,
24 she is 9 years old, and Mia is 5, they both talk about
25 Uncle Brandon and what Uncle Brandon would have been

1 doing. Ariel's thing with Uncle Brandon would take me
2 shopping. He would get me this, he would get me that.
3 There is no more Uncle Brandon. There is no more
4 Brandon.

5 Your attorney pointed out last year at this time
6 that Brandon was in jail, yes he was. And he served
7 those 18 months. And during that time he signed up for
8 a course in heating and air conditioning when he was
9 there.

10 And that Saturday, the following day, when he
11 should have been here and he is no longer here, he was
12 supposed to take a course at Trident Technical College
13 for heating and air. He had the books and everything,
14 paid the fees and all.

15 Brandon wasn't what your attorney considers a
16 thug or whatever. He pointed out during that time last
17 year that Brandon had a tattoo, only the strong
18 survive. I didn't understand Mr. Mattson's remark
19 then, nor do I now.

20 But let me tell you. My son had a father and a
21 mother that loved him very much. We are no different
22 than any other family. We attended and were members of
23 at that time Greater St. Luke AME Church here in
24 downtown Charleston, 78 Gordon Street. There are
25 members that were here that are also members that knew

1 us. And we were a close-knit family.

2 But thanks to you, that doesn't exist anymore.
3 Nothing exists anymore thanks to you. My son was
4 buried in a plot that was adjacent to my husband,
5 William Parker, Junior; that had my name on it. And
6 that's where my son was buried.

7 This was not supposed to happen by any means.
8 This December Brandon would have been 29 years old.
9 29. And he was an active member of Greater St. Luke
10 AME Church. He was in the junior choir at our church,
11 on the election board at our church.

12 All of us were very active at Greater St.
13 Luke's. Very active. And we were always there for
14 each other. And one thing my late husband and I taught
15 both of our children, be careful what you do because
16 there are consequences for your actions.

17 Bill taught in Charleston County for 23 years
18 before he got sick with cancer. And he did everything
19 he could for his students, his ball players and all.
20 Anything you asked Coach Parker to do, he would do it.
21 And he would always take Brandon and Kristin with him.
22 We tried to do what was right. We really did.

23 Jonta, as of your actions, we are all here and
24 none of us want to be. I don't want to continue to
25 rehash this, I really don't. Because it's not bringing

1 back the child that I gave birth to and the child that
2 I still love. I cannot reach up and hug Brandon
3 anymore. I can't kiss him at all.

4 That was my son. My son. No parent, no one in
5 this courtroom, would like to change places with me at
6 this very moment, to have lost your child. No one.

7 Your attorney pointed out that you had a brother
8 that was shot several times. I'm certain your mom
9 would not want to change places with me, losing her
10 son. So understand how I am feeling. Please do.

11 My son will never come back in this lifetime.
12 And as I said before, there are consequences for our
13 actions. If I walked out here and jumped in my car and
14 started speeding down the highway, I'm going to get
15 stopped, and there are going to be repercussions for
16 that.

17 You should have to deal with your repercussions
18 as well. That's all I have to say.

19 THE COURT: Thank you very much. Anyone else?

20 MR. DURANT: Yes, Your Honor, there are a couple
21 and I have a letter I'd like to read to the Court from
22 the victim's sister.

23 THE COURT: You may proceed.

24 MS. BROWN: My name is Tiffany Brown. I just
25 wanted to add that on Friday, September 19th, that was

1 the day of Brandon's demise when he was murder. On
2 Saturday September 20th, he was scheduled to attend
3 heating and air conditioning repair classes at Trident
4 Tech.

5 That following Monday, the 22nd, he was going to
6 start his first day of work. On the same day there was
7 received at the deceased residence mail to advise him a
8 suspension on his license had been lifted.

9 Today Jonta is asking for a second chance when
10 he never considered that Brandon deserved one. No
11 negotiation nor compromise can be considered to bring
12 Brandon back to life, and one should not be considered
13 for Jonta either.

14 This Mother's Day, Brandon's mother celebrated
15 without her only son. The Court decided Jonta's fate
16 on April 2010, and that ruling should stand.

17 Allow our family to heal, and Jonta to be held
18 responsible for his actions.

19 THE COURT: Thank you very much.

20 MR. PARKER: Good morning. My name is Arnold
21 Parker, I'm Brandon's uncle.

22 You just heard from a distressed mother on the
23 loss of her son. They said time heals a lot of wounds
24 and everything, but not when you always got to rehash
25 it every couple of years or whatever.

1 It still rings out in my mind from the first
2 trial when after the first altercation when he said
3 that they drove off, he armed himself, came back, and
4 the parent, the mother of the place where it all
5 happened confronted him at the driveway before. Still
6 rings out what he told her, he slipped in, I can't let
7 that go. I can't let that go.

8 Then he proceeded up the driveway. Now my
9 nephew is dead. What I wouldn't give to see Brandon
10 right now, to have Brandon in my life right now.

11 What his son wouldn't give just for his daddy to
12 hold him in his arms one more time. You know, when his
13 father died Brandon went through a whole lot. You
14 know. But he took it and he did it in his own way.

15 After a long time of trying to talk with him and
16 trying to get him to face up to his responsibilities
17 and everything, finally when it seemed like he was
18 coming to grips with everything, this happened.

19 It's taken from us. The family had a big loss.
20 We are going to continue to have that loss. You all
21 continue to have a son with you. You can't repay his
22 family back. You can't repay his son back. You
23 certainly can't bring Brandon back.

24 We all feel, we all hurt, we are going to
25 continue to hurt.

1 As his mother said, Brandon share a grave now
2 that is adjacent to his brother -- I mean to his father
3 which should have been hers. It shouldn't have been.

4 On that night it was a lot of things that could
5 have altered the course of this whole thing. Jonta
6 chose to do none. He chose to do none. It still rings
7 in my mind, I can't let this go. I can't let it go. I
8 have to do something. What he did was a travesty.

9 We live day to day in the newspapers and
10 everything, we see young people killing one another and
11 killing one another and figure, I can go to court and I
12 can just do this, do my time on my head and don't have
13 to worry about it or anything like that.

14 But you're big and bad enough to do what you
15 did, now comes the time to pay up. But we got to cry
16 about it and everything. There is -- you just got to
17 stand up to your responsibility. If you want to take
18 somebody's life, be prepared to do the time that you
19 have.

20 I don't feel he should get any kind of break. I
21 don't feel he should get any kind of reduction. When I
22 first came here a year ago, I felt he should have
23 gotten the maximum he should have gotten, and I still
24 feel that way.

25 He took my nephew away from me. He took a

1 mother's son away from her. He took a sister's brother
2 away from them, friends. He took a little child away
3 from him. Take the father away from him.

4 I'm just going to see how you could just say,
5 well, let's lose this sentence and let's put him back
6 on the street because we think he could be a good
7 member to the society. The only thoughts of having an
8 argument he gets a gun and shoots somebody. I don't
9 think so. But that's what he did. I feel he should
10 pay for it. I feel he should pay for it. Thank you.

11 THE COURT: You're welcome, sir.

12 MR. DURANT: Your Honor, Kristin Parker is the
13 victim's sister. Since we have scheduled this about a
14 month ago she has known that she had an absolute work
15 conflict she was unable to get out of. She wishes she
16 could be here today. She wrote a small letter that I'd
17 like to read to the Court.

18 THE COURT: I'd prefer just to read it.

19 MR. DURANT: Okay. I have not shown it to
20 defense counsel.

21 MR. MATTSON: That's fine.

22 THE COURT: We will get him a copy.

23 MR. DURANT: Thank you, Your Honor.

24 THE COURT: Is there anything further from the
25 State.

1 MR. DURANT: Your Honor, we don't envy your
2 position at all. It is a very difficult matter. We
3 ask that you not reconsider this sentence, that your
4 original sentence is justice. Thank you.

5 THE COURT: You're welcome.

6 I'd first like to just, so that everyone is
7 aware, normally I probably can count on one hand the
8 times I have ever reconsidered a sentence because I
9 think very thoroughly before I make decisions. And
10 once I make a decision, I'm pretty certain about what
11 I've done.

12 I rarely have hearings on them. I don't think
13 really, probably in 15 years I probably can count on
14 one hand the times I have heard motions for
15 reconsideration because I have generally taken
16 everything into consideration, mitigation, and
17 everything else that would have been raised by either
18 side.

19 Not to say that I'm infallible because I make
20 mistakes. And there are time when things need to be
21 corrected. And in the civil context, however, there is
22 a little more latitude because the Court can correct
23 scriveners errors without hearings. And so to the
24 extent that that happens, that can be corrected a
25 little more easily than in the criminal context.

1 And also just to let you know as well that any
2 delay in the scheduling of this really is attributable
3 just to the overworked dockets and the Court's
4 schedule.

5 And in addition to that, after receiving Mr.
6 Mattson's motion, I went back and re-listened to some
7 of the testimony. The transcripts have not been
8 requested or transcribed, so that means that any
9 testimony I wanted to hear I had to re-listen to it.
10 And so that took a considerable amount of time.

11 So I just want you all to know that I was not --
12 that that is why it took us the amount of time it did
13 to schedule this motion.

14 I advised the attorneys at -- very shortly after
15 the hearing that I thought I had made a mathematical
16 error. Whenever judges -- and it is an
17 unenviable position to be in. I will note, and it's a
18 funny thing, not funny ha-ha but funny peculiar.

19 People in the community will often come up to me
20 and say, did you put anybody in jail today. And that
21 is so morally offensive to me. And I think they're
22 often surprised by my response because my response is,
23 that's a life, and that's not funny and I would
24 appreciate it if you would never say anything like that
25 to me again.

1 Because it's not only just the person's life,
2 but also just the lives of those who are affected by
3 criminal activity. And to me it just seems such a
4 demeaning statement.

5 And while people say it in jest and they think
6 it's funny, there is really nothing funny about it. I
7 don't know of anybody that, like I said, envies the
8 position that we are in, we have to make hard
9 decisions, but it is our job to make those decisions.

10 So I agree with the State that it is an
11 unenviable position to be in. But I advised you all --
12 we were in the -- I was already starting another trial.
13 We finished this trial after 6 o'clock on the day that
14 we finished it. And then of course sentencing took a
15 considerable amount of time.

16 And most judges, when we sentence we do some
17 rough calculations based on -- because you know what
18 you actually give a person is not what they actually
19 serve.

20 Of course we are not perfect either because once
21 it gets to the department of corrections it's a whole
22 'nother way that it's calculated and applied and we
23 have no control over that. But we have some rough idea
24 based on the classification of the offense as to what
25 is going -- at least what we anticipate will happen.

1 so I had advised the attorneys at that time that
2 I thought I had made a scriveners error in my math, but
3 just had not had time to deal with it. And that once I
4 was able to review it, that if I did in fact make an
5 error in my math that I was going to correct it.

6 In the interim, actually I realized after
7 looking at the dates, Mr. Mattson had already filed a
8 motion for reconsideration prior to us even having that
9 conversation, it just hadn't made its way to my office
10 yet. I think maybe the day afterwards I got it. But
11 it had already been filed prior to us having that
12 conversation.

13 So I make all that just as an -- I say all that
14 as an observation, and for the benefit of the family so
15 that they can understand the Court's reasoning. And of
16 course whenever there is going to be any modification
17 in the sentence, the Court is required to have a
18 hearing.

19 Mr. Mattson, just for the benefit of the record,
20 all of things that you've raised, all of the things
21 that Mr. Green has said for the record, I took all of
22 those things into consideration at the time of the
23 sentencing and they would not be the basis for a
24 reconsider in sentence.

25 However, I am modifying Mr. Green's sentence to

1 20 years because of a mathematical mistake and error
2 that I made on my part at the time of his sentencing.
3 And that, in fact, does exactly what I intended to do
4 at the time of the sentencing.

5 So I need the victims to understand that the
6 Court understands the gravity of your loss. Please do
7 not think in any way that this modification diminishes
8 that loss, or that I do not understand it. I'm merely
9 doing what I intended to do originally.

10 And taking all the mitigating factors into
11 account, and the fact that I made a mathematical error
12 and I feel it's incumbent on me to correct it and to
13 put into place exactly what I originally intended.

14 I understand the difficulty of these
15 proceedings. I understand the difficulty of it. And
16 actually, Mr. Parker, you said something very profound.
17 You said that people will say that time, you know,
18 makes things better. And I used to hear that before
19 I'd ever lost anybody that I loved.

20 It was so interesting to me, after I lost
21 someone I loved very dear to me I thought, that must be
22 said by people who have never lost somebody. Because
23 they really don't understand the profundity of what's
24 going on. It just seems so very insensitive.

25 So I need you to understand that I really do

1 understand the significance of your loss. And I do not
2 want you to think in any way that this Court diminishes
3 it because I do not.

4 Now I've had my clerk check with inmate records
5 and inmate clarifications, and they indicate to me that
6 there is nothing that precludes Mr. Green from working.
7 That it doesn't matter how much time he has, that he's
8 allowed to work within the system.

9 And me giving him 10 years or below would have
10 no effect on that. What they indicated is that, anyone
11 can work no matter what the sentence. Everyone can
12 have a job. Sentence doesn't change the type of job he
13 can get. So certainly he can work within the system if
14 he intends to.

15 I have taken into consideration your request,
16 Mr. Mattson. And again, I do not think it would be
17 appropriate under the circumstances. There has to be
18 some recognition that a life was lost, a very young
19 life was lost.

20 And I think the jury took all of the attending
21 circumstances into effect when they found Mr. Green
22 guilty of voluntary manslaughter.

23 I just want to tell everyone involved that I
24 appreciate you all expressing your feelings regarding
25 this, and that the Court does not take any of that

1 lightly or for granted.

