

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Georgetown County

Honorable William H. Seals, Circuit Court Judge

RONALD EDWARD GOODEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000139

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF GEORGETOWN) 2011-GS-22-00054

The State,)
)
Plaintiff,) Transcript of Record
)
vs.) Trial Transcript
)
Ronald Edward Gooden,) October 26-27, 2011
)
Defendant.)

B E F O R E :

Honorable Benjamin H. Culbertson
Georgetown County Courthouse
Georgetown, South Carolina

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

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Circuit Court Reporter

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1 THE COURT: All right, Ms. Bailey, you want to call
2 the next case?

3 MS. BAILEY: Thank you, Your Honor. State calls 2011-
4 GS-22-00054. That is a true-billed indictment for attempted
5 murder. This is State v. Ronald Edward Gooden.

6 THE COURT: All right, have you got the
7 indictment?

8 Now, ladies and gentlemen, like I informed you the other
9 day before we picked a jury on the first case, I have a series
10 of questions to go over with you which is commonly referred to
11 as voir dire questioning. These are questions to determine
12 whether or not you're qualified to serve as jurors on this
13 particular case and it also gives the attorneys some
14 additional information that assists them in the jury selection
15 process. Now, some of these, some of these questions are the
16 same questions that I asked you the other day. There might be
17 different people. It might be the exact same questions, but
18 because this is a new case we do have to create a new record;
19 and so, it will require you to respond to these questions as
20 though it is the first time we've gone through them. As I
21 told you, jurors are constantly taking oaths. So, if I could
22 please get the jury panel to stand and raise your right hand.

23 (Jurors sworn by Court.)

24 THE COURT: Is there any member of the jury panel who
25 did not respond to the oath by saying, "I do"? If so, please

Voir Dire

6

1 stand.

2 (No response.)

3 THE COURT: All right, the Defendant in this case is
4 Ronald Edward Gooden, G-O-O-D-E-N. The alleged victim in this
5 case is Curtis Anderson. Is there any member of the jury
6 panel, any member of the jury panel related by blood or
7 marriage, have a close personal relationship, business
8 relationship, social relationship or any other type of
9 relationship with either the Defendant, Ronald Edward Gooden,
10 or the alleged victim, Curtis Anderson; if so, please
11 stand?

12 (No response.)

13 THE COURT: All right, the potential witnesses in this
14 case, please listen up, the potential witnesses in this case
15 are Curtis Anderson, Jackie Shaw, Sheila Shaw, Gerry Chandler,
16 Greg Tisdale, Al Giles, Sr., Herman Scott, Timothy Harrelson
17 and Matthew Hoefffer, Ronald Gooden, Jackie Shaw, Sheila Shaw,
18 Curtis Anderson, Greg Tisdale and Gerry Chandler. Is there
19 any member of the jury panel related by blood or marriage,
20 have a close personal relationship, business relationship,
21 social relationship or any other type of relationship with any
22 of these potential witnesses? If so, please stand.

23 Yes, ma'am, your name and number?

24 MS. AVANT: Erica Avant, Number Six, Timbo Harrelson,
25 he's a friend of my husband's.

1 THE COURT: All right, Timothy Harrelson?

2 MS. AVANT: Yes, sir.

3 THE COURT: All right, when you say a friend of your
4 husband's, how close of a friend?

5 MS. AVANT: I don't know.

6 THE COURT: I mean, do they see other every day or do
7 they play golf together or is it just a casual acquaintance?

8 MS. AVANT: Casual acquaintance.

9 THE COURT: All right, is their relationship such that
10 it would affect your ability to give both the State and the
11 Defendant a fair and impartial trial?

12 MS. AVANT: No, sir.

13 THE COURT: All right, would you be able to disregard
14 their relationship in its entirety and base your decision in
15 this case exclusively on the testimony and evidence in this
16 case?

17 MS. AVANT: Yes, sir.

18 THE COURT: All right, thank you very much, Ms. Avant,
19 for bringing that to our attention.

20 All right, does anyone else have any type of relationship
21 with any of these potential witnesses? If so, please stand.

22 (No response.)

23 THE COURT: All right, the indictment in this case
24 alleges that on or about October 22nd, 2010, in Georgetown
25 County, whereabouts in Georgetown County was this?

Voir Dire

8

1 MS. BAILEY: In Andrews, in the City of Andrews, Your
2 Honor.

3 THE COURT: All right, in the City of Andrews in
4 Georgetown County, South Carolina, that the Defendant Ronald
5 Edward Gooden with intent to kill Curtis Anderson squirted
6 gasoline on him and set him on fire. That is the alleged, the
7 allegations in this case. Is there any member of the jury
8 panel who has heard anything, read anything, seen anything or
9 discussed anything about this case? If so, please stand.

10 (No response.)

11 THE COURT: All right, the State in this case is
12 represented by Attorney Erin Bailey of the Fifteenth Circuit
13 Solicitor's Office. The Defendant in this case is represented
14 by Attorney Reuben Goude of the Goude Law Firm here in
15 Georgetown, South Carolina. Is there any member of the jury
16 panel related by blood or marriage, have a close personal
17 relationship, business relationship, social relationship or
18 any other type of relationship with either of these attorneys?
19 If so, please stand.

20 (No response.)

21 THE COURT: Has any member of the jury panel, either
22 personally, had a family member or close personal friend
23 represented by either of these attorneys? If so, please
24 stand.

25 (No response.)

1 THE COURT: Has any member of the jury panel ever been
2 involved in any legal action in which either of these
3 attorneys represented another party to that action? If so,
4 please stand.

5 (No response.)

6 THE COURT: Is there any member of the jury panel who
7 either personally or has a family member or close personal
8 friend employed with the Fifteenth Circuit Solicitor's Office
9 or the law office of Reuben Goude? If so, please stand.

10 (No response.)

11 THE COURT: Is any member of the jury panel aware of
12 any bias or prejudice towards either the State of South
13 Carolina or the Defendant in this case? If so, please stand.

14 (No response.)

15 THE COURT: Has any member of the jury panel formed or
16 expressed an opinion about any issue or matter involved in
17 this case? If so, please stand.

18 (No response.)

19 THE COURT: Is there any member of the jury panel that
20 was a member of the Grand Jury that issued the indictment in
21 this case? If so, please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 is a member of or a contributor to any group which has as its
25 primary concern the promotion of law enforcement or victims'

Voir Dire

10

1 rights? Some of these organizations include but are not
2 limited to Mothers Against Drunk Drivers, Students Against
3 Drunk Drivers, Citizens Against Violent Crime or what's
4 commonly referred to as CAVC or Citizens Against Spousal
5 Abuse, also known as CASA. Any member of the jury panel a
6 contributor to or a member of any such organization? If so,
7 please stand.