2 So I think what I will do is I will do -- I
3 probably will have to do an amended sentence sheet, and
4 it will reflect that it is to correct a scriveners
5 error.

6 And I wanted the record though to be clear that
7 everything Mr. Mattson presented, I considered all of
8 that at the time originally of sentencing. So any
9 appellate time, I would imagine, runs from today. If
10 you all --

11 MR. MATTSON: From the written order, whenever?

12 THE COURT: Yeah, which I hope to do -- which I
13 would imagine I will get done today. And I don't think
14 that needs you all's signatures.

15 MR. DURANT: I don't think so, Your Honor.

16 THE COURT: Either I will do a written order
17 that just simply says on the motion for
18 reconsideration, but I think what I will probably do is
19 just an amended sentence sheet because I think that
20 tends to work better with the department of corrections
21 because it will have the CDR codes and otherwise on it.

22 So we will go from there. I appreciate you all
23 being so patient. I know we were supposed to start at
24 9:30, but as things -- Murphy's law, what can happen
25 will. We had a typical double day after a holiday. So

1 I appreciate you all being so patient with us.

2 THE COURT: Thank you all very much.

3 MR. MATTSON: Thank you very much.

4 (Whereupon, the proceedings in this matter
5 before the Court were adjourned.)

6 * * * * *

C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record, and of all the proceedings had and evidence introduced in the above captioned case, relative to appeal, in the Circuit Court for South Carolina, on the indicated date.

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

-----*Anne Bouley Meyer*-----

Anne Bouley Meyer, RPR
Circuit Court Reporter

GRD20080905705

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

0818831

ARREST WARRANT NUMBER

F969845

DATE OF ARREST

September 20, 2008

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JAN 08 2009

VERDICT

*Guilty of Lesser
included offense of
Voluntary Man Slaughter
Sharon T. Kalamant 4/22/10*
Foreperson of Petit Jury (Date)

INDICT

DOCKET NO. 2009GS1000113

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

January Term 2009

THE STATE

vs.

JONTA EMBRAY ZOMANE GREEN

DOB:

B/M

08-522 (91)

Indictment for

MURDER

2009 JAN -9 PM 2:44
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

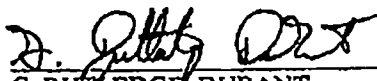
INDICTMENT

At a Court of General Sessions, convened on January 5, 2009 the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County on or about September 19, 2008, with malice aforethought, JONTA EMBRAY ZOMANE GREEN did kill and murder Brandon Parker by means of shooting, and that Brandon Parker did die in Charleston County as a proximate result thereof on September 19, 2008; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

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


G. RUTLEDGE DURANT
ASSISTANT SOLICITOR

GRD20080905705

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

0818831

ARREST WARRANT NUMBER

F969846

DATE OF ARREST

September 20, 2008

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JAN 08 2009

VERDICT

Guilty

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2009GS1000116

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

January Term 2009

THE STATE

vs.

JONTA EMBRAY ZOMANE GREEN

DOB:

B/M

Indictment for

Possession of a Weapon During the
Commission of a Violent Crime

2009 JAN -9 PM 2:44
JULIE J. ARSTRONG
CLERK OF COURT

FILED

Sharon L. Roland 4/22/2010

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on January 5, 2009 the Grand Jurors of Charleston County present upon their oath:

Possession of a Weapon During the Commission of a Violent Crime

That in Charleston County, South Carolina, on or about September 19, 2008, the Defendant, JONTA EMBRAY ZOMANE GREEN, did possess a handgun or visibly display what appeared to be a handgun during the commission, or attempted commission, of Murder, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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


G. RUTLEDGE DURANT
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

JONTA EMBRAY GREEN

AKA:

Race: B Sex: M Age: 26DOB: SS#:

Address:

City, State, Zip: LINCOLNVILLE, SC 0DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Voluntary ManslaughterINDICTMENT/CASE#: 2009GS1000113A/W#: F969845Date of Offense: 9/19/2008S.C. Code § : 16-03-0010, 0020CDR 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 ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Durant, G. Rutledge 73944
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 23 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: 2009-GS-10-116
☒ 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 ☐ Ordered PTUP Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 47.12 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$100	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
§ 90.7 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk CalhounCourt Reporter: Anne Mayer

SCCA/217 (11/2009)

Presiding Judge A. L. JafferJudge Code: 2728Sentence Date: 4-22-10

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

\$ paid to Public Defender Fund

Other:

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

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
 STATE VS.
Jonta Embray Zomane Green

AKA:

Race: BLACK Sex: M Age: 27DOB: SS#:

Address:

City, State, Zip: LINCOLNVILLE, SCDL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: VOLUNTARY MANSLAUGHTER

in 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) ☐ §17-25-45
 w/minor 1st or Lewd Act

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

ATTEST:

DuRant, G. Rutledge

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 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	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(3) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

Amended Sentence
 INDICTMENT/CASE#: 2009GS1000113

A/W#: F969845Date of Offense: 9/20/2008S.C. Code § : 16-03-0050CDR Code #: 0217

Amended
 SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSPTUP 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 Fund

Other: This sentence is Amended
pursuant to a Motion for
Reconsideration filed by the
Defendant and to correct the
Clerk's server error on
the original
sentence.

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

Presiding Judge

Judge Code: 2128Sentence Date: 5-11-11

COUNTY OF Charleston
STATE VS.
JONTA EMBRAY GREEN
AKA:
Race: B Sex: M Age: 26
DOB: SS#:
Address:
City, State, Zip: LINCOLNVILLE, SC
DL#: SID#:
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Possession of a Firearm During Commission of a Violent Crime

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS1000116
A/W#: F969846
Date of Offense: 9/19/2008
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

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

ATTEST: 73944
DuRant, G. Rutledge SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2009-GS-10-113
☒ 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 ☐ Ordered PTUP days/hours Public Service Employment
Total: \$ plus 20% fee: \$

Payment Terms:
☐ Set by SCDPPPS

Recipient:
*Fine: \$
§ 14-1-206 (Assessments 107.5%) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
§ 47.12 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$100 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(I) (Vehicle Assessment) \$40/ea \$
§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 3.90
TOTAL \$ 133.90

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

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

Clerk of Court/ Deputy Clerk
Court Reporter: Anne Meyer
SCCA/217 (11/2009)

Presiding Judge A. R. J. J. J.
Judge Code: 2128
Sentence Date: 4-22-10

FORM 5

2013-CP-11-6337

STATE OF SOUTH CAROLINA

County of CHARLESTONJONTA GREEN #340485

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
OCT 28 PM 12:19
JULIE A. STRONG
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be written (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or an additional page. Applicant shall make clear to which questions any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis for prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information, which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention lieber correctional institution
P.O. BOX 205 Ridgville S.C 29472
2. Name and location of Court which imposed sentence Charleston County General Session Courts
3. Name(s) of co-defendant(s) (if any) _____

4. The indictments number or numbers (if known) upon which and the offences for which sentence was imposed:
(a) 2009 -GS-10-113 Indictment for Murder

RECEIVED 11/8/13
ADMINISTRATIVE
11/14/13
SAB

- (b) 2009-GS-10-116 Indictment for possession of weapon during the
 (c) Commission of a violent crime
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) May, 11, 2011 20 years Amended Sentence
 (b) April 22, 2010 5 Years
 (c) _____
6. Check whether a finding of guilty was made:
 (a) after a plea of guilty N/A
 (b) after a plea of not guilty Trial by Jury
 (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
 (a) the name of each Court to which you appealed:
 i. South Carolina Court of Appeals
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. Affirmed Conviction and Sentence
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. January 31, 2013
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. N/A
 ii. _____
 iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) N/A

- (b) _____
 (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 (a) Ineffective Assistant of Counsel See Attachment
 (b) Same As Above
 (c) Same As Above
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) See Attachment
 (b) Same As Above
 (c) See Attachment
12. Prior to this application have you filed with respect to this conviction:
 (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? Yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
 (a) the specific nature thereof:
 i. Motion for Reconsideration
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. Court of General Session Charleston County
 ii. 100 Broad Street S,C 29401
 iii. _____

- iv. _____
- (c) the disposition thereof:
 - i. Amended Sentence of 20 Years
 - ii. _____
 - iii. _____
 - iv. _____
- (d) the date of each such disposition:
 - i. May 11, 2011
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. Courts Scriveners Error in the original Sentence
 - ii. _____
 - iii. _____
 - iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
First filing for post-conviction relief

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:
 - i. N/A
 - ii. N/A
 - iii. N/A
- (b) the proceedings in which each ground was raised:
 - i. N/A
 - ii. N/A
 - iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) First filing for Post-conviction Relief
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? N/A
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Demal Mattson esq. 990 Lake Hunter Circle Mt. Pleasant S.C
Susan B. Hackett Appellate Defender
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Trial and Sentencing
Direct Appeal
- ii. _____
- iii. _____

19. State clearly the relief you seek in filing this application:

New Trial

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Charleston)

I, Jonta Green #348485, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this 23rd
day of October, 2013.

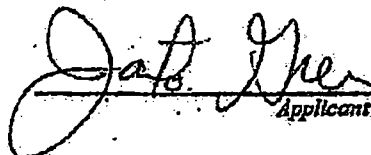
Ludrean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Jonta Green # 340485, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefore. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN to and subscribed before me this 23rd
Day of October, 2013

Ludrean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2016

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2013-CP-10-6337

Jonta Green, #340485,

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post-conviction relief (PCR) filed October 28, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the January 2009 term of the Charleston County Grand Jury for murder (2009-GS-10-0113). The Applicant was represented by Demal Mattson, Esquire.

On April 22, 2011, the Applicant proceeded to trial and was found guilty of the lesser include offense of voluntary manslaughter. The Applicant was sentenced by the Honorable Deadra L. Jefferson to confinement for a period of twenty-three years. The Applicant's sentence was amended on May 11, 2011 to twenty years.

The Applicant filed a timely Notice of Appeal. His appeal was perfected by Susan Hackett, Esquire, of the Office of Appellate Defense. The Applicant's appeal was dismissed by the Court on January 30, 2013 after review pursuant to Anders v. California. The Remittitur was issued on February 21, 2013.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the Applicant's appellate records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failure to object to improper and insufficient foundation where the medical examiner Amy Shield was unavailable to attest to the medical examination report.
 - b. Failure to object to Dr. Schandl's hearsay testimony of Dr. Shield's medical examination report.
 - c. Failure to object where the question of the cause of death would call for speculation.
 - d. Failure to advise that stipulation waived his right to prove every element of the alleged crimes.
 - e. Failure to advise that the stipulation would create a burden shifting affect and cause the Petitioner to prove self-defense.
 - f. Failure to advise the Petitioner of serious medical issues from brain surgery.

III.

The Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signature on the following page.]

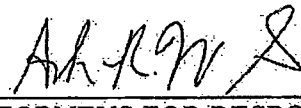
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

ASHLEIGH R. WILSON
Assistant Attorney General

By: 
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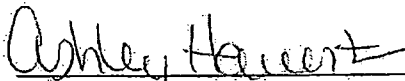
December 22, 2014.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	
JONTA GREEN, #340485	)	2013-CP-10-6337
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. James K. Falk, Esquire
Bush Law Group, P.C.
3 Broad Street, Suite 450
Charleston, SC 29401

DATED this 22nd day of December, 2014.


 Ashley Haworth, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) Court of Common Pleas
3) Case No. 2013-CP-10-6337
4 JONTA GREEN,)
5 Plaintiff,)
6 vs.) Transcript of Record
7 THE STATE OF SOUTH CAROLINA,)
8 Defendant.) DATE: February 18, 2015
9

10 B E F O R E:

11 The Honorable Eugene Griffith
12

13 A P P E A R A N C E:

14 James Kristian Falk
15 Attorney for the Plaintiff

16 Ashleigh Rayanna Wilson
17 Attorney for the Defendant

18 Karen V. Andersen, RMR, CRR
19 Circuit Court Reporter
20
21
22
23
24
25

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EXHIBITS

Exhibit	Description	Identification	Evidence
P-1	Letter dated 11/10/08 from Shonda Gennings	30	47
P-1	Stipulation	31	47

1 MS. WILSON: May it please the Court, Your Honor.
2 This is Jonta Green vs. The State of South Carolina, Docket
3 No. 2013-CP-10-6337.

4 Mr. Green was indicted in January 2009 for one count
5 of murder and one count of possession of a weapon during the
6 commission of a violent crime. Mr. Green -- that was under
7 Indictment No. 2009-GS-10-113 and 2009-GS-10-116.

8 Mr. Green proceeded to trial. I think the start
9 date was -- started trial April 19th through the 22nd, 2010,
10 or 2011. He was ultimately convicted and sentenced by Judge
11 Jefferson to 23 years. And he was also convicted to the
12 lesser-included offense. So he was convicted of voluntary
13 manslaughter. He was sentenced to 23 years for voluntary
14 manslaughter; five years for possession of a weapon during
15 the commission of a violent crime.

16 Counsel for the applicant filed a motion to
17 reconsider his sentence, which the Court ultimately
18 reconsidered and lowered his sentence to 20 years, as opposed
19 to 23 years.

20 He filed a timely notice of appeal. His appeal was
21 reviewed by the Court of Appeals pursuant to Anders and the
22 appeal was dismissed January 30th, 2013. And the remittitur
23 was issued February 21st, 2013. Mr. Green filed his
24 application for PCR on October 28th, 2013.

25 He was -- he's here represented by Mr. Falk today.

1 And he makes several allegations of in effective assistance
2 of counsel in his application. And the State would ask
3 Mr. Falk to delineate which claims Mr. Green is going to go
4 forward on here today.

5 MR. FALK: Under ineffective assistance of counsel,
6 my client wishes to -- he wants to go forward on his concerns
7 about trial counsel's mental abilities at the time. There
8 are also several evidentiary questions that could have been
9 handled better. So he's going to go forth on the testimony
10 that was allowed in violation of Crawford, whether or not one
11 of their character witnesses was allowed to be impeached by
12 conviction that was outside of 609.

13 And as far as the admission of the stipulation, it's
14 stipulated testimony which my client doesn't believe helped
15 his case and doesn't understand why the stipulated testimony
16 was brought in. I'm going to put him on first and he can
17 detail these better for us.

18 THE COURT: All right. Call him.

19 MR. FALK: We would like to call Jonta Green to the
20 stand.

21 JONTA GREEN,
22 having been duly sworn, testifies as follows:

23 THE CLERK: Please state your name, spelling your
24 last name.

25 THE WITNESS: Jonta Green, G-r-e-e-n.

1 I have one question. Can I be kind of loosened?
2 I'm restrained, but can I be loosened so I can handle my
3 paperwork?

4 THE COURT: I don't have direction.

5 THE DEPUTY: What do you want to do?

6 THE WITNESS: I want to be able to loosen --

7 THE COURT: It can be loosened?

8 THE WITNESS: Yeah.

9 THE DEPUTY: Is it okay with you?

10 THE COURT: As long as you tell me he's secure,
11 that's all I need to know.

12 You may proceed.

13 DIRECT EXAMINATION

14 BY MR. FALK:

15 Q. Will you please state your name for the record.

16 A. Jonta Green.

17 Q. And you are here on a PCR hearing?

18 A. Yes, sir.

19 Q. And you understand that PCR hearing, the only remedy
20 available to us is for you to get a new trial?

21 A. Yes.

22 Q. Okay. Do you have a copy of your application for
23 post-conviction relief?

24 A. I have the one that I wanted to be amended and then
25 I have the original.

1 Q. May I approach? Can you get out your original one?
2 There's an appendix on the last page that lists your concerns
3 about your trial counsel.

4 A. Yes.

5 Q. Do you see that?

6 A. Yes, sir.

7 Q. Can you just go through those, and then we will come
8 back around to each one of them.

9 A. We are going to start with 11? Is that the one you
10 are talking about?

11 Q. Yes. Yes.

12 A. Basically says, concisely and in the same order, the
13 facts that support these grounds that outline --

14 MR. FALK: May I approach, Your Honor? I think he's
15 on the wrong section.

16 BY MR. FALK:

17 Q. You filed a claim for ineffective of counsel. And I
18 believe on that last page, you sort of put more specificity
19 there; is that correct?

20 A. Yes.

21 Q. Could you read those for the Court?

22 A. Failure to object to improper and insufficient
23 foundation with medical examiner Amy Shield who was
24 unavailable for trial to attest to the medical examiner
25 report.

1 Continue?

2 Failure to --

3 Q. Go on.

4 MS. WILSON: Is he reading the claim for us to just
5 know, because they are already reflected in the record?

6 MR. FALK: Okay.

7 THE COURT: Same page, I believe, I'm on, A through
8 F?

9 MR. FALK: A through F.

10 THE COURT: I've got those right here.

11 BY MR. FALK:

12 Q. So, Mr. Green, who was your lawyer in the trial?

13 A. Mr. Demal Mattson.

14 Q. And that's the gentleman sitting right here?

15 A. Yes, sir.

16 Q. Was he retained counsel or were you appointed him?

17 A. Retained.

18 Q. Okay. And what did he tell you about his plans for
19 investigating this case?

20 A. Well, what I could recall was that he already know
21 that everybody was telling the untruth. And only thing he
22 needed to do was show the jury that nobody, you know, came up
23 with a legitimate story.

24 Q. How many times had he met with you?

25 A. I guess possibly like four times out of the whole,

1 like, 17 months.

2 Q. Okay. Did he ever tell you that he was suffering
3 from any type of mental health problem?

4 A. Only once before we were about to go to trial, I
5 guess getting all our statements and paperwork together to
6 proceed to trial within a week or so. And, you know, he had
7 kind of mentioned that he had had a tumor that got removed.
8 And, you know, I know I have a fiancée' who is suffering with
9 the same situation.

10 Q. And did he tell you that was going to affect his
11 performance?

12 A. Didn't go into that point asking him about that
13 because I was about to go to court, so under kind of stress,
14 you know, not knowing what was going on.

15 Q. Okay. So did you give him a list of witnesses to
16 investigate?

17 A. Yes, sir. And he already had got some witnesses
18 from people who made statements, I guess, the night in
19 concern.

20 Q. Did he discuss with you the evidence that the State
21 had? Did you review Rule 5 materials with him?

22 A. Yes, but that was closer to, like, a month or so.
23 Basically, around the last meeting we had before I went to
24 trial, we were getting a lot of notes and stuff together.

25 MR. FALK: Your Honor, if I may have a minute. We

1 changed the order at the last minute who we were calling up
2 and I need to find a piece of paper.

3 THE COURT: Fine.

4 BY MR. FALK:

5 Q. Did he at any time discuss with you about putting
6 in -- stipulating to some testimony?

7 A. No, sir.

8 MR. FALK: May I approach?

9 THE COURT: You can.

10 BY MR. FALK:

11 Q. We are going to mark this as Applicant's Exhibit 1.
12 Can you identify that?

13 A. Yes, I can.

14 Q. And without saying what was actually in the letter,
15 can you tell us who it was from?

16 A. It was from the, I guess, the baby mom of Brandon
17 Parker. I didn't really know their relationship. I had
18 received a letter from her in the county jail. I guess,
19 basically, he had -- her and him was going through some bad
20 things. And she had written me to see what was going on,
21 like if it was really because of her, why we had a situation
22 together.

23 Q. So after you received that letter, did you show that
24 to your trial counsel?

25 A. Yes, I called him immediately.

1 Q. And why did you want to show that to him?

2 A. Because I wanted him to know that I didn't have
3 anything to do why Mr. Parker was, I guess, upset with me,
4 see what was his mind thought. And she written me and didn't
5 know what was going on either, and I guess was asking me for
6 questions, or answers.

7 Q. Did you think that the information was relevant to
8 your self-defense claim?

9 A. I think it was very relevant, yes, sir.

10 Q. And why do you think that?

11 A. Because I didn't know what was going on. It caught
12 me by surprise of the situation that had tooke (sic) place.
13 And shed light more on the fact that, obviously, they had
14 some kind of situation that they spoke about before me and
15 him actually had engaged in any kind of altercation. And,
16 you know, that could have at least explained his mind thought
17 or mind frame at the time.

18 Q. Because you contend that your frame of mind at the
19 time was relevant to whether or not you needed to assert
20 self-defense?

21 A. Well, I mean, yes, sir. I mean, the fact that it
22 came unexpected, I didn't even know what was going on at the
23 time. Me and him got in a physical altercation.

24 Q. Did he call the person that sent you that letter to
25 the stand?

1 A. No.

2 Q. Did you ask him to?

3 A. Yes.

4 Q. Was there an explanation why he didn't?

5 A. He said he was going to look into it. And I saw
6 that when we was in trial and getting close to the end, I
7 asked him, was you going to enter this as evidence. He said,
8 hold on, or something, and then trial proceeded with the jury
9 with the verdict.

10 Q. Beg your pardon?

11 A. Trial proceeded with the jury with the verdict. I
12 was trying to, last, do you have any more things you need to
13 say or bring to my attention. And I tried to give it to him,
14 asked him why he didn't put that in evidence.

15 Q. You talked to him about the letter prior to the
16 commencement of your trial; is that correct?

17 A. Yes.

18 Q. About how far in advance?

19 A. When I first got the letter, he came to see me,
20 because we still had to sign some documents as far as our
21 contract, what he was going to be charging me to take the
22 case and how I'm going to handle my financial situation to
23 pay him, and we spoke about it then.

24 Q. And then your testimony is before the close of the
25 trial, you asked him about it?

1 A. Yes, because I didn't saw it put into the trial to
2 further help me, assist me.

3 Q. Can you tell me who George Thomas is?

4 A. That's my fiancée's father.

5 Q. And how did -- did he testify at your trial?

6 A. Yeah. He was being a character witnesses.

7 Basically, state my character, how he, you know, viewed me
8 around him before the situation had happened.

9 Q. How far in advance of the trial did you suggest to
10 your lawyer that he call Mr. Thomas to the stand?

11 A. I want to say like about two, three months before
12 the trial, because we was getting ready to wrap it up. At
13 first, we had our first date and it had got rescheduled. So
14 it was about a month or so before then. And then we got
15 rescheduled. And we already had a list of names who we could
16 have used, you know, to state my character.

17 Q. Did you give him contact information for Mr. Thomas?

18 A. Yes. I gave him all the information for everyone.

19 Q. Did you know anything about Mr. Thomas's legal
20 background?

21 A. No.

22 Q. Were you aware that he had a criminal conviction?

23 A. No.

24 Q. Did he ever share with you the results of the -- did
25 you know if he hired a personal private investigator?

1 A. Yes. He told me he was -- we had needed to set
2 aside some funds for a private investigator, yes.

3 Q. I talked to you earlier about the stipulation. Do
4 you know what the stipulation was regarding?

5 A. I didn't know anything about a stipulation until it
6 was brought upon in court. Because, once again, I didn't
7 know any law terms or anything was going on. And, you know,
8 it was something stipulated in the court. And as -- once I
9 got arrested and been able to research to see what was going
10 on, I finally realized what that was for.

11 Q. And do you know what you wound up stipulating to?

12 A. Now, I do, that the gun that was used, they agreed
13 upon saying that this was the gun that killed Brandon Parker.
14 And I guess they agreed upon that that was the weapon.

15 Q. Do you know how he came into possession of it?

16 A. He came to me -- he helped me -- he assisted me
17 turning myself in. And a couple of days later, he said that
18 the solicitor had wanted the weapon that was involved. And
19 not knowing, you know, I asked my lawyer, I thought -- did
20 what he told me to do.

21 Q. Okay. And so you gave the solicitor your -- the
22 possession of the gun?

23 A. Yes. It was stated that he didn't want nobody else
24 to use the gun at any other crimes, that it's best to get it
25 off the streets, you know. And so I gave it to him.

1 Q. Did you tell him that you thought that you should
2 then say this was the gun that was used in the crime?

3 A. No.

4 Q. Did you tell him that you thought it would be a good
5 idea to say that -- that's enough.

6 MR. FALK: I have no further questions of this
7 witness.

8 THE COURT: Was self-defense presented to the jury
9 on this?

10 MR. FALK: Yes, it was.

11 THE COURT: Go ahead, Ms. Wilson.

12 CROSS-EXAMINATION

13 BY MS. WILSON:

14 Q. Mr. Green, you've talked about meeting with
15 Mr. Mattson for approximately four times. Did you talk to
16 him on the phone or communicate with him via mail?

17 A. After I got out of the county jail, I went to his
18 office.

19 Q. And this letter that you received from Ms. Gennings,
20 you said you shared that with Mr. Mattson?

21 A. Yes.

22 Q. And do you recall him at trial arguing to the jury
23 that it was possible that the victim was upset in some way
24 based on an interaction that you had with Ms. Gennings?

25 A. It wasn't -- that wasn't never brought up to the

1 court hearing. I was trying to, in my testimony, express
2 that this part could be a reason why he was attacking me.
3 But he didn't really get a good investigation or get it told
4 to the jury how it needed to be spoken about.

5 Q. So when you testified at trial, you basically told
6 the jury that the reason that the victim maybe had some
7 animosity towards you was based on some interactions you had
8 with his child's mother; is that correct?

9 A. Yes, which I didn't even have any interaction with
10 her.

11 Q. But that's what you were explaining to the jury?

12 A. Yes, I was trying to explain it to the jury.

13 MS. WILSON: Thank you.

14 MR. FALK: No redirect.

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

16 MR. FALK: We call Mr. Mattson to the stand.

17 DEMALL MATTSON, JR.,

18 having been duly sworn, testifies as follows:

19 THE WITNESS: Unusual position for a trial lawyer.

20 THE CLERK: For the record, if you will please state
21 your name, spelling your last name.

22 THE WITNESS: Demall Mattson, Jr.

23 DIRECT EXAMINATION

24 BY MR. FALK:

25 Q. Mr. Mattson, did you represent Jonta Green?

1 A. Yes.

2 Q. And you were retained to represent him; is that
3 correct?

4 A. Yes, definitely.

5 Q. How many times did you meet with him?

6 A. Unfortunately, I do not have my file. I do not know
7 what happened to it, and neither does my wife, who is my
8 office manager. I believe that the file was turned over to
9 someone at Jonta's request.

10 I was always available for Jonta when he had a
11 question. At the beginning of his case, I even went to the
12 Huddle House on Dorchester Road with about 12 members of his
13 family about the bond hearing and met with them. I met with
14 Jonta the morning after the crime and turned Jonta in.

15 I visited Jonta in Charleston County Detention
16 Center on numerous occasions about getting the bond and
17 trying to get the bond reduced. And also talking to the
18 Solicitor's Office about what they would or would not agree
19 with on the bond.

20 Q. So what was basically -- did you all have a
21 discussion about what your theory of defense was going to be?

22 A. Excuse me?

23 Q. Did you all have a discussion as to how you were
24 going to defend him? What your theory was going to be? Was
25 it --

1 A. Well, the first thing, you know, was to get
2 discovery and what have you, then try to develop a theory.
3 The first difficulty with the case was that the people at the
4 party -- Jonta -- Jonta picked up his brother, who had
5 been -- I would rather just tell the whole story rather than
6 question in time. But, anyway --

7 Q. Well, let me try to focus it.

8 A. Jonta -- this happened at a party. Jonta went by
9 the home because he had received a telephone call from
10 someone about somebody who owed Jonta either 20 or \$40. And
11 when Jonta got the call, he was right around the corner from
12 where the party was, talking to a female, who I believe was a
13 cousin of his, because Jonta was selling some shoes out of
14 the back of his car.