8 All right, the lady closest to me, your name and number?

9 MS. BONNER: Sandra Bonner, Juror 11. I have conducted
10 fund raising for CASA in the past year as a volunteer.

11 THE COURT: All right, would that association with
12 that organization affect your ability to be fair and impartial
13 to both the State and the Defendant in this case?

14 MS. BONNER: No, sir.

15 THE COURT: Would you be able to disregard your
16 association with that organization in its entirety and base
17 your decision in this case exclusively on the testimony and
18 evidence in this case?

19 MS. BONNER: Yes, sir.

20 THE COURT: All right, thank you very much, Ms.
21 Bonner, for bringing that to our attention.

22 All right, the lady in the back, your name and number?

23 MS. BROWN: Carol Brown, Juror 15.

24 THE COURT: All right, Ms. Brown, you're a member of
25 or a contributor to an organization?

1 MS. BROWN: Yes, I'm a member of CASA 100 that raises
2 funds and contributes to CASA house in Georgetown.

3 THE COURT: Would your membership in that organization
4 and association with that organization affect your ability to
5 be fair and impartial to both the State and the Defendant in
6 this case?

7 MS. BROWN: No, sir.

8 THE COURT: Would you be able to disregard your
9 association with that organization in its entirety and base
10 your decision in this case exclusively on the testimony and
11 evidence in this case?

12 MS. BROWN: Yes, sir.

13 THE COURT: All right, thank you very much for
14 bringing that to our attention. Anyone else?

15 (No response.)

16 THE COURT: Is there any member of the jury panel who
17 has a religious or moral opposition to the consumption of
18 alcohol? If so, please stand.

19 (No response.)

20 THE COURT: Is there any member of the jury panel who
21 either personally, has a family member or a close personal
22 friend who is now or formerly a law enforcement officer or
23 security guard? If so, please stand.

24 Yes, ma'am, your name and number?

25 MS. BROWN: Lori Brown, Juror Number 18, got a cousin

Voir Dire

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1 work at the sheriff's office, and I also overheard some of my
2 co-workers talk about this case. They wasn't, they wasn't
3 talking to me but they was talking to other people.

4 THE COURT: All right, well, first let's talk about
5 your cousin. Your cousin is employed with the ---

6 MS. BROWN: The Sheriff's Department.

7 THE COURT: The Georgetown County Sheriff's
8 Department?

9 MS. BROWN: Yes, sir.

10 THE COURT: All right, is that the investigating
11 agency in this?

12 MS. BAILEY: No, Your Honor, the Andrews Police
13 Department investigated this.

14 THE COURT: Okay, all right, and this is your cousin?

15 MS. BROWN: Yes.

16 THE COURT: All right, would the fact that your cousin
17 is employed with the Georgetown County Sheriff's Department
18 affect your ability to be fair and impartial to both the State
19 and the Defendant in this case?

20 MS. BROWN: No, sir.

21 THE COURT: Would you be able to disregard your
22 cousin's employment in its entirety and base your decision in
23 this case exclusively on the testimony and evidence in this
24 case?

25 MS. BROWN: Yes, sir.

1 THE COURT: Okay, all right, remain standing for just
2 a minute, Ms. Brown, I want to get to you in just - I'll come
3 back to you. Yes, ma'am, your name and number?

4 MS. AVANT: Erica Avant, Juror Number Six, my husband
5 was a former Georgetown County deputy.

6 THE COURT: For the Sheriff's Department?

7 MS. AVANT: Yes.

8 THE COURT: All right, how long ago was that?

9 MS. AVANT: A year and a half ago.

10 THE COURT: All right, would his employment affect
11 your ability to be fair and impartial to both the State and
12 the Defendant in this case?

13 MS. AVANT: No, sir.

14 THE COURT: All right, would you be able to disregard
15 his former employment in its entirety and base your decision
16 in this case exclusively on the testimony and evidence in this
17 case?

18 MS. AVANT: Yes, sir.

19 THE COURT: All right, thank you very much for
20 bringing that to our attention.

21 Ms. Brown, if I could get you to come forward for just a
22 second? Let me see the attorneys up here.

23 (Whereupon, a bench conference was held with Juror Number
24 18, Lori Brown, counsel for the State and Defense.)

25 THE COURT: Is there any member of the jury panel who

Voir Dire

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1 has ever been the victim of a violent crime? If so, please
2 stand.

3 All right, yes, sir, your name and number?

4 MR. NOLAN: Steve Nolan, 103.

5 THE COURT: All right, Mr. Nolan, you were a victim in
6 a - of a violent crime?

7 MR. NOLAN: Many of them.

8 THE COURT: Okay, how long ago?

9 MR. NOLAN: Ten, 15, 20 years ago.

10 THE COURT: Okay, and where was it? Was it locally or
11 where?

12 MR. NOLAN: Maryland.

13 THE COURT: In Maryland? All right, would the fact
14 that you were a victim of a violent crime affect your ability
15 to be fair and impartial to both the State and the Defendant
16 in this case?

17 MR. NOLAN: No, I don't think it would.

18 THE COURT: All right, and I appreciate your saying,
19 you know, you, you don't think it would, and I can tell you
20 not just for you but for everyone out there, my primary
21 function is to make sure that we empanel a jury that is fair
22 and impartial to both the State and the Defendant and whose
23 decision is based exclusively on the evidence in this case
24 without any influence whatsoever from any outside source, and
25 that's what I need to find out is if you think that the fact

1 that you were a victim of a violent crime or a victim of
2 several violent crimes, whatever the case may be, whether or
3 not that would impact your decision in this case.

4 MR. NOLAN: It possibly could. I was, I was hit in
5 the mouth with a brick, got five teeth knocked out and then I
6 was almost killed one time. When I was down I was kicked in
7 the head about 20 times, got my jaw broke.

8 THE COURT: I got you.

9 MR. NOLAN: Kept on getting kicked in the head.

10 THE COURT: All right, all right, Mr. Nolan, I am
11 going to excuse you from this particular case. Thank you for
12 bringing that to our attention. All right, Juror Number 103
13 is excused.

14 Yes, ma'am, your name and - you can be seated, your name
15 and number?

16 MS. CAHILL: Melissa Cahill, Juror 21.

17 THE COURT: All right, Ms. Cahill, you were the victim
18 of a crime?

19 MS. CAHILL: Yes, sir.

20 THE COURT: And how long ago was that?

21 MS. CAHILL: A few months ago.

22 THE COURT: All right, would the fact that you were
23 the victim of a crime would that affect your ability to be
24 fair and impartial to both the State and the Defendant in this
25 case?