15 Q. So, just getting back to my question --

16 A. What I'm leading up to is, numerous people at the
17 party personally knew Jonta. And so that kind of made the --
18 a lot of strategy as to who may or may not have done it; kind
19 of took that out of the mix, because of the number of people
20 who knew him.

21 Q. So is it safe to say that you were not going forward
22 on the theory of factual innocence?

23 A. No.

24 Q. I think there was testimony here, so you were going
25 on a self-defense theory; is that correct?

1 A. I knew that was a distant shot, but I was going
2 after anything that would get it out of the realm of murder
3 and substantially reduce the maximum penalty to which he was
4 exposed with the murder charge.

5 Q. Okay. Did you request that the jury be charged on
6 the law of self-defense?

7 A. Yes, and I believe it was.

8 Q. And did you also request that the jury be charged on
9 accident?

10 A. Don't think so.

11 Q. I will come back around to that question. I do
12 believe that during the charging conference, there was a -- I
13 mean, if the record reflects that --

14 A. What the record reflects --

15 Q. -- is what it reflects?

16 A. Yes.

17 Q. Because I believe that during the charging
18 conference, y'all discussed accident. I believe that there
19 was charge to the jury on accident.

20 A. Okay. I won't argue with anything that's in the
21 record.

22 Q. So we are going forward that this is going to be a
23 self-defense. So you were putting on evidence about
24 self-defense; is that correct?

25 A. Yes.

1 Q. Okay.

2 A. And I was hoping if that didn't work, it would fall
3 somewhere in the involuntary to voluntary manslaughter range,
4 hopefully.

5 Q. Did you stipulate to certain testimony in this case,
6 certain facts?

7 A. Yes.

8 Q. Can you recall what they were?

9 A. Well, Jonta testified about the weapon. I did
10 stipulate as to that, because everybody saw it. And the
11 fellow died with a big hole in his head. After Jonta and --
12 sorry about that. What was the victim's name?

13 MS. WILSON: Brandon.

14 MR. FALK: Brandon.

15 THE WITNESS: Thank you. Brandon Parker, right,
16 there you go. After Brandon and Jonta got into a scrap and
17 the gun came out and the gun -- people saw the two of them
18 struggling over the gun.

19 Jonta only has one arm, because when he was about 12
20 years old, he was electrocuted and lost his left arm. And so
21 had a person with one arm struggling with somebody with two
22 arms over the gun. Nobody really knows where or who pulled
23 the gun, because Jonta had stuck it in his waistband. And
24 all of a sudden, the gun is out and in the air. And Jonta
25 and Brandon Parker are fighting over it, and the gun went

1 off.

2 Q. Do you recall testimony that witnesses said they saw
3 a chrome gun, that it was a shiny gun?

4 A. It wasn't chrome.

5 Q. No, but that was what the witness testimony was?

6 A. I think one may have.

7 Q. Okay. Jonta --

8 A. Of course, they also found marijuana and cocaine at
9 the party. So, you know, after the murder, they were
10 searching all the vehicles and everything.

11 Q. What strategic advantage did you gain by stipulating
12 to the fact that that was the gun?

13 A. Why not? For the simple reason, people saw them
14 fighting over the gun and the gun going off and Brandon
15 Parker falling to the ground. And I think Jonta at one time
16 put his arms around him to try to hold him up. Then Brandon
17 did fall to the ground.

18 Q. So was that part of your trial strategy?

19 A. Yeah. I don't believe in presenting to a jury and
20 fighting over an issue that I feel is just going to have the
21 jury think, that scoundrel is just arguing every and
22 anything. Common sense will tell you there was a gun
23 involved. And, to me, you argue too many points in the
24 courtroom that you know you are going to lose, you can
25 alienate the jury by having them think, he's trying to

1 mislead us. And that's the worst thing, I think, that can
2 happen to a trial lawyer, is for the jury to start to believe
3 you are trying to mislead them and they can't trust anything
4 you say.

5 And that's the theory on which I've tried cases
6 since 1967. And it's still the way I try cases now, which is
7 47 years later.

8 Q. But you did want to try to create in the jury's mind
9 that this was a scuffle and possibly the gun went off by
10 accident, possibly?

11 A. Yes, I did. And, hopefully, I will get to tell the
12 story of why that came about and how it came about.

13 Q. There was -- the State called Dr. Schandl to testify
14 on the autopsy report, did they not?

15 A. Yes. And she was not the pathologist who did the
16 autopsy --

17 Q. Can I ask a question, please?

18 A. Yeah.

19 Q. And so was part of the pathology report that the gun
20 wound -- there was an entry wound and an exit wound to
21 indicate that it was a downward-facing path?

22 A. I don't recall there being an exit wound.

23 Q. Do you recall some testimony that the gun -- the
24 angle of the gunfire was downward?

25 A. I remember that the gunshot was classified as a

1 contact shot, which meant the gun was almost in touch with
2 Mr. Parker's head when it fired.

3 Q. And that was because they were able to show by the
4 autopsy that it was an impact wound and there was no
5 stippling; is that correct?

6 A. Right, which indicated that the gun barrel was
7 almost in direct contact with the head of Mr. Parker when the
8 gun discharged.

9 Q. Do you think that it was be helpful to Mr. Parker's
10 claim of self-defense or accident that the gunshot was placed
11 with the gun in a -- downward facing with the barrel of the
12 gun right against his head?

13 A. I believe that there was no question at all that
14 Mr. Parker died from a head wound from a shot from a 1911
15 model .45 semi-automatic pistol. And that it was extremely
16 close to his head when the gun went off.

17 The two were struggling over the gun. I don't think
18 the angle would have had anything to do with it, because when
19 you are struggling, wrestling over a gun, the position of
20 somebody's head is not quite that important. Somebody -- you
21 know, Mr. Parker was probably trying to do everything he
22 could to control the gun. And Jonta was trying to get the
23 gun out of the fight.

24 And everybody saw the gun. Jonta admitted that he
25 brought it, that it was in his belt. And there's not a whole

1 heck of a lot you can do with that scenario. Again, that's
2 something I didn't want to do, to have it appear that I was
3 trying to keep something from the jury. My main defense was,
4 why did this happen.

5 Q. Well, you will accept that if the gunshot wound
6 showed that it was from three feet away or four feet away,
7 that's inconsistent with the story they were struggling;
8 would you not?

9 A. If the gunshot was three or four feet away?

10 Q. Yes.

11 A. No.

12 Q. That wouldn't be inconsistent with a struggle? I
13 know I asked you a double negative.

14 A. If you and I are fighting over a weapon and both of
15 us have our hands around it and we are going back and forth,
16 if that gun goes off, it's going to be within a few inches of
17 my head or your head or my body or your body. And there will
18 be very little stippling or -- stippling is basically a
19 spread-out gunpowder around the wound. The further it is
20 away, the gun is away from what it hit, the larger the spread
21 of gunpowder or stippling until it reaches a point -- I
22 forget the distance now -- where it's so far away that there
23 is very little stippling or gunpowder at all.

24 In this particular case, there was no stippling.
25 And it was a contact firing or contact wound.

1 Q. Meaning that the gun was right here, going --

2 A. Very, very, very close. I can't remember where the
3 gun was. But considering how they would be struggling over
4 it, if it went off, it's pretty obvious somebody is going to
5 get shot in the head. If they had been shot in the body with
6 them fighting over the gun, then, definitely, it would have
7 been a downward trajectory.

8 Q. Did you ever consider trying to exclude the autopsy
9 report?

10 A. Why exclude a report when the witnesses put the gun
11 as shooting him in the head? I don't know how familiar you
12 are with weapons, but a .45 caliber pistol, the bullet gets
13 its name from being 4.5 inches -- anyway, it measures the
14 size of the bullet in inches.

15 Q. I don't know a lot about guns, but a .45 means .45
16 in dimensions. It is not four and a half inches across. But
17 moving forward --

18 A. The .45 is the size of the bullet --

19 Q. Okay.

20 A. -- in diameter.

21 Q. My question was, did you ever consider having it
22 excluded?

23 A. No.

24 Q. And why is that?

25 A. It was too much evidence, too much evidence and too

1 much witnesses. What happened? And the people knew Jonta.

2 Q. Well, certainly, they could have brought in a death
3 certificate to show that Mr. Parker had died, but they didn't
4 necessarily have to know all the details of the location of
5 the gun --

6 A. There were enough people and police officers to say
7 that it was a gunshot wound to the head.

8 Q. And so under your theory, defense made no difference
9 about how far away the gun --

10 A. In my professional opinion, it did not. And I spent
11 four years in Navy JAG, straight out of law school, doing
12 nothing but trying cases. And I don't believe in trying to
13 convince a jury that something that any man who listens to
14 testimony is going to believe is false. Jurors get insulted.

15 Q. You are familiar with Supreme Court decision
16 *Crawford vs. Washington*?

17 A. I don't know if I am or not. I will say this, I do
18 have one very bad habit, and just like I was having trouble
19 remembering Mr. Parker's name, I am not real good on names.
20 And, therefore, I remember the holdings of cases, but I have
21 to go look up the names and citations.

22 Q. Are you familiar that there's been a change in the
23 law or clarification in the law that a defendant has a Sixth
24 Amendment right to confront his accusers and that hearsay
25 testimony is generally --

1 A. Yes, I am, of course.

2 Q. Okay. So then you are not familiar with the law,
3 Supreme Court decision of *Bullcoming vs. New Mexico*?

4 A. I can't say that I am familiar with the case. The
5 principle law that is established, I probably am familiar
6 with. But to say this is the name of the case, I have never
7 been able to do it.

8 Q. So then are you familiar with the legal principle
9 that an autopsy report contains hearsay information --

10 A. Yeah, definitely, definitely.

11 Q. And --

12 A. In fact, I discuss that -- go ahead.

13 Q. So the person who generated the autopsy report was
14 not present in the courtroom at the time of the trial; is
15 that correct?

16 A. That is correct. They had finished their program,
17 and I believe they were taking another residency in the
18 pathology field.

19 Q. And so they had somebody else bring in the autopsy
20 report?

21 A. Yes.

22 Q. At that time, you could have moved to exclude the
23 autopsy report, could you not?

24 A. It was hearsay, but I didn't see the -- and he did
25 have the right to confront the witnesses against him, but I

1 didn't see where it would have any real significance with the
2 number of witnesses.

3 Q. Do you think if the State did not have the
4 opportunity to put in the autopsy report and if the jury did
5 not know of the existence of the autopsy report, that
6 Mr. Green may have had a different result at the trial?

7 A. Not a chance.

8 Q. So you don't -- it's your testimony you don't
9 think --

10 A. If I had to try the case again today, I would try it
11 exactly as I did the first time. Might be a little nuance
12 difference here or there, but that strategy I would not
13 change.

14 Q. And the reason for that strategy is because you
15 think you want to -- again, could you restate what the
16 strategy would be?

17 A. The strategy was, I didn't want to -- how would you
18 put it? I didn't want to alienate the jury by trying to keep
19 something out that wasn't going to make any difference. And
20 there was something in the testimony of the pathologist who
21 testified that I wanted to get out and I did get out.

22 Q. And what was that?

23 A. Because there were some witnesses -- and you are
24 right, I do remember a witness saying Jonta had a silver gun.
25 And that was the same witness who testified that Jonta had

1 knocked down Brandon Parker, stood over Mr. Parker, pointed a
2 silver gun at him and shot him in his head while Jonta was
3 standing up, like I'm doing at the present time. Because the
4 stippling would have been entirely different. It would not
5 have been a contact shot. The stippling showed there would
6 have been probably stippling about, I don't know, couple of
7 feet around if Jonta had stood over him and pulled the
8 trigger. And I wanted that. And I got that out of her, that
9 it was a contact wound.

10 There was no way the stippling was indicative of
11 Jonta standing over him and pulling the trigger, which means
12 it made for a greater possibility of an accident with two
13 people fighting over a gun. Because if a man has a gun, he's
14 got the adversary knocked down and then he stands over him
15 and takes the gun and shoots him in the head. That ain't no
16 accident.

17 Q. By the same token, if he takes a gun like that and
18 puts it to his temple and shoots him, that's not an accident.
19 That's an execution, isn't it?

20 A. We've got two people fighting over a weapon and
21 neither one of them has aimed the weapon. They are fighting.
22 They are struggling. The gun goes off.

23 And there was one other point that I made to the
24 police officer or to the fellow from SLED, that 1911 model
25 .45 was a very inexpensive gun. I learned to fire that in

1 the Navy. That was standard issue. In fact, the gun was
2 developed in 1911 by Mr. Browning. And you can't buy a
3 semi-automatic gun today that doesn't have a feature of the
4 1911 in it. The 1911 --

5 Q. I'm not sure this --

6 A. I brought this out.

7 THE COURT: I need to take a break. I've got to
8 make a call about 2:30 for something I've got scheduled next
9 week. Let's take a break. Y'all stand for a few minutes.

10 (Whereupon, recess transpired.)

11 THE COURT: Ready to continue?

12 MR. FALK: I'm ready, Your Honor.

13 THE COURT: Go ahead.

14 BY MR. FALK:

15 Q. Just to finish up on this autopsy report, let me
16 read you what the solicitor argued in his closing argument.

17 A. Whose? Mine?

18 Q. The solicitor's closing argument.

19 A. Okay.

20 Q. Do you have a copy of the transcript there? It's on
21 page 800. I'm going to read page 800 of the transcript
22 starting on Line 19, where he says: Brandon doesn't want to
23 be shot. Brandon doesn't want to be killed, but he is killed
24 with a contact wound to his forehead that does not go up. It
25 goes down through his forehead, a complete target red zone.