Voir Dire

16

1 MS. CAHILL: No, sir.

2 THE COURT: All right, would you be able to disregard
3 the crime perpetrated against you? Would you be able to
4 disregard it in its entirety and base your decision in this
5 case exclusively on the testimony and evidence in this case?

6 MS. CAHILL: Yes, sir.

7 THE COURT: All right, thank you, Ms. Cahill, for
8 bringing that to our attention.

9 Anyone else ever been the victim of a violent crime? If
10 so, please stand.

11 (No response.)

12 THE COURT: Does any member of the jury panel know of
13 any reason whatsoever why he or she should not serve as a
14 juror in this case, with particular emphasis being placed on
15 your ability to be fair and impartial to both the State and
16 the Defendant? If so, please stand.

17 (No response.)

18 THE COURT: All right, any additional questioning from
19 the State?

20 MS. BAILEY: None, Your Honor.

21 THE COURT: Any from the Defense?

22 MR. GOUDE: No, sir.

23 THE COURT: All right, all right, ladies and
24 gentlemen, we'll follow the same procedure we followed the
25 other day when we selected the first jury. Your names have

Voir Dire

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1 been put back in a computer and spit out at random and we'll
2 call you up one at a time. When you come forward if you'd
3 please come, stand in front of the attorneys and face the
4 attorneys so the State can look at you a little while and the
5 Defense can look at you a little while and they can mutually
6 decide whether or not they want you as a juror in this case.
7 As I told you the other day if you are struck from a case
8 please don't take it personally. It just means that for
9 whatever reason you do not fit a profile that they're looking
10 for in this particular case. As I said, there are many jurors
11 who are struck in one case and selected the next time.
12 Conversely, there are jurors who are struck one time and
13 selected the second time. So, please don't take it personally
14 if you are stricken from this jury. Now, this is a five
15 and ten strike?

16 MS. BAILEY: Yes, Your Honor.

17 THE COURT: Okay, and we need - how many alternates do
18 we want to do?

19 MS. BAILEY: The State would request two, Your Honor,
20 given the number ---

21 THE COURT: Okay.

22 MS. BAILEY: --- of witnesses in the case.

23 THE COURT: All right, sounds good. Thank you.

24 All right, ladies and gentlemen, please listen carefully.
25 If your name is called please come forward, bring with you any

Jury Selection

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1 pocketbooks, any coats, any umbrellas or whatever you might
2 have with you.

3 THE CLERK: Juror Number 70, Ed Kimbrough.

4 What says the State?

5 MS. BAILEY: Please present Mr. Kimbrough.

6 THE CLERK: What says the Defense?

7 MR. GOUDE: Swear the juror.

8 THE CLERK: Please take a seat in the jury box.

9 Juror Number 46, Joe Geathers.

10 What says the State?

11 MS. BAILEY: Please present Mr. Geathers.

12 THE CLERK: What says the Defense?

13 MR. GOUDE: Swear the juror.

14 THE CLERK: Please take a seat in the jury box.

15 Juror Number 35, Michael Deal.

16 What says the State?

17 MS. BAILEY: Please excuse Mr. Deal.

18 THE CLERK: You may return to your seat.

19 Juror Number 25, John Connelly.

20 What says the State?

21 MS. BAILEY: Please present Mr. Connelly.

22 THE CLERK: What says the Defense?

23 MR. GOUDE: Excuse the juror.

24 THE CLERK: You may return to your seat.

25 Juror Number 56, Cortney Grant.

Jury Selection

19

1 What says the State?

2 MS. BAILEY: Please present Ms. Grant.

3 THE CLERK: What says the Defense?

4 MR. GOUDE: Swear the juror.

5 THE CLERK: Please take a seat in the jury box.

6 Juror Number 105, Phillip Owens.

7 What says the State?

8 MS. BAILEY: Please present Mr. Owens.

9 THE CLERK: What says the Defense?

10 MR. GOUDE: Excuse the juror.

11 THE CLERK: You may return to your seat.

12 Juror Number 62, Elder Holmes.

13 What says the State?

14 MS. BAILEY: Please present Mr. Holmes.

15 THE CLERK: What says the Defense?

16 MR. GOUDE: Swear the juror.

17 THE CLERK: Please take a seat in the jury box.

18 Juror Number 60, Georgiann Haselden.

19 What says the State?

20 MS. BAILEY: Please excuse Ms. Haselden.

21 THE CLERK: You may return to your seat.

22 Juror Number 11, Sandra Bonner.

23 What says the State?

24 MS. BAILEY: Please present Ms. Bonner.

25 THE CLERK: What says the Defense?

Jury Selection

20

1 MR. GOUDE: Swear the juror.
2 THE CLERK: Please take a seat in the jury box.
3 Juror Number 61, Richard Healey.
4 What says the State?
5 MS. BAILEY: Please present Mr. Healey.
6 THE CLERK: What says the Defense?
7 MR. GOUDE: Swear the juror.
8 THE CLERK: Please take a seat in the jury box.
9 Juror Number 45, Sonya Gamble.
10 What says the State?
11 MS. BAILEY: Please present Ms. Gamble.
12 THE CLERK: What says the Defense?
13 MR. GOUDE: Swear the juror.
14 THE CLERK: Please take a seat in the jury box.
15 Juror Number 18, Lori Brown.
16 What says the State?
17 MS. BAILEY: Please present Ms. Brown.
18 THE CLERK: What says the Defense?
19 MR. GOUDE: Excuse the juror.
20 THE CLERK: You may return to your seat.
21 Juror Number 124, Michael Simon.
22 What says the State?
23 MS. BAILEY: Please present Mr. Simon.
24 THE CLERK: What says the Defense?
25 MR. GOUDE: Swear the juror.

Jury Selection

21

1 THE CLERK: Please take a seat in the jury box.

2 Juror Number 27, Gladys Correll.

3 What says the State?

4 MS. BAILEY: Please present Ms. Correll.

5 THE CLERK: What says the Defense?

6 MR. GOUDE: Excuse the juror.

7 THE CLERK: You may return to your seat.

8 Juror Number 123, Stacey Silvestri.

9 What says the State?

10 MS. BAILEY: Please present Ms. Silvestri.

11 THE CLERK: What says the Defense?

12 MR. GOUDE: Excuse the juror.

13 THE CLERK: You may return to your seat.

14 Juror Number 125, Delia Smith.

15 What says ---

16 THE COURT: Come forward, turn around and face the
17 attorneys. There you go. Thank you.

18 THE CLERK: What says the State?

19 MS. BAILEY: Your Honor, before we seat this juror I
20 believe she wanted to approach Your Honor. I don't, I don't
21 know if that's something we need to take up before she's
22 seated on the jury, whatever it might be.