1 Now, if an autopsy report was not admitted, do you
2 think the solicitor would have been able to make that part of
3 the closing argument?

4 A. I can't say.

5 Q. Do you think that was a persuasive part of the
6 closing argument?

7 A. Well, where the bullet entered would be available
8 from photographs taken by the police department. But I don't
9 know if they would have been able to say what direction the
10 bullet traveled.

11 MR. FALK: Your Honor, the court reporter has the
12 letter that I talked about earlier. I just want to enter
13 that as an exhibit.

14 THE COURT: Okay.

15 MR. FALK: If I may approach.

16 (Plaintiff's Exh. 1, Letter dated 11/10/08 from
17 Shonda Gennings, was marked for identification.)

18 THE WITNESS: Force of habit, I started to say, I
19 have no objection. I'm not used to being --

20 BY MR. FALK:

21 Q. Is that a copy of the stipulation in this case?

22 A. Yes.

23 Q. That is your signature on it?

24 A. Yes.

25 MR. FALK: Could I have this marked as Exhibit 2.

1 (Plaintiff's Exh. 2, Stipulation, was marked for
2 identification.)

3 BY MR. FALK:

4 Q. Did you discuss that stipulation with Jonta before
5 you signed it?

6 A. Definitely. I have never made a stipulation
7 pertaining to evidence in a case without discussing it and
8 the reason for it with the client before doing so. It's the
9 client's case, not mine.

10 Q. Do you remember testimony in this case that Jonta
11 said that he asked to come back to Mrs. Crawford's property,
12 that he came back to Mrs. Crawford's property? Do you
13 remember that?

14 A. Yes, I definitely remember that. He even asked Ms.
15 Crawford or somebody there whether Brandon Parker was still
16 at the scene.

17 Q. And do you recall him -- there being testimony that
18 he asked whether or not he had permission to come on the
19 property?

20 A. He asked somebody for permission to come on the
21 property -- I don't know if it was the lady who owned the
22 house or somebody he thought had some authority -- to look
23 for his gold-rimmed glasses, the walking cane that his
24 brother was using and a -- some kind of -- I don't know, he
25 has the name of it, it's in the record, some kind of

1 expensive cell phone, that were lost during the original
2 scuffle.

3 Q. Do you think in a self-defense case, it would be
4 important testimony that the defendant had permission to be
5 on the property?

6 A. Yeah. And if I recall things correctly, the person
7 that he had spoken to about the items that had been dropped,
8 or whatever, during the original scuffle, told Jonta, yeah,
9 but hurry up, because the police have been called.

10 Q. The trial records shows that you cross-examined Ms.
11 Crawford. And it's on pages -- starts on page 155.

12 A. Who was I examining or cross-examining?

13 Q. Cross-examining Mrs. Crawford. I'm just getting it
14 on the index. Do you recall ever asking Mrs. Crawford if
15 Jonta asked to have permission to come on the property?

16 A. The names are somewhat blurred to me right now. I
17 do know he asked somebody about going on the property.

18 Q. Would you accept that if that question is not found
19 in the transcript on those pages, that you did not ask it?

20 THE COURT: What?

21 MR. FALK: I don't want him to have to read the
22 entire thing to find out he never asked the question.

23 THE COURT: Why do you keep asking him? You asked
24 him twice. It's kind of a trap.

25 THE WITNESS: You know, it's a 900-some-odd page

1 transcript. It was a one-week trial.

2 THE COURT: You can ask the question yes or no --

3 THE WITNESS: I know I asked somebody about -- or
4 either that or Jonta testified. I cannot say at this time.
5 If it's not in the record, I would say it's probably pretty
6 good evidence that I didn't ask the question.

7 BY MR. FALK:

8 Q. Okay. Did Jonta call -- did Jonta suggest to you
9 that you call George Thomas to the stand?

10 A. I know he was kin to Jonta's girlfriend.

11 Q. Did you call him as a character witness?

12 A. I cannot answer that question.

13 Q. Did you --

14 THE COURT: Why don't you ask the question this way:
15 Why did you not call so-and-so?

16 MR. FALK: Well, he did call the person. So the
17 record reflects that you called Mr. Thomas.

18 THE COURT: Then the question is, why did you call
19 him; not, did you.

20 THE WITNESS: I would have to look at the index.

21 BY MR. FALK:

22 Q. Jonta testified that it was a character witness.
23 Would you agree with that testimony?

24 A. Yes.

25 THE COURT: His girlfriend's dad?

1 MR. FALK: Yes.

2 THE WITNESS: I think he might have been a minister
3 or a kin.

4 BY MR. FALK:

5 Q. Did you talk to him before he testified?

6 A. I talked to everybody before they testified, because
7 at one point in time, I even went to Jonta's church to meet
8 the reverend and people that he was taking, driving to the
9 service who were elderly. And he was driving them to choir
10 practice, et cetera, to verify all of these things. So --

11 Q. Is one of your typical --

12 A. And I do remember having a conversation with
13 Mr. Thomas beforehand. I had prepared --

14 Q. Let me ask the question.

15 A. Sure.

16 Q. Did you ask him whether or not he had a criminal
17 record?

18 A. Ask who, if who had?

19 Q. Mr. Thomas.

20 THE COURT: Why would you do that?

21 THE WITNESS: I can't say.

22 MR. FALK: Because he gets impeached with his
23 criminal record.

24 BY MR. FALK:

25 Q. So you are calling a character witness, and you

1 didn't ask him whether or not he had a prior criminal record?

2 A. I probably did not ask him that.

3 Q. So were you caught by surprise that he had a
4 14-year-old burglary conviction?

5 A. If I didn't ask him, know it, then, yes, I would
6 have been.

7 Q. Would that have been something you would have
8 objected to?

9 A. The cat was out of the bag by the time the question
10 was out. There wasn't any use to object to something that
11 the jury heard.

12 Q. But then you didn't have an opportunity to put in
13 qualifying question?

14 A. But there was more than one person that testified as
15 to Jonta's character. He was not the only one. And the mere
16 fact that somebody may have been a criminal 10, 12 years
17 earlier, does not mean that they can't be a witness and that
18 they are going to lie.

19 Q. No, exactly. That's probably -- Rule 609 says any
20 conviction over 10 years cannot be brought in. But you
21 didn't object to the testimony?

22 A. But it was -- I believe the question was already out
23 and -- out. So that's -- pardon me. This is what I call a
24 damned-if-you-do/damned-if-you-don't situation. If you
25 object, then the judge sends the jury out. And they come

1 back in and he was instructed to ask another question. Then
2 the jury wonders what you were keeping from them.

3 Q. Had you known ahead of time, would you have handled
4 your direct examination differently?

5 A. Probably, yes. I might not have even called him.

6 Q. Do you think it was damaging?

7 A. Not with the other witnesses that I had testifying
8 on behalf of Jonta. Jonta had an extremely close
9 relationship with the elders in his church and even sponsored
10 and paid for a youth basketball team to keep the kids off the
11 street. And all of that went into evidence. So I think the
12 fact that somebody may have had a burglary charge, when
13 you've got the pastor and other people all testifying, is not
14 a turning point in that trial.

15 MR. FALK: I believe I don't have any more
16 questions. Let me just ask my client.

17 We have no further questions.

18 CROSS-EXAMINATION

19 BY MS. WILSON:

20 Q. Just briefly, Mr. Mattson. Do you agree that in
21 order to argue to the jury that Mr. Green was engaging in
22 self-defense, you kind of had to agree that he shot -- or
23 that he shot someone or someone was shot with a gun?

24 A. Yeah.

25 Q. And --

1 A. It was like walking a tightrope.

2 Q. Would you also agree that the testimony that was in,
3 autopsy report about the contact wound, the finding from Dr.
4 Schandl that it was a contact wound, it didn't actually hurt
5 your case that Mr. Green was --

6 A. I actually wanted part of the testimony in about the
7 stippling and the wound being a close-contact wound and get
8 the pathologist to explain what she meant. Because we did
9 have testimony from one witness, like I said, one I got out,
10 that said Jonta knocked him down, stood over him, pointed a
11 pistol at his head and shot him. And that testimony was in
12 conflict with the testimony of the pathologist as to the
13 stippling and contrary to other witnesses' testimony.

14 Q. Now, Mr. Mattson, just kind of general information
15 for the Court. Can you tell us how long you've been
16 practicing law, and just give us a little background of your
17 history as a lawyer.

18 A. Oh, God. Okay. Finished law school in 1967.
19 Passed the bar exam on the first try. Took some tests. Was
20 accepted into the United States Navy with a direct commission
21 as a lieutenant JG. I was a line officer with the legal
22 designation. I attended the Military Naval Officers Training
23 School in Newport, Rhode Island. I successfully completed
24 that. I completed the Military Justice School in Newport
25 Rhode Island. I was then sent to Jacksonville, Florida as a

1 trial and defense counsel, where I participated actively in a
2 couple of court marshals, two or three a month, because
3 Jacksonville was a trial command where they brought UA
4 sailors in to be disposed of and their discipline tried,
5 their cases tried.

6 On May 29th, I left -- no, May 26th, I left Naval
7 Air Station, Jacksonville, Florida, where I went to Naval Air
8 Station Key West on a change of duty orders. I was a
9 lieutenant filling a lieutenant commander's billet and
10 independent duty where I was the legal officer for the entire
11 naval air station Key West and their associated commands,
12 which also consisted of a SEAL team that was attached to the
13 air station who was stationed there, because of the Cuban
14 situation which is still a hot-duty station.

15 When I got out of the navy, I went to work for the
16 law firm of Hollings & Hawkins. That's United State's
17 Senator Hollings, and Falcon Hawkins, former, now deceased,
18 United States District Court Judge Falcon B. Hawkins, and at
19 that time, a friend of mine, P. Michael Duffy, who is now a
20 federal United States judge, is still practicing.

21 I also practiced law for a period of time and shared
22 office space with the Honorable Mendal Davis, former United
23 States Congressman.

24 I have been on my own since I left the firm of
25 Hollings & Hawkins in, yes, '71, '72, '73.

1 Q. Thank you for your history. Now, just kind of --

2 A. And I've always done trial work.

3 Q. Always done trial work.

4 A. Federal, criminal, civil.

5 Q. Okay. And I just kind of want to run through
6 briefly some things, want to make sure you are covered in
7 your representation of Mr. Green. Did you talk to Mr. Green
8 about the elements of the charges and what the State had to
9 prove in order to convict him?

10 A. Let me explain this. That may answer all of your
11 questions. I researched murder from the common law to the
12 present time. I looked at all the lesser-included offenses.
13 I was expecting the -- what do they call it? -- the golden
14 whatever rule, where they try to ask the members of the jury,
15 what if this was your kin and that type of thing, to try to
16 make them feel akin to the victims.

17 I hired a private investigator to investigate this
18 matter. He was very, very good. He had a massive heart
19 attack and died. His credentials were he was with the Air
20 Force intelligence and then he was with the NSA and was
21 retired. He did the investigation with this for me.
22 Couldn't get too much in the black community. They were
23 pretty hostile.

24 As to what I did is, I took the testimony, written
25 testimony in every police report and made notes as to what

1 everybody was saying. I looked for inconsistent comments
2 with the police officers. I looked at time differentials as
3 to what time each officer said something had happened,
4 looking for anything that I could create a question as to who
5 was right, and possibly throw some credibility issues on the
6 police department.

7 I made a list of questions as to what I wanted to
8 ask and how I wanted to cross-examine each and every witness
9 for the State. I discussed with Jonta about the gun and why
10 I thought we should turn the gun in. Because there was no
11 question. The only question was, whose hand was the gun in
12 when it went off, and did it go off accidentally, or did
13 somebody pull the trigger. Because, personally, I wasn't on
14 that particular gun, because it was missing a very
15 substantial safety feature that is on almost every 1911
16 model .45 semi-automatic pistol.

17 I went to -- I hired Dr. Randolph Waid, who was a
18 very well-known neuropsychologist. His curriculum vitae is
19 about 16 pages of small print. He's testified for the
20 justice department, SLED, U.S. Attorney, your office. And
21 the man is brilliant. He did a report on Jonta which was
22 given to the judge before the sentencing.

23 I have always discussed my trial strategy with my
24 client, because I've always, whether it's a civil or criminal
25 case, I have always believed it is my client's case. I don't

1 want to lose the case. I don't go to jail. I don't get
2 money. In a civil case, it's their case. And I discuss the
3 different strategies and I explain to them what I believe the
4 strengths and weaknesses are. I did this is with Jonta.

5 As to my mental competency at the time, my youngest
6 son is 27 years old. I had the surgery when he was 12 years
7 old. It was a tumor about the size of a tangerine. It was
8 not malignant. It was right at -- I forget which side now.
9 But, anyway, it was removed by two surgeons, one of whom was
10 an ENT and the other was a neurosurgeon. I came through the
11 surgery quite well. And the good news was, it wasn't
12 malignant. And it was about 96 to 98 percent attached to the
13 lining of the skull and not the brain itself.

14 Before I went back to practicing law, the surgeon
15 told me that the brain, once you open a skull, it's very much
16 like a computer that's had the hard drive erased. And the
17 brain has to download itself, which I thought was BS. But,
18 anyway, they were right. And how I found that out is, a few
19 weeks later after the surgery, when I still had the skin
20 staples in, somebody wanted me to do them a simple will, and
21 I couldn't do it. My brain would not.