23 THE COURT: Is that, you want to - all right, if the
24 attorneys come on up.

25 (Whereupon, a bench conference is held with Juror Number

Jury Selection

22

1 123, Stacey M. Silvestri, counsel for the State and counsel
2 for the Defendant.)

3 THE COURT: Juror Number 125 we'll strike for cause.

4 THE CLERK: Juror Number 69, Alice Kesler.

5 What says the State?

6 MS. BAILEY: Please present Ms. Kesler.

7 THE CLERK: What says the Defense?

8 MR. GOUDE: Excuse the juror.

9 THE CLERK: You may return to your seat.

10 Juror Number 6, Erica Avant.

11 What says the State?

12 MS. BAILEY: Please present Ms. Avant.

13 THE CLERK: What says the Defense?

14 MR. GOUDE: Excuse the juror.

15 THE CLERK: You may return to your seat.

16 Juror Number 21, Melissa Cahill.

17 What says the State?

18 MS. BAILEY: Please present Ms. Cahill.

19 THE CLERK: What says the Defense?

20 MR. GOUDE: Excuse the juror.

21 THE CLERK: You may return to your seat.

22 Juror Number 42, William Freeman.

23 THE COURT: Juror Number 42, William Freeman, yes,
24 sir.

25 THE CLERK: What says the State?

Jury Selection

23

1 MS. BAILEY: Please excuse Mr. Freeman.
2 THE CLERK: You may return to your seat.
3 Juror Number 47, Margie Geathers.
4 What says the State?
5 MS. BAILEY: Please present Ms. Geathers.
6 THE CLERK: What says the Defense?
7 MR. GOUDE: Swear the juror.
8 THE CLERK: Please take a seat in the jury box.
9 Juror Number 140, Deborah Trimmer.
10 What says the State?
11 MS. BAILEY: Please present Ms. Trimmer.
12 THE CLERK: What says the Defense?
13 MR. GOUDE: Swear the juror.
14 THE CLERK: Please take a seat in the jury box.
15 Juror Number 79, Vearline Lesane.
16 What says the State?
17 MS. BAILEY: Please present Ms. Lesane.
18 THE CLERK: What says the Defense?
19 MR. GOUDE: Swear the juror.
20 THE CLERK: Please take a seat in the jury box.
21 Juror Number 111, Michael Pope.
22 What says the State?
23 MS. BAILEY: Please present Mr. Pope.
24 THE CLERK: What says the Defense?
25 MR. GOUDE: Swear the juror.

Jury Selection

24

1 THE CLERK: Please take a seat in the jury box.

2 THE COURT: All right, we'll select first alternate.

3 The State gets one strike. Defense gets two.

4 THE CLERK: Juror Number 67, Victoria Jones.

5 What says the State?

6 MS. BAILEY: Please present Ms. Jones.

7 THE CLERK: What says the Defense?

8 MR. GOUDE: Swear the juror.

9 THE CLERK: Please take a seat in the jury box.

10 THE COURT: All right, we'll select another alternate.

11 The State gets one strike, Defense gets two.

12 THE CLERK: Juror Number 81, Erica Linnen.

13 What says the State?

14 MS. BAILEY: Please excuse Ms. Linnen.

15 THE CLERK: You may return to your seat.

16 Juror Number 107, Ms. Papadopoulos. That would be Lila,

17 better known as Lila Papadopoulos.

18 MR. GOUDE: She been divorced 18 years?

19 MS. PAPADOPOULOS: No, I meant to say I was married for

20 18 long years.

21 MR. GOUDE: You were married 18 years.

22 THE CLERK: What says the State?

23 MS. BAILEY: Please present Ms. Papadopoulos.

24 THE CLERK: What says the Defense?

25 MR. GOUDE: Swear the juror.

Jury Selection

25

1 THE CLERK: Please take a seat in the jury box.

2 THE COURT: All right, ladies and gentlemen, you will
3 serve as the jury in this case. I'm going to excuse you back
4 to the jury room for just a few minutes while I take up some
5 matters with the attorneys and while I excuse the remaining
6 jury panel. While you're back in the jury room if I could
7 get you to do me a favor and that is to select a foreperson
8 for this jury. If you're unable to select a foreperson
9 don't worry about it. I can appoint someone. Many judges
10 appoint their own foreperson. I like to give the jury the
11 opportunity to select one on their own if they're able to do
12 so. I know you may not know everyone on your jury and if -
13 and that's fine. Don't worry about that, but the foreperson
14 has no more authority, no more influence, no more importance
15 than any other juror. The foreperson is just simply the
16 communication device or the liaison between the Court and the
17 jury. If the jury has a question or if the jury has a need
18 the foreperson lets the Court know. When it's time to
19 deliberate the foreperson will preside over the deliberations,
20 but other than that the foreperson has no more influence,
21 authority or importance than any other juror. The only
22 restrictions would be, Ms. Jones and Ms. Papadopoulos, as
23 alternates you would not be eligible to serve as forepersons
24 on this jury at this time since you are alternates on this
25 jury.

Jury Selection

26

1 Now, when you come back - when you select a foreperson if
2 you would just write that person's name on a sheet of paper
3 with the jury number, give it to the bailiff and we'll bring
4 you back into the court at that time.

5 When you come back into the courtroom, the foreperson
6 will always occupy this first seat which is closest to the
7 witness stand. The alternates will always occupy the two
8 seats where you now sit unless and until you're made a part of
9 the jury. The rest of you are at liberty to sit in whatever
10 seat you like. If you want to alternate seats during the
11 trial you can. If you want to sit in the same seat throughout
12 the trial you can. There's no requirement or no restriction
13 other than the foreperson and the alternates.

14 I'm going to excuse you back to the jury room for just a
15 minute. See if you can select a foreperson, write that
16 person's name on a sheet of paper, give it to the bailiff and
17 we'll bring you back out in just a second. Thank you very
18 much. Everyone else please remain seated while the jury's
19 excused.

20 (Whereupon, the following takes place outside the
21 presence of the jury.)

22 THE COURT: All right, any challenges to the selection
23 or composition of the jury by the State?

24 MS. BAILEY: None, Your Honor.

25 THE COURT: Any by the Defense?

Jury Selection

27

1 MR. GOUDE: No, Your Honor.

2 (Remaining jury panel excused by Court with call-
3 instructions given.)

4 THE COURT: All right, let's, let's take about a five,
5 ten-minute break. Let them select a foreperson. Is there
6 anything pretrial?

7 MS. BAILEY: I just have a few things to put on
8 the record, Your Honor. I don't know if Mr. Goude has
9 any.

10 THE COURT: All right.

11 MR. GOUDE: Just a few.

12 THE COURT: Well, let's, let's take about a five,
13 ten-minute break and we'll come back and you can put those
14 things on the record and then we'll go forward at that time.
15 Okay?

16 MS. BAILEY: Thank you, Your Honor.

17 THE COURT: All right, sounds good.

18 OFF THE RECORD

19 (On the record.)

20 (Whereupon, the following takes place outside the presence of
21 the jury.)

22 THE COURT: All right, the jury selected Juror Number
23 124, Michael N. Simon, as the foreperson. They just wrote
24 Michael Simon on a sheet of paper with the foreperson's
25 number. I'm going to mark that as Court's Exhibit One.

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1 (Court's Exhibit Number One [Foreperson Selection]
2 appropriately marked.)

3 THE COURT: All right, anything from the State before
4 we bring the jury in?

5 MS. BAILEY: Your Honor, just a brief matter to take
6 up. For the Court's information there are two statements that
7 were given by the Defendant in this case to law enforcement.
8 The first statement that was given was done, it was a
9 custodial interrogation. He was in handcuffs in the back of
10 the police car but it was done without Miranda and the State
11 does not intend to introduce that particular statement,
12 although it's our understanding that the Defense may.

13 The second statement was done after Miranda and the State
14 does intend to introduce that statement, but it is my
15 understanding that the Defense does not intend to challenge
16 the voluntariness of that statement. So, the State just
17 wanted to put on the record for PCR purposes that a Jackson v.
18 Denno is not necessary because the Defense actually seeks to
19 introduce both statements.

20 THE COURT: I thought, well, if the Defense is going
21 to put it in, if you're going to put it in in your case in
22 chief I think we're still going to need a Jackson v. Denno
23 hearing.

24 MR. GOUDE: The Solicitor is right, Judge, there are
25 two videos, one - well, both of them in the police car, one of

1 them at the scene. This thing happened like we talked a
2 while ago on the indictment at Shaw's Country Store on Martin
3 Luther King Boulevard in Andrews at night, nine or ten o'clock
4 at night. So, the first video is the video of the store and
5 when the deputies got there and Mr. Gooden comes there and
6 he's in the police car and the policemen ask him questions.
7 That's the first video.

8 THE COURT: That's the one that the State's not
9 planning on using?

10 MS. BAILEY: That's right, Your Honor, because no
11 Miranda was given.

12 THE COURT: All right, so, that one's ---

13 MR. GOUDE: And we ---

14 THE COURT: --- you can put it in but they can't.

15 MR. GOUDE: And we're going to offer that video and
16 the Solicitor, Steve Brown, out of their office is going to
17 play it for us Erin said when we're ready to put it into
18 evidence. So, what I - procedurally I guess the easiest way
19 to do it is if the policeman gets on the stand on the
20 Prosecutor's case and they're going to offer the second video
21 which was made in the same police car, you can't really see
22 anything but you can hear it while the policeman was driving
23 Mr. Gooden to the jailhouse, and Mr. Gooden was talking on
24 that one and then I'll on cross, I'll just ask the policeman,
25 "Did you all do a video at the scene," and he'll say yeah and

Motions

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1 then I'll offer that into evidence and ask the Solicitor's,
2 Mr. Brown to play it.

3 THE COURT: Well, I'm going to leave it up to the
4 State. Ms. Bailey, you - I'll do whatever you want me to do.
5 If you're going to use it in your case in chief we need a
6 Jackson v. Denno hearing.

7 MS. BAILEY: Yes, Your Honor, we're ---

8 THE COURT: If the Defense is going to put it in or
9 introduce it I don't think we need one.

10 MS. BAILEY: Yes, Your Honor, we, we do need to do a
11 Jackson v. Denno hearing on the mirandized statement. In
12 addition for the record a different officer was standing
13 outside the scene when the Defendant returned to the scene.
14 He walked up, returning back to the crime scene, threw his
15 hands in the air and said, "It was me, I did it." That is
16 obviously not a custodial interrogation. It's a spontaneous
17 utterance; and so, it's the State's position that we do not
18 need a Jackson v. Denno on that particular statement.

19 THE COURT: All right, well, and I don't know. I'll
20 have to wait and listen to the testimony and decide at that
21 time but I can tell you any statement that you want to put in
22 in your case in chief and you think that it is subject to a
23 Jackson v. Denno hearing let's go ahead and do it.

24 MS. BAILEY: Okay.

25 THE COURT: All right.

1 MS. BAILEY: Thank you, Your Honor. Do we need to
2 hear other pretrial motions first or do you want to go
3 straight to the Jackson hearing?

4 THE COURT: However you all want to handle it.

5 MR. GOUDE: We've got a few normal ones, Judge.
6 One, we would move that the Prosecution produce any
7 Prosecution witnesses' statements that they have not yet
8 provided to us.

9 THE COURT: All right, yeah, are there any - you
10 talking about out-of-court statements ---

11 MR. GOUDE: Yes, Your Honor.

12 THE COURT: --- prior statements? Is there any been
13 - that have not been produced?

14 MS. BAILEY: No, Your Honor.

15 THE COURT: Okay.

16 MS. BAILEY: Several were taken at the scene. Those
17 have all been provided to Mr. Gooden in preparation for this
18 trial. I did go out and interview all the witnesses but did
19 not take any recording or written statements from them.

20 THE COURT: All right.

21 MR. GOUDE: Your Honor, the second would be a motion
22 in limine to ask the Prosecutor to advise us what impeachable
23 offenses they contend that Mr. Gooden has on his record in
24 case he testifies.

25 THE COURT: All right, in the event he testifies

Motions

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1 what's the prior record do you have?

2 MS. BAILEY: Thank you, Your Honor, in 2007 a larceny
3 of a firearm out of North Carolina. He received a 10 to 12-
4 month sentence on that. We did some research and found out
5 that is a Class H felony in North Carolina and the potential
6 sentence is up to 20 months in prison. Also, in 1992 he was
7 convicted of a strong-arm robbery here in Georgetown or in
8 South Carolina. He violated his parole on that strong-arm
9 robbery charge in 1999 and was released from confinement on
10 January 18th of 2002. I called and verified that with Carol
11 Joyner at the Department of Corrections. Since he was
12 released from confinement in the last 10 years it's the
13 State's contention that that is an impeachable offense.