22 So I stayed out of the practice of law for about
23 four and a half months until I was satisfied that my brain
24 had, quote, using a computer term, rebooted itself. And at
25 the time that was going on, my son was 12 years old. And I

1 never will forget. I had a bald head and skin staples from
2 one side to the other. He came home from school and looked
3 at me and said, dad, you look just like Herman. And he is
4 now 27 years old. So that gives you a good time frame as to
5 when the surgery was in relationship to this trial.

6 Q. So your surgery was essentially about --

7 A. So that was 15 years ago, right.

8 And the baby's mother, that was hard.

9 Q. Did you receive the letter that Mr. --

10 A. Yeah, yeah, yeah, I had the letter. I had the
11 letter. I tried contacting her. If you want to know the
12 honest to God's truth, she is the reason for this case.
13 Jonta knows it. I know it.

14 This lady had a baby by Mr. Parker. And then
15 Mr. Parker went in the penitentiary for dealing drugs. I
16 can't remember how long he was in. Jonta, I believe he was
17 at George's, because that was one of the places he went. It
18 was a little bar on the strip, little strip shopping center,
19 kind of across from where K-Mart used to be on 17, maybe a
20 little further out.

21 And he saw her. And she was a very attractive girl.
22 He knew her. I think he bought her a drink and danced with
23 her one time. And that was the extent of it. So, anyway,
24 she called her boyfriend in the penitentiary and told him she
25 talked to Jonta. And he got very, very, very upset. What he

1 didn't know is, baby's mama was pregnant at that time and he
2 wasn't baby's father, and neither was Jonta.

3 And that created the problem. Jonta got a phone
4 call from Mr. Parker at one point in time threatening him.
5 And I talked to her. She did write something in a letter. I
6 think the letter was put in evidence, or it was somewhere
7 around the courtroom today. And I found her to be very, very
8 hostile.

9 Jonta wanted me to -- Jonta felt extremely bad about
10 this situation. Jonta wanted to offer her some money since
11 the baby that was Parker's did not have a father.

12 Jonta's case, I will be honest with you, bothers me
13 today because this thing was -- only thing I can tell you,
14 Jonta is one of the nicest people I ever met, who really
15 spent a bunch of the money he got when he lost his arm
16 because of the SCE&G high tension power line that did not
17 have the proper insulation on it. And he used his money to
18 put his mother through drug treatment. He used it to help
19 his brother. He used it to help his church. He used it to
20 take people to church. He used it to buy uniforms for a
21 youth basketball team and send them to, I believe it was
22 Charlotte where they won the little championship.

23 And Jonta's case worried the heck out of me.
24 Because where the case went bad is after the first scrimmage
25 involving Jonta and Mr. Parker, and when Jonta and his

1 brother lost all of the stuff, when they went up the road,
2 they thought about it, and Jonta put the damn -- pardon me,
3 put the .45 in his belt and went back.

4 He did what he thought was right. He asked if the
5 boys were still there. He was told -- I even went by the
6 house and talked to the lady whose house it was. And she
7 told me that she had told Jonta the police were coming, you
8 better be quick, and that somebody had told him that
9 Mr. Parker had left and he's looking for it. And Mr. Parker
10 shows up and the fight ensues. And Jonta has got one arm
11 against somebody with two arms. The gun came out.

12 Jonta, honest to God, does not remember who took the
13 gun out. I think Parker saw it and went for it and Jonta
14 tried to grab his arm. And they were struggling for it and
15 it went off.

16 But, anyway, the baby's mother, Jonta wanted me to
17 offer her money. And I, to be honest with you, did not know
18 how in the heck to do that without being accused by ethics
19 committee, and God knows who else, of trying to bribe a
20 possible witness in the case. I even talked to Scarlett. It
21 was either Scarlett or her number-two man, Durant.

22 MS. WILSON: Bruce?

23 THE WITNESS: He's kind of crippled a little bit?

24 MS. WILSON: Bruce Durant.

25 THE WITNESS: Durant, yeah, about this. And whoever

1 it was I talked to said, boy, that's a sticky one. Unless
2 she gets an attorney or something, you would be better off
3 not doing anything, which I kind of knew the answer to that
4 question anyway, but I wanted it answered.

5 At the trial, she was sitting -- if I remember, she
6 was sitting in that direction over there. She was an
7 attractive young girl. And by then, she had -- she now had,
8 I think, three children. And I tried talking to her. And
9 the only thing she would say to me is that Mr. Parker had
10 reformed, he was straight, he was spending time with the
11 child and children. And now the children didn't have a
12 father, and what have you. And I said, I don't need this
13 woman on the stand.

14 And as far as talking to the baby's mama, I had an
15 outline for every client. My trial strategy may have changed
16 during the trial depending on what comes out, because if you
17 aren't flexible with your trial strategy and it doesn't go
18 exactly the way you expect it's going to go, if you are not
19 flexible to sidestep or move around it, you are never going
20 to win a case.

21 I went to the church. My mental problems were
22 obvious from hearing me testify today. I do not know how
23 many times I met with Jonta, family members, et cetera. And
24 Jonta would come by and talk to my wife, who's my paralegal.
25 We all love Jonta.

1 And, huh, I don't want to say that. Well, I think
2 Jonta was one of the few clients that asked a secretary out
3 on a date. But I don't know. I'm pretty sure he was.

4 And I am very, very sorry this thing happened this
5 way. But there are times when this wasn't even a situation
6 where he was picked out of a lineup to be identified. These
7 people identified him by name. They knew him. And I was
8 fighting like the devil trying to see that he didn't get
9 convicted of murder.

10 MS. WILSON: Thank you, Mr. Mattson.

11 THE WITNESS: Did I leave out anything?

12 MS. WILSON: I think you covered it all. Thank
13 you.

14 THE WITNESS: I'm sorry, Jonta. I told Jonta I'm
15 sorry how this ended up, but there were just too many
16 witnesses and that he made a tremendous error when he put the
17 gun in his belt and went back. That's what convicted him.
18 Thank God it didn't convict him of murder.

19 THE COURT: All right. You can step down.

20 MR. FALK: I think I asked for both exhibits to be
21 admitted.

22 THE COURT: Just those two?

23 MR. FALK: Yes.

24 THE COURT: That will be good.

25 MR. FALK: We have no further questions.

1 (Plaintiff's Exhibit 1 and 2 are moved into
2 evidence.)

3 MS. WILSON: Nothing from the State, Your Honor.

4 THE COURT: All right. Let me again study what
5 y'all submitted. I will let you know what I say.

6 THE WITNESS: I didn't drool on myself, did I?

7 And I will say in open court to Jonta, I am very
8 sorry how this went down. I did the best I knew how to do.
9 And like I said, if I had to do it over again, I don't think
10 I would change anything.

11 MR. FALK: Your Honor, I know at times judges have
12 asked for proposed orders. Do you want me to submit one?

13 THE COURT: Sure. You can submit it.

14 MS. WILSON: You want a proposed order, Your Honor?

15 THE COURT: Yes.

16 MS. WILSON: Okay.

17 (Whereupon, proceedings are adjourned.)
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,
Certified Realtime Reporter for the State of South Carolina
at Large, do hereby certify that the foregoing transcript is
a true, accurate and complete Transcript of Record of the
proceedings.

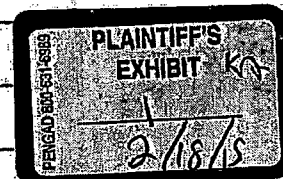
I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter

11/10/08

I've wanted to write this letter for so long but I couldn't think of the words to say. I still really don't know what to say to you but I need to express my feelings to somebody and I don't have many friends. Right now I'm really deeply hurting because I can't get Brandon out of my mind even though we weren't together when everything happened. I just keep thinking that if I had took my son to him that day it would have never happened. I'm sorry I didn't even tell you who I am but I'm sure you've figured out that I'm the baby mama. I don't know if you remembered my name or not. Anyway I feel like I need closure. Janta I know you can't give me details and that's not what I'm asking for. I want to know if I was really the reason for all this. I've heard it alot and I don't understand. But it's more about my son than anything. He's only two and doesn't understand that his daddy is dead and it's impossible to explain it. It hurts me so much when he asks about him. Brandon was only home for a month and a half and BJ went to him every weekend since he came home. He really loved him alot. BJ loved to go with him too. I was happy for that. You know to have a baby daddy who actually loved and cared for his son. But you took that from him and now months later I don't know what to do. I feel like I'm struggling and alone now. It's hard raising kids alone and I did it for a year and a half before Brandon came home and now I'm stuck doing it for the rest of his child life. But I'm not gonna keep you I just really don't know what to do anymore.

Shonda Jennings



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

-versus-

JONTA EMBRAY GREEN

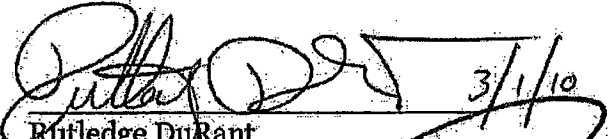
Defendant.

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUITINDICTMENT #: 2009-GS-10-00113,
00116WARRANT #: F969845, F969846
CHARGE: MURDER, Possession of a
Pistol During a Violent Crime

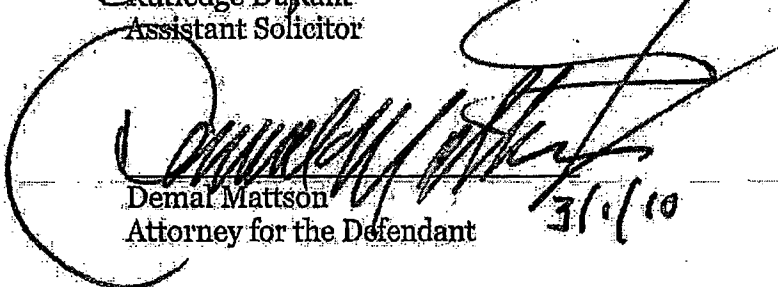
STIPULATION OF THE PARTIES

The parties hereby stipulate and agree that,

1. The defendant, Jonta Embray Green, possessed one HAFDSA 45 Auto caliber pistol, Model Ballester-Molina, serial number 69458 on September 19, 2008.
2. This is the same gun which fired the bullet that resulted in the death of the victim, Brandon Kyle Parker on September 19, 2008.
3. This gun was brought to the residence at 1344 St. Claire Street in Charleston County by the defendant before it fired the bullet which resulted in the death of the victim.
4. This gun was turned over to defense counsel, Mr. Demal Mattson, by an unknown party, at a time after September 20, 2008.
5. On September 24, 2008, defense counsel tendered this gun to the Charleston Police Department in the custody of Det. David Osborne.



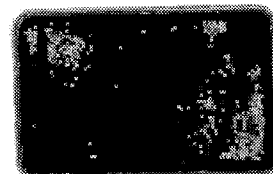
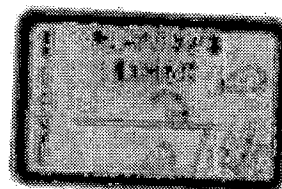
Rutledge DuRant
Assistant Solicitor



Demal Mattson
Attorney for the Defendant

3/1/10

3/1/10



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jonta Green, #340485,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2013-CP-10-6337

ORDER OF DISMISSAL

FILED
2015 JUL -7 AM 11:23
JULIE J. ANDERSON
CLERK OF COURT

Presiding Judge:
Applicant's Attorney:
Respondent's Attorney:
Trial Counsel:
Date of Hearing:
Court Reporter:

The Honorable Eugene C. Griffith, Jr.
James Falk, Esquire
Ashleigh R. Wilson, Esquire
Demal Mattson, Esquire
2/18/2015
Karen V. Anderson

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 28, 2013. The Respondent made its return on December 22, 2014. An evidentiary hearing on the matter was convened on February 18, 2015 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by James Falk, Esquire. Ashleigh R. Wilson, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

Also testifying was Demal Mattson, Esquire. The Court had before it the trial transcript, the Charleston County Clerk of Court records, and the Applicant's records from the South Carolina Department of Corrections, the Applicant's application, the Respondent's return, the appellate records, and the exhibits submitted by the Applicant during the evidentiary hearing¹.

¹ Applicant's exhibit 1- a letter to the Applicant from Shonda Gennings; Applicant's exhibit 2- the stipulation of the parties regarding the gun turned in to police.

1 SCAG. 1/11

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the January 2009 term of the Charleston County Grand Jury for murder (2009-GS-10-0113). The Applicant was represented by Demal Mattson, Esquire.

On April 22, 2011, the Applicant proceeded to trial and was found guilty of the lesser included offense of voluntary manslaughter. The Applicant was sentenced by the Honorable Deadra L. Jefferson to confinement for the period of twenty-three years. The Applicant's sentence was amended on May 11, 2011 to twenty years.

The Applicant filed a timely Notice of Appeal. His appeal was perfected by Susan Hackett, Esquire, of the South Carolina Office of Appellate Defense. The Applicant's appeal was dismissed by the Court on January 30, 2013 after review pursuant to Anders v. California. The Remittitur was issued on February 21, 2013.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failure to object to improper and insufficient foundation where the medical examiner Amy Shield was unavailable to attest to the medical examination report.
 - b. Failure to object to Dr. Schandl's hearsay testimony of Dr. Shield's medical examination report.
 - c. Failure to object where the question of the cause of death would call for speculation.
 - d. Failure to advise that stipulation waived his right to prove every element of the alleged crimes.
 - e. Failure to advise that the stipulation would create a burden shifting affect and cause the Petitioner to prove self-defense.
 - f. Failure to advise the Petitioner of serious medical issues from brain surgery.

2 JCH 2/11

At the hearing, Applicant proceeded solely on the allegations of ineffective assistance of counsel for the following reasons:

1. Ineffective assistance of counsel.
 - a. Failure to investigate witnesses.
 - b. Failure to call Shonda Gennings.
 - c. Stipulating about the gun turned in by the Applicant at trial.
 - d. Failure to object to Dr. Schandl's hearsay testimony of Dr. Shield's medical examination report.
 - e. Failure to advise the Petitioner of serious medical issues from brain surgery.