14 THE COURT: When was he released?

15 MS. BAILEY: January 18th of 2002.

16 THE COURT: Okay, all right, so, you're talking about
17 larceny of a firearm and strong-arm robbery; correct?

18 MS. BAILEY: Yes, yes, Your Honor.

19 THE COURT: All right, Mr. Goude, anything else?

20 MR. GOUDE: Judge, we would just ask that - we know
21 that on the strong-arm robbery and attempt to commit strong-
22 arm robbery are 1992 convictions. The Solicitor has indicated
23 we were released from prison less than 10 years ago. I would
24 just say that the original conviction date is almost 20 years
25 ago, 1992. The offense would've occurred before that. So, it

1 would've been 20 years ago, and he - Mr. Gooden went to
2 prison, then was out of prison, violated parole and went back
3 in. So, that's how it's within the ten-year deal, but we
4 would say that it's still too remote and not relevant and the
5 prejudicial effect since it happened 20 years ago outweighs
6 any credibility issues in this case and we would ask that it
7 be excluded and not be brought out on cross by the Prosecution
8 during Mr. Gooden's testimony.

9 THE COURT: All right, so, what's the probative
10 value, credibility issue?

11 MS. BAILEY: Yes, Your Honor, to go to the Defendant's
12 credibility particularly because it's our understanding that
13 self-defense is going to be an issue in this case, not
14 necessarily self-defense per se but the, that the victim was
15 picking on the Defendant, that there may have been some
16 physical altercation in the past; and so, each, you know -
17 obviously the victim does have a violent record and will be
18 cross examined on that. So, it is extremely probative ---

19 THE COURT: Well, yeah.

20 MS. BAILEY: --- as to credibility that the ---

21 THE COURT: Well, on credibility but now, if you're
22 talking - trying to paint him as a violent person then that's
23 going to have a pretty prejudicial effect, and this, I mean,
24 the strong-arm robbery is not evidence in this crime.

25 MS. BAILEY: Absolutely, Your Honor, I agree.

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1 THE COURT: So, the sole question is credibility.

2 MS. BAILEY: Yes, Your Honor, and strong-arm robbery
3 is, is a crime of dishonesty in taking money from somebody
4 else, just like petit larceny is a crime of dishonesty.

5 THE COURT: Well, and I understand that but you just,
6 you - your argument, what tapped me in was your argument that
7 it shows he's a violent person.

8 MS. BAILEY: Your Honor, the State does not intend to
9 go into that. The State does not intend to argue that he is a
10 violent person.

11 THE COURT: Okay.

12 MS. BAILEY: And I would just note for the record I'm
13 looking for the exact rule now that the rule states it's ten
14 years from the release of confinement or supervision.

15 THE COURT: Well, I understand that and it's
16 admissible under that but I still have to balance the
17 probative value versus the prejudicial effect. I mean,
18 otherwise, it meets - if it was not within the ten years it
19 wouldn't come in period, but it is within the ten years. So,
20 now I have to measure the probative value versus the
21 prejudicial effect against the Defendant. Let me hear from
22 you on that, Mr. Goude.

23 MR. GOUDE: Judge, as the Solicitor pointed out in
24 this case the victim has a violent criminal record and he and
25 a gang of his friends and I don't mean gang like the Bloods

1 and the Crips or the Jessie James gang or whatever, just more
2 than one person of friends of his were continually picking on
3 Mr. Gooden till Mr. Gooden eventually, as many people do,
4 picked an incorrect response to their picking on him. Instead
5 of calling the police or moving out of town or any of a
6 million other things he could've done he threw gasoline on one
7 of the guys. So, if Mr. Gooden testifies to bring out the
8 history between them and his fear of the people, the
9 Prosecutor, if they're allowed to ask him, will show that he's
10 got a prior criminal record and I imagine I would want to show
11 that to show - to try to bring out the word strong and try to
12 bring out the word armed and emphasize, you know, with my
13 voice on those when I'm talking to the jury, strong-arm
14 robbery and attempted strong-arm robbery, so Mr. Gooden
15 himself is a violent person, has already been convicted of
16 this and how can he say he's like a victim to the victim of
17 picking on him when he's already been in prison for strong-arm
18 robbery and attempted strong, strong-arm robbery. That's what
19 I would do if I was the Prosecutor if it's admissible and
20 those things happened 20 years ago when he was ---

21 THE COURT: Yeah, all right, I'm going to go ahead -
22 I'm not going to let you use the strong-arm robbery.

23 MS. BAILEY: Your Honor ---

24 THE COURT: You can, you can use the larceny of a
25 firearm but I'm going to - I think prejudicial effect far

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1 outweighs the probative value.

2 MS. BAILEY: Can I, can I just for the record point
3 Your Honor to State v. Al-Amin, 353 S.C. 405, which held that
4 crimes involving dishonesty are automatically admissible for
5 impeachment purposes without the requirement that the Court
6 balance the probative value against the prejudicial effect.
7 That case also noted that armed robbery like shoplifting is a
8 crime of dishonesty.

9 THE COURT: What is that case now?

10 MS. BAILEY: State v. Al-Amin.

11 THE COURT: And when was that?

12 MS. BAILEY: And it - it was in 2003, it was Court of
13 Appeals in 2003.

14 THE COURT: And it says I don't weigh the prejudicial
15 effect ---

16 MS. BAILEY: Yes, Your Honor.

17 THE COURT: --- versus the probative value?

18 MS. BAILEY: When it's a - it says when it's a crime
19 of dishonesty that you do not weigh the prejudicial effect and
20 it notes armed robbery specifically like shoplifting.

21 THE COURT: Well, let me pull that up because I - if
22 I'm applying the wrong law I need to take a look at it. So,
23 let me - what is the case?

24 MS. BAILEY: State v. Al, A-L dash Amin, A-M-I-N,
25 it's 353 S.C. 405.

1 THE COURT: All right, let's take a short recess.

2 Let me go take a look at that.

3 MS. BAILEY: Thank you, Your Honor.

4 THE COURT: Because I thought everything had to be
5 prejudicial effect. So, that one says even if the prejudicial
6 effect far outweighs - even if you have one minute probative
7 value ---

8 MS. BAILEY: The, the court ---

9 THE COURT: --- and a billion percent prejudicial
10 effect I don't consider that at all is what that case says?

11 MS. BAILEY: That case says that that particular
12 balancing test for probative versus prejudicial doesn't come
13 into effect when it's a crime of dishonesty.

14 THE COURT: All right, let me take a look at that.
15 All right, I'll be back in a second.

16 MS. BAILEY: Thank you, Your Honor.

17 OFF THE RECORD

18 (On the record.)