All allegations raised in the application and not addressed in this order are deemed abandoned as the Applicant failed to present any evidence, argument, or testimony regarding such claims.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. Sec. 17-27-80 (2003).

Summary of the Testimony

The Applicant, Jonta Green, was present and testified he retained Demal Mattson to represent him at trial. He testified he met with counsel four times within seventeen months. He testified counsel mentioned having a tumor removed before he went to trial. The Applicant also testified he told counsel to investigate witnesses, but trial counsel already had witnesses. The Applicant testified he showed counsel a letter from his child's mother and told him he wanted to call her as a witness at his trial. The Applicant testified trial counsel said he would look into it,

but he never put the letter into evidence. He testified further he also wanted counsel to call his fiancé's father as a character witness.

The Applicant testified he reviewed his discovery materials with counsel shortly before trial. He testified trial counsel told him to set aside funds for a private investigator. He testified he did not discuss stipulating to testimony with counsel prior to trial. The Applicant testified counsel stipulated that the gun turned in by the Applicant was used to shoot the victim. He testified trial counsel helped him turn himself in. The Applicant testified counsel told him the solicitor wanted the weapon, so he turned the weapon in.

Also present and testifying was Demal Mattson, Jr., Esquire. Mr. Mattson testified he was retained to represent the Applicant. Counsel testified he has been a trial lawyer since 1967. He testified he was always available to speak to and meet with the Applicant and his family. He testified he also met with the Applicant several times at the jail about his bond.

Counsel testified the first thing he did was get the discovery materials and try to develop a defense theory for the case. He testified the difficulty with the case was that several people at the party personally knew the Applicant and had identified the Applicant as the shooter. Counsel testified "who done it" was not an issue and they could not go forward on factual innocence. Counsel also testified he discussed his trial strategy with the Applicant. Counsel testified he discussed the strengths and weakness of self-defense with the Applicant. Counsel testified they ultimately decided to go forward on self-defense. He testified the defense was a distant shot, but at least it would increase the Applicant's potential for acquittal or conviction to something lesser than murder. Counsel testified they presented testimony about self-defense with the hopes that the Applicant would get voluntary or involuntary manslaughter.

Counsel testified during his investigation, he looked for anything to challenge the credibility of the State's witnesses. He testified he made a list of questions for each State witness. Counsel testified they hired a private investigator. He testified the investigator did not get much because the community was hostile. Counsel testified he took all witness statements and reports and made notes and looked for inconsistencies and discrepancies.

Counsel testified he stipulated to certain facts at trial. He testified he stipulated about the weapon belonging to the Applicant because everyone saw the Applicant and the victim fighting. He testified he discussed with the Applicant why they should turn over the gun. He also testified that to argue self-defense you had to agree that the Applicant shot the victim. Counsel testified his strategy was to argue people saw the Applicant and the victim fighting over the gun and the victim was shot. Counsel testified stipulating the weapon being the Applicant's was part of his trial strategy. He testified the only question about the gun was who pulled the trigger. Counsel testified he did not believe in fighting with the State over an issue that the jury would wonder what they were fighting over. Counsel testified it was common sense that the gun was involved, and he did not want the jury to think that he was misleading them.

Counsel testified the State called Dr. Schandl at trial. He testified there was no question that the victim died from a head wound and that the gun was close to his head. He testified the angle of the shot was not relevant because the Applicant and the victim were seen wrestling over the gun. He testified he recalled the victim's wound being classified as an exit wound.

Counsel testified there was no use excluding the autopsy report when witnesses testified the victim was shot in the head by the Applicant. He testified he did not consider having the report excluded because so many witnesses had already said what took place. Counsel testified

no matter how close the gun was to the victim's head during the struggle, he did not want to try to convince the jury that something was false when it was obviously true.

Counsel testified he is aware that the Applicant has a Sixth Amendment right to confront his accusers. He testified he was aware that the autopsy report contained hearsay, but he did not think that the report had any real significance with all the witnesses to the shooting. He testified without the autopsy report the outcome would have been the same and he would have stuck with the same strategy. Counsel testified it was his trial strategy not to alienate the jury by having something excluded that did not matter. He testified he also wanted to elicit helpful testimony from the pathology expert. Counsel testified the stippling noted in the autopsy report showed that the Applicant could not have been standing over the victim when he was shot as one witnesses testified.

Counsel testified he discussed the stipulation about the gun with the Applicant before he signed it. He testified he always discusses stipulations with clients because it is the client's case not his. Counsel testified he was aware of George Thomas as a potential character witness. He testified he spoke to all the witnesses before they testified. He testified he went to the Applicant's church to meet the reverend and an elder who the Applicant drove to church to verify issues. Counsel testified he was surprised that Thomas had a prior criminal record, but he did not need to object to something that was explained. He testified a criminal conviction fourteen years prior does not mean the person is a liar and cannot be a good witness. He testified with the Applicant's other character witnesses, Thompson's testimony and prior conviction were not damaging to the defense's case.

Counsel testified he had seen the letter from Gennings, mother to the applicant's child, prior to trial. He testified he tried contacting Gennings prior to trial, but was unable to. Counsel

testified Gennings is the reason for the murder. Counsel testified Gennings also had a child with the victim. The Applicant had spoken to Gennings prior to the night of the killing. Counsel testified Gennings called the victim and told him about the Applicant and the victim got upset. Counsel testified he tried to talk to Gennings at trial, but all she said was that the victim was reformed after his incarceration. He testified he found Gennings to be very hostile. Counsel testified he did not want to call Gennings as a defense witness.

Lastly, Counsel testified that he had surgery to remove a benign tumor that was attached to his skull fifteen years ago. He testified he did not practice law for four and a half months after the surgery to allow his brain to recover. Counsel testified the tumor did not affect his ability to effectively represent the Applicant.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "the burden of proof is on the applicant to prove his allegation by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For the Applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668 (1984), Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of

trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668).

It is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable. A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.

Strickland at 689, 104 S. Ct. at 2065

This Court finds the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and provided thorough representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

Stipulation to the gun as evidence

Applicant alleges Counsel was ineffective for stipulating to the gun as evidence as part of the State's case. This Court finds this issue meritless.

While Applicant alleges Counsel did not consult with him before stipulating to the gun as evidence, Counsel testified to the contrary. Counsel also testified that many eye-witnesses stated

they saw Applicant shoot the victim. Counsel further testified it was fruitless to argue about the gun to the jury as he did not want to alienate the jury over a non-issue.

Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of counsel. Caprood v. State, 338 S.C. 103, 525 S.E.2d 514 (2000). "Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel." Whitehead v. State, 308 S.C. 119, 417 S.E.2d, 529 (1992).

This Court finds Counsel articulated valid reasons for stipulating to the gun as evidence based on the facts of the case and his professional assessment of the case. This Court agrees with Counsel that it would have discredited his defense of self-defense to argue over who possessed the gun during the incident when many witnesses stated it was the Applicant. This would have certainly alienate the jury and detracted from his valid defense strategy. This Court also notes that Counsel's strategy of self-defense or voluntary manslaughter was highly effective as Applicant was convicted of the lesser included offense of voluntary manslaughter instead of murder. Therefore, this Court finds Applicant failed to meet his burden of proof as to this argument. Thus, this allegation is denied.

Failure to call witnesses

Applicant also alleges Counsel was ineffective for failure to call certain witnesses on his behalf at trial. Applicant specifically wanted Ms. Gennings and Mr. Thomas to testify on his behalf.

Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499

U.S. 982 (1991). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998).

This Court finds Applicant can prove no prejudice for Counsel's failure to call these witnesses on his behalf at trial as these witnesses did not testify at the PCR hearing. Further, Counsel testified he investigated these witnesses and found Ms. Gennings to be hostile. This Court finds Applicant has failed to meet his burden of proof as to this allegation. Thus, this allegation is denied.

Accordingly, this Court finds the Applicant failed to prove the first prong of the Strickland test- that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in their representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland- that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application in this matter and not specifically addressed in this Order, this Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant abandoned such allegations. Therefore they are hereby denied and dismissed.

CONCLUSION

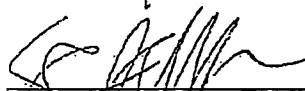
Based on all the forgoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 1 day of July, 2015



Eugene C. Griffith, Jr.
Presiding Judge
9th Judicial Circuit

Raymond, South Carolina.

STATE OF SOUTH CAROLINA	)	IN THE COMMON PLEAS COURT
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Jonta Green	)	CASE NO.: 2013-CP-10-6337
Applicant	)	
vs.	)	
	)	MOTION TO RECONSIDER
State of South Carolina	)	
Respondent,	)	
_____	)	

To: Rutledge Johnson, Esq. Office of the SC Attorney General, PO Box 11549 Columbia, SC 29211-1549.

FILED
 2015 JUL 23 PM 1:18
 JULIE J. ARMSTRONG
 CLERK OF COURT

The Applicant Jonta Green, by counsel moves this court pursuant to Rule 59(e) SCRCP, to Alter and or Amend this Court's ORDER OF DISMISSAL in the above PCR action to include findings of fact and conclusions of law on all issues raised at the PCR hearing. As grounds for this action Counsel for Applicant states:

1. That the Order of Dismissal was signed by Judge Griffith on July 1, 2015 and entered into the Charleston County Court of Common Please on July 7th. Defendant received a copy of the Order of Dismissal on July 13, 2015.
2. The PCR hearing in this matter was on February 18, 2015.
3. At the hearing Counsel for Applicant raised the following issues regarding ineffective assistance of trial counsel:
 - a. Failure to investigate witnesses
 - b. Failure to call Shona Gennings
 - c. Stipulating about the gun turned in by Applicant at trial

- d. Failure to object to Dr. Schandl's hearsay testimony of Dr. Shield's medical examination report.
 - e. Failure to advise Applicant of serious medical issues from his brain surgery.
4. In his Order of Dismissal Judge Griffith addressed the following issues in detail:
- a. Trial counsel's stipulation of the gun into evidence; and
 - b. Failure to call witnesses.
5. Regarding the other issues presented at the hearing the PCR judge found that Applicant failed to present any evidence and such issues were abandoned. Therefore the court did not provide findings of fact and conclusions of law regarding:
- a. Trial counsel's failure to object to Dr. Schandl's testimony; and
 - b. Trial counsel's Failure to advise Petitioner of serious medical issues from his brain surgery.
6. Counsel for Applicant respectfully contends that evidence regarding all issues was presented at the PCR hearing and that none of the issues described in numerical paragraph 3 above were abandoned.

Respectfully Submitted,



James K Falk
Falk Law Firm
Po Box 1058
Charleston, SC 29402
(843) 606 6007
(843) 972 9005 fax

Charleston, SC
July 23, 2015

CERTIFICATE OF SERVICE.

Undersigned certifies that on this 13 day of July, 2015 a true copy of this motion was hand-delivered to Rutledge Johnson, Esq. and a copy was deposited in the US mail and addressed to the Honorable Eugene C. Griffiths, Jr. at PO Box 375 Newberry, SC 29108.


James Falk*Counsel for Applicant*

2015 JUL 23 PM 1:18
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
)
) FOR THE NINTH JUDICIAL CIRCUIT

Jonta Green

Applicant,

vs.

The State of South Carolina

Respondent.

C.A. No.: 2013-CP-10-06337

ORDER DENYING APPLICANT'S
MOTION TO ALTER OR AMEND

FILED

AUG 03 2015

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

FILED
2015 JUL 30 AM 9:46
JULIE J. ARMSTRONG
CLERK OF COURT
BY

This matter came before the Court upon Applicant's motion under Rule 59 SCRPC to Alter or Amend its Order of Dismissal dated July 1, 2015. After reviewing and considering the Plaintiff's Motion, I hereby **DENY** the Applicant's Motion to Reconsider, Alter and/or Amend and confirm the previous Order of this Court. Pursuant to Rule 59(e), this matter was decided upon brief without oral arguments as any additional hearing would be redundant and unnecessary.

IT IS SO ORDERED.



Eugene C. Griffith, Jr
Circuit Court Judge

Newberry, South Carolina

July 29th, 2015

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Jonta Green, #340485
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

2015-CP-10-6633
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2015 DEC -9 PM 12:14
CLERK OF COURTINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber Correctional Institution
2. Name and location of Court which imposed sentence Charleston County Court of General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-10-113 Murder
 - (b) 2009-GS-10-116 Poss. of Weapon During Commission of Violent Crime
 - (c)
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) May 11, 2011 20 years (Amended Sentence)
 - (b) April 22, 2010 5 years

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty Yes
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Conviction and sentence affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. January 31, 2013
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Applicant was denied the right to seek
 (b) appellate review of the denial of his
 (c) post-conviction relief application.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) PCR counsel (James Falk) failed to file a
 (b) timely notice of appeal in C/A No. 2013-CP-10-6337
 (c) following denial of the PCR application and
subsequent Rule 59(e) motion.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. Post-conviction relief application (2013-CP-10-6337)
 ii. _____
 iii. _____
 iv. _____

(b) the name and location of the Court in which each was filed:

- i. Charleston County Court of Common Pleas
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. denied and dismissed with prejudice
 ii. _____
 iii. _____

iv. _____

(d) the date of each such disposition:

i. July 13, 2015

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) PCR counsel failed to file timely notice of appeal.