19 (Whereupon, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right, I went and checked. Mr.
22 Goude, I'm going to reverse my ruling. They are going to be
23 able to use the strong-arm robbery. It is a crime of
24 dishonesty. So, it can be used to attack your client's
25 credibility if he takes the stand.

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1 MS. BAILEY: Thank you, Your Honor.

2 MR. GOUDE: Thank you, Your Honor.

3 THE COURT: All right.

4 MR. GOUDE: Judge, there is an EMS video which has

5 four calls to the EMS on it by the police that has, as far as

6 I can tell, I think there's one witness on it that says Ronald

7 Gooden set him on fire and that Curtis Anderson was burned and

8 that Mr. Gooden is going to admit that he threw the gas on Mr.

9 Anderson. At the same time I object to that CD of the four

10 911 calls on the grounds of irrelevant for one reason because

11 we've got the other two videos where Mr. Gooden, that the

12 Prosecutor intends to put into evidence, where Mr. Gooden

13 admits he threw the gas on the man and the other police car

14 video that I intend to offer into evidence where Mr. Gooden

15 admits that he threw the gas on him and the injured person is

16 walking around in the video showing that he's injured. The

17 only reason I can see that the EMS calls are offered is to

18 prejudice the jury in the way of the trouble and the expense,

19 they called in a helicopter to fly to Andrews to fly the

20 injured person to the Medical University in Charleston and the

21 injured person is going to be here showing his scars and he

22 can testify that he went to the Medical University and was

23 injured and was treated and I understand the Solicitor has

24 given me some photographs of the man showing he was burned,

25 which will show that he was burned. So, I see the 911 call as

1 being irrelevant. I object on that ground and then unduly
2 prejudicial because there's four different calls to the EMS on
3 the same CD. So, I object to the admission of that CD for
4 that reason.

5 THE COURT: And these are calls by?

6 MS. BAILEY: We don't intend to introduce those.
7 We're not going to play the 911 calls.

8 MR. GOUDE: Thank you.

9 THE COURT: Okay, all right, so, that's granted with
10 consent. All right.

11 MR. GOUDE: Judge, we would ask that the witnesses in
12 the case be sequestered.

13 THE COURT: Any objection?

14 MS. BAILEY: No, Your Honor, as long as according to
15 statute the lead investigator, Matthew Hoeffler, and the victim
16 can stay in the courtroom.

17 MR. GOUDE: And Judge, we would move that the
18 Prosecution produce the criminal records of the witnesses in
19 the case, particularly the injured person, Curtis Anderson,
20 and Gerry Chandler and Greg Tisdale, and I will note that the
21 Prosecutor has previously given me a copy of police records,
22 Court convictions on all three of these people. If there are
23 any other additional criminal records of these three witnesses
24 we would request that the prosecution provide those to us.

25 THE COURT: All right, the motion to sequester is

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1 granted. All witnesses will be sequestered except for Matthew
2 Hoefffer, the victim and the Defendant. The motion to produce
3 criminal records of State's witnesses?

4 MS. BAILEY: Your Honor, the State has run these names
5 with Social Security numbers and birth dates through NCIC,
6 which is the national criminal database and produced the
7 result to Mr. Goude. If there's anything else out there
8 that's on the public index that's publicly available, I've not
9 looked, but Mr. Goude is able to get that just as well as I
10 am.

11 THE COURT: All right, I'm going to deny your motion
12 as being moot. I find that they have already - they're saying
13 that they've already produced it.

14 MR. GOUDE: Thank you, Your Honor.

15 THE COURT: All right.

16 MR. GOUDE: And Judge, that's all the motions that we
17 have.

18 THE COURT: All right.

19 MS. BAILEY: Thank you, Your Honor. At this time I
20 think we need to do the Jackson v. Denno on the second
21 statement.

22 THE COURT: All right, you can call your witness.

23 MS. BAILEY: The State calls Tim Harrelson.

24 Whereupon, Tim Harrelson was called to the stand, duly
25 sworn by the clerk and testified as follows:

1 THE CLERK: Thank you. Please be seated and state
2 your name for the record.

3 MR. HARRELSON: My name is Tim Harrelson, Timothy
4 Harrelson.

5 EXAMINATION

6 BY MS. BAILEY:

7 Q Were you employed at the Andrews Police Department on
8 October 22nd of 2010?

9 A I was.

10 Q And did you have reason to respond to the Shaw's Corner
11 Store?

12 A I did.

13 Q And what did you find when you got there?

14 A Upon my arrival, shortly before my arrival I was running
15 radar on a side road. I was approached by a lady in a
16 vehicle. She stated to me that there was a man running across
17 the highway on fire at Shaw's Corner Store. In route to the
18 call is whenever I actually received a call from central
19 dispatch telling me the same story. I told them I was already
20 in route to it.

21 When I arrived on scene there was a large crowd, a lot of
22 chaos, told me he was inside. I found Mr. Anderson. I found
23 Mr. Anderson in the back of the store. His shirt was, of
24 course, taken off and he was burned very badly on his face and
25 his chest.

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1 Q And while you were there at the scene did a suspect - did
2 it become evident that there was one particular suspect?

3 A It did.

4 Q And who was that?

5 A This man here, Ronald Gooden.

6 Q Did he return to the scene?

7 A He did return.

8 Q Okay, and what happened upon his arrival at the scene?

9 A Just shortly prior to his arrival everyone on scene
10 stated to me that it was him, his name. Everyone on scene saw
11 it. This is what they were saying and we, as we went - as I
12 was walking back outside I heard a lot of commotion. I
13 observed Matthew Hoeffler already grabbing, trying to get a
14 hold of him because the crowd was approaching him. We got
15 down on top of him, kind of protecting him from the crowd,
16 detained him, got him put into the back of the patrol car,
17 secured into the back of the patrol car for his safety and
18 everyone else's and that was it.

19 Q Okay, and at some point did you take any statements from
20 Mr. Gooden?

21 A You talking about the first statement at the car or on
22 the way?

23 Q We can go - let's, let's start with the first statement,
24 yeah, and tell us about that?

25 A The first statement ---

1 Q And don't tell us the contents but tell us the context
2 of it. Was he ---

3 A Basically, the first statement was a simple what
4 happened out here because we had a one side of it. Everyone
5 deserves two sides. I'm asking him what happened. He
6 proceeded to tell me exactly what happened.

7 Q And at the end of that statement did he say anything
8 about his rights?

9 A He asked, that he didn't want to say anything else. He
10 wanted a lawyer. I shut the door. Another officer approached
11 the door to speak to him. I said he's already asked for a
12 lawyer and they left the door and that was it.