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Donal Mattson, esq., Mt. Pleasant, SC
 - ii. S.C. Office of Appellate Defense
 - iii. James Falk, esq., Charleston, SC
- (b) the proceedings at which each such attorney represented you:
 - i. Trial, sentencing, sentence reconsideration
 - ii. Direct Appeal
 - iii. Post-conviction relief

19. State clearly the relief you seek in filing this application:

Related petition for writ of certiorari

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, John Green #1340485, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

John Green #1340485

SWORN to and subscribed before me this 3rd
day of December, 2015

Ludrean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Vante Green #340485

, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Vante Green #340485
Applicant

SWORN or affirmed to and subscribed before me this
3rd day of December, 2015.

Ludheen Bryant
Notary Public

My Commission Expires: May 26, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Jonta Green,
SCDC No. 340485,

2015-CP-10-6633

Applicant,

v.

**RETURN AND MOTION TO DISMISS ALL
CLAIMS EXCEPT AUSTIN REVIEW**

State of South Carolina,

Respondent.

FILED
2016 AUG 11 PM 12:37
JULIE J. ARMSTRONG
CLERK OF COURT
BY

The Respondent, making its Return to the Application for post-conviction relief filed December 9, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the January 2009 term of the Charleston County Grand Jury for murder (2009-GS-10-0113) and possession of a weapon during the commission of a violent crime (2009-GS-10-0116). The Applicant was represented by Demal Mattson, Esquire.

On April 22, 2011, the Applicant proceeded to trial and was found guilty of the lesser include offense of voluntary manslaughter. The Applicant was sentenced by the Honorable Deadra L. Jefferson to confinement for a period of twenty-three (23) years. The Applicant's sentence was amended on May 11, 2011 to twenty (20) years.

The Applicant filed a timely Notice of Appeal. His appeal was perfected by Susan Hackett, Esquire, of the Office of Appellate Defense. The Applicant's appeal was dismissed by

the Court on January 30, 2013 after review pursuant to Anders v. California. The Remittitur was issued on February 21, 2013.

First PCR Application: 2013-CP-10-6337

The Applicant subsequently filed an application for post-conviction relief (PCR) on October 28, 2013, in which he raised the following allegations:

1. Ineffective assistance of counsel
 - a. Failure to object to improper and insufficient foundation where the medical examiner Amy Shield was unavailable to attest to the medical examination report
 - b. Failure to object to Dr. Schandl's hearsay testimony of Dr. Shield's medical examination report
 - c. Failure to object where the question of the cause of death would call for speculation
 - d. Failure to advise that stipulation waived his right to prove every element of the alleged crimes
 - e. Failure to advise that the stipulation would create a burden shifting affect and cause the Petitioner to prove self-defense
 - f. Failure to advise the Petitioner of serious medical issues from brain surgery

The Respondent made its Return and Motion to Dismiss on December 22, 2014. An evidentiary hearing on the matter was convened on February 18, 2015 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by James Falk, Esquire. Ashleigh R. Wilson, Esquire of the South Carolina Office of the Attorney General represented the Respondent. The Honorable Eugene C. Griffith, Jr. issued a Final Order dated July 1, 2015 dismissing the application with prejudice. The Applicant then subsequently filed a Notice of Appeal with the South Carolina Supreme Court that he later asked to be dismissed without prejudice so that he could file Rule 59 Motion. This Rule 59 motion was denied by Order dated August 5, 2015.

II.

In his second and current application for post-conviction relief, the Applicant alleges that he is being held unlawfully for the following reasons:

1. Applicant was denied the right to seek appellate review of the denial of his first PCR application
 - a. PCR Counsel (James Falk) failed to file a timely notice of appeal following denial of the PCR application (2013-CP-10-6337) and subsequent Rule 59(e) motion

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the Record on Appeal, the Applicant's prior PCR application, and the Applicant's appellate records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Except for the Applicant's claim that he was denied an appeal from the denial of his first PCR application, the Respondent submits that this application for post-conviction relief should also be summarily dismissed because it is successive to the Applicant's prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

Successive applications are disfavored and the burden is on the Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

The Respondent submits that the current allegations were or could have been raised in the proceedings based on the Applicant's prior application for post-conviction relief; thus, the current application is successive and barred under S.C. Code § 17-27-90. The Applicant has failed to establish any sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief. Therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

IV.

The Respondent further submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this Application on April 22, 2011. The South Carolina Court of Appeals dismissed the Applicant's appeal on January 30, 2013, and

the remittitur was issued on February 21, 2013. The Applicant was therefore required to file a PCR application by February 22, 2014. This application was filed on December 9, 2015, which was well after the one-year statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

V.

The Respondent further submits that the Applicant's allegation of ineffective assistance of PCR counsel is without merit. There is no constitutional right to appointed counsel for collateral review of a conviction. Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1990, 95 L.Ed.2d 539 (1987). The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991). Therefore, "the contention that prior PCR counsel was ineffective is not *per se* a 'sufficient reason' warranting a successive PCR application under § 17-27-90." Aice, 305 S.C. at 451, 409 S.E.2d at 394.

The only recognized exception to the rule barring claims of ineffective assistance of post-conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Austin recognizes a general exception to this rule where prior post-conviction relief counsel fails

to appeal the denial of the application. Id. Austin "is limited to its particular factual situation..." Aice, 305 S.C. at 452, 409 S.E.2d at 394. Pursuant to Austin, a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. Accordingly, the Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

VI.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VII.

WHEREFORE, with the exception of the Applicant's allegation that he is entitled to belated review of his first application for post-conviction relief, the Respondent moves to summarily dismiss the application because it is successive to the Applicant's prior post-conviction relief application and was filed after the statute of limitations had expired. The Respondent requests an evidentiary hearing solely on the matter of the Applicant's entitlement to an Austin Review.

[Signatures on the following page]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA VALENZUELA
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Deputy Attorney General

CAITLIN BAZAN HASTINGS
Staff Attorney

P.O. Box 11549
Columbia, S.C. 29211

By:


ATTORNEYS FOR RESPONDENT

August 5, 2016

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

JONTA GREEN, #340485)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2015-CP-10-6633

BY

FILED
AUG 11 PM 12:37
JULIE J. ARMSTRONG
CLERK OF COURT

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss All Claims Except Austin Review** in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Jonta Green, #340485
 Lieber Correctional Institution
 136 Wilborn Avenue
 Ridgeville, SC 29472

DATED this 5th day of August, 2016.


 Brianna Arnone, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)

Jonta Green, SCDC # 340485,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2015-CP-10-6633

**CONSENT ORDER GRANTING RIGHT
 TO SEEK BELATED APPELLATE REVIEW
 PURSUANT TO AUSTIN V. STATE**

FILED
 DEC 5 PM 4:17
 CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief filed December 9, 2015. Respondent made its Return and Motion to Dismiss all Claims Except Austin Review on August 5, 3016.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Charleston County Clerk of Court. During its January 2009 term, the Charleston County Grand Jury indicted Applicant for murder and possession of a weapon during the commission of a violent crime. Demal Mattson, Esquire, represented Applicant. On April 22, 2010, Applicant proceeded to a jury trial in the Charleston County Court of General Sessions before the Honorable Deadra L. Jefferson, circuit court judge. At the conclusion of the trial, the jury convicted Applicant of the lesser-included offense of voluntary manslaughter and as indicted of possession of a weapon during the commission of a violent crime. Judge Jefferson sentenced Applicant to twenty-three years imprisonment for voluntary manslaughter and five years imprisonment for possession of a weapon during the commission of a violent crime, with both sentences to be served concurrently.

Thereafter, Applicant filed a motion to reconsider his sentence on April 30, 2010. On

1
 10/4
 [Signature]

May 11, 2010, Judge Jefferson convened a hearing on Applicant's motion, and after hearing arguments from both parties, granted Applicant's motion and reduced his sentence for voluntary manslaughter to twenty years imprisonment.

Applicant filed a timely notice of appeal and an appeal was perfected on his behalf by Appellate Defender Susan B. Hackett of the South Carolina Commission on Indigent Defense—Division of Appellate Defense. Following the submission of a brief pursuant to Anders v. California, 386 U.S. 738 (1967), the South Carolina Court of Appeals granted counsel's request to be relieved and dismissed Applicants appeal. State v. Jonta Green, 2013-UP-046 (Ct. App. filed Jan. 30, 2013). The remittitur was returned to the circuit court on February 21, 2013.

First PCR Application: 2013-CP-10-6337

Applicant filed his first PCR application on October 28, 2013, alleging the following grounds

for relief:

1. Ineffective assistance of counsel
 - a. Failure to object to improper and insufficient foundation where the medical examiner Amy Shield was unavailable to attest to the medical examination report
 - b. Failure to object to Dr. Schandl's hearsay testimony of Dr. Shield's medical examination report
 - c. Failure to object where the question of the cause of death would call for speculation
 - d. Failure to advise that stipulation waived his right to prove every element of the alleged crimes
 - e. Failure to advise that the stipulation would create a burden shifting affect and cause the Petitioner to prove self-defense
 - f. Failure to advise the Petitioner of serious medical issues from brain surgery

The State made its return to the application on December 22, 2014. An evidentiary hearing was held on February 18, 2015 before the Honorable Eugene C. Griffith, Jr. James K. Falk, Esquire, represented Applicant. Assistant Attorney General Ashleigh R. Wilson of the South Carolina Attorney General's Office represented Respondent. Following the hearing, Judge Griffith denied

and dismissed the application with prejudice by written order filed July 1, 2015. Applicant filed a timely notice of appeal, but later asked the Supreme Court to dismiss his appeal without prejudice so he could file a motion to alter or amend Judge Griffith's order pursuant to Rule 59(e), SCRPC. The Court dismissed Applicant's appeal, and Judge Griffith later denied his motion to alter or amend by written order filed August 3, 2015. Applicant did not file a notice of appeal following this order.

ALLEGATIONS

In his current application, Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective Assistance of PCR Counsel
 - i. PCR Counsel was ineffective in failing to file an appeal following the denial of application.
-

In support of this allegation, Applicant presented an affidavit from former PCR counsel, James K. Falk, wherein Falk states, "I neglected to file a Notice of Appeal from the decision to deny relief under 59(e). . . . Mr. Green it was my error for failing to file a timely notice of appeal, and I regret the inconvenience that this has caused the parties hereto." See attached affidavit from James K. Falk.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant alleges he was denied the right to seek an appeal following the dismissal of his previous post-conviction relief application. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of his or her PCR application.

After review of the facts and circumstances surrounding the waiver of Applicant's right to appeal the denial of allegations in Applicant's post-conviction relief application, the parties

3. 

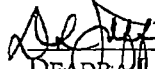
below have consented to the granting of an appeal of Applicant's first post-conviction relief application (2013-CP-10-6337) pursuant to Austin v. State. The parties agree Applicant did not voluntarily waive his right to seek an appeal of the post-conviction relief court's denial and dismissal of Applicant's first application for post-conviction relief. Based on the documents submitted from the previous PCR file, it appears to the parties and this Court Applicant did not freely and voluntarily waive the right to appeal his first application for post-conviction relief, and PCR counsel failed to file a timely Notice of Appeal of the application.

Based upon the foregoing, this Court finds granting Applicant's request to seek belated appellate review of his first PCR (2013-CP-10-6337) pursuant to Austin v. State is warranted. Counsel for the State and Applicant's current PCR counsel consented to the granting of leave to pursue a PCR appeal in this matter. Applicant's current PCR counsel is instructed to file a Notice of Appeal with the South Carolina Supreme Court pursuant to Rule 243, SCACR.

IT IS THEREFORE ORDERED:

1. Applicant remain in the custody of the South Carolina Department of Corrections; and
2. Applicant is granted the right to seek a belated appellate review of case 2012-CP-21-2999 pursuant to Austin v. State.

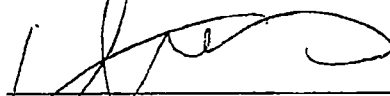
AND IT IS SO ORDERED this 4th day of Dec, 2017.

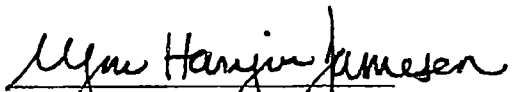

DEBRA L. JEFFERSON

Chief Administrative Judge for Common Pleas
Ninth Judicial Circuit

Chat., South Carolina.

We move and consent:


Christopher L. Murphy, Esquire
Attorney for Applicant


Megan Harrigan Jameson
Attorney for the State

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & J.C.
By 
DEPUTY CLERK

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
<i>Charleston</i>	)	
COUNTY OF ~~HORRY~~	)	FOR THE ~~15th~~ ^{9th} JUDICIAL CIRCUIT
Jonta Green	)	2013-CP-10-6337
Applicant	)	2015-CP-10-6633
Vs.	)	
State of South Carolina	)	AFFIDAVIT OF TRIAL COUNSEL
Respondent,	)	

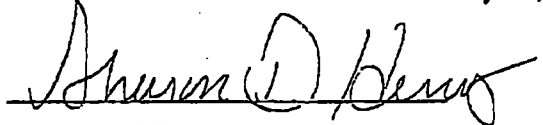
Affiant James K Falk, having been duly sworn hereby deposes and states:

1. I was appointed to represent Jonta Green in PCR action 2013-CP-10-6337.
2. I represented Mr. Green and his evidentiary hearing at which the Honorable Eugen Griffith Jr. dismissed Mr. Green's PCR application.
3. I initially filed notice of appeal and then withdrew the notice so that Mr. Green could file a motion for relief under SCRCP 59(e).
4. Mr. Green's motion for relief under 59(e) was denied.
5. I neglected to file a Notice of Appeal from the decision to deny relief under 59(e).
6. Mr. Green it was my error for failing to file a timely notice of appeal, and I regret the inconvenience that this has caused the parties hereto.

Further the Affiant sayeth Naught!


James K Falk

Subscribed and Sworn to me this July 25, 2017



Notary Public

My commission expires: 4/6/2021