13 Q Okay, and during that statement was that portion video
14 recorded?

15 A It was.

16 Q And at some point did your video recorder shut off?

17 A Maybe. I don't - I can't - I don't ---

18 Q Did it run out of batteries?

19 A You talking about on the second?

20 Q I'm talking about your pen cam.

21 A It did run out of batteries on the way to the jail I
22 believe; right?

23 Q Okay.

24 A I'm having - it's been a while since I've seen the
25 video.

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1 Q Okay, and did you have reason to mirandize Mr. Gooden at
2 some point?

3 A I did.

4 Q And it - was it after that first statement?

5 A It was after the first statement.

6 Q Okay, and did you initiate any further questioning of
7 him at that - after he was mirandized?

8 A I did not. I did not.

9 Q Did he initiate any conversation with you?

10 A He did.

11 Q And at what time was that, what were you doing then?

12 A I was turning from Highway 521 onto Brick Chimney Road
13 whenever he began to speak in the back seat. I simply asked
14 him what, you know, what was he saying, what did he say
15 because I couldn't hear him and he proceeded to tell me and I,
16 so, I said, "Whoa, you know, you do remember you asked for a
17 lawyer, and you know, if you wanted a, you know, you had the
18 right to remain silent," and he said, "I understand that."

19 Q Did you initiate a recording device at that point?

20 A I did and he was made aware of it.

21 Q And, and so, did he give you a further statement then?

22 A He did. He proceeded to tell me in his words how he was
23 being picked on and the entirety of the trip to the - from the
24 beginning of Brick Chimney Road to the jail. We sat in the
25 jail parking lot. He still wished to speak voluntarily. I

1 advised him again that he did remember that he had the right
2 to remain silent and he requested it and he said, "I do, and I
3 don't care about that and I see your pen cam and I see you -
4 I'm on recording," and I said, "Okay."

5 Q All right, I'm going to show you what has been
6 previously marked as State's Exhibit Nine for identification
7 only. Have you reviewed what's on this CD?

8 A I have.

9 Q And could you describe what it is?

10 A It's the pen cam for the - I can't read it, you got it
11 upside down.

12 Q Is it the pen cam for the second portion?

13 A It is.

14 Q Okay, and is it a true and accurate representation of
15 the conversation between you and Mr. Gooden ---

16 A Yes, it is.

17 Q --- for the period that it was recording?

18 A Yes, it is.

19 Q Okay.

20 MS. BAILEY: Your Honor, at this time the State would
21 seek to move State's Exhibit Nine into evidence.

22 MR. GOUDE: And that's the second statement?

23 MS. BAILEY: It is the second statement.

24 MR. GOUDE: Judge, we have no objection.

25 THE COURT: All right, that's for the purposes of

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1 this hearing or for the ---

2 MS. BAILEY: Yes.

3 THE COURT: Okay.

4 MS. BAILEY: For the purposes of this hearing only.

5 THE COURT: All right, and that is State's Exhibit.

6 MS. BAILEY: State's Exhibit Nine.

7 THE COURT: All right, admitted without objection.

8 MS. BAILEY: Thank you, Your Honor. At this time the

9 State would seek to play State's Exhibit Nine.

10 THE COURT: All right.

11 BY MS. BAILEY:

12 Q Now, there's a date at the bottom of that screen. Is
13 that date accurate?

14 A Negative.

15 (Whereupon, State's Exhibit Number Nine played in open
16 court.)

17 BY MS. BAILEY:

18 Q Now, did your camera run out of batteries ---

19 A It did.

20 Q --- at that point?

21 A It did.

22 Q And was that the entire conversation?

23 A It was.

24 MR. GOUDE: All right, at this time the State would
25 seek a pretrial ruling on the voluntariness and knowingness

1 and the intelligent, waiver of rights that led to that
2 particular statement.

3 THE COURT: Any questioning or challenges by the
4 Defense?

5 MR. GOUDE: Judge, the beginning of this tape, ours
6 was not plugged in. I couldn't quite hear it. Could they
7 start back to the beginning until where I was able to hear it?

8 THE COURT: All right, just let us know when you
9 want us to stop it.

10 (Whereupon, State's Exhibit Number Nine played in open
11 court. Tapes stop with, "Well, the only thing, man, the only
12 thing is, I'm going to tell you if you had called the police
13 and you had said, 'Listen man, these guys are harassing me.
14 You could come up there, you could talk ---'".)

15 THE COURT: Yes, sir, that's where we heard it there.
16 Thank you.

17 THE COURT: All right, hold for a, hold for a second,
18 hold for a second.

19 MR. GOUDE: No, Judge, we have no ---

20 THE COURT: Let him turn it off.

21 All right, Mr. Goude, any questioning of the witness in
22 cross examination?

23 MR. GOUDE: On this tape, no, sir. On the first tape
24 to save time later I guess was the first tape made at the
25 scene?

Motions

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1 A It was.

2 MR. GOUDE: Was that your tape, too?

3 A It was.

4 MR. GOUDE: Judge, I have no further questions.

5 THE COURT: All right, any other witnesses?

6 MS. BAILEY: Not on this statement, Your Honor.

7 THE COURT: All right, anything redirect?

8 MS. BAILEY: No, Your Honor.

9 THE COURT: All right, you can step down.

10 A Thank you, sir.

11 THE COURT: All right, Mr. Goude, do you have any

12 witnesses?

13 MR. GOUDE: No, Your Honor, no, sir.

14 THE COURT: All right, any challenges?

15 MR. GOUDE: No, Your Honor.

16 THE COURT: All right, I find that the statement was

17 given voluntarily, and therefore, is admissible.

18 MS. BAILEY: Thank you, Your Honor. Out of an

19 abundance of caution I would like a pretrial ruling on the

20 other statement taken by Matthew Hoeffler as well.

21 THE COURT: All right, let's.

22 MS. BAILEY: It should be brief.

23 THE COURT: All right.

24 MS. BAILEY: The State calls Matthew Hoeffler.

25 Whereupon, Matthew Hoeffler was called to the stand, duly

1 sworn by the clerk and testified as follows:

2 THE CLERK: Thank you. Please be seated and state
3 your name for the record.

4 MR. HOEFFER: My name is Matthew Hoeffler.

5 EXAMINATION

6 BY MS. BAILEY:

7 Q And were you employed at the Police Department on
8 October 22nd of 2010?

9 A Yes, ma'am.

10 Q At the Andrews Police Department?

11 A Yes, ma'am.

12 Q Did you have reason to respond to the Shaw's Corner
13 Store?

14 A Yes, ma'am, Officer Harrelson and I were dispatched to a
15 dispute where a man had been set on fire.

16 Q And did you have a suspect?

17 A Yes, we did.

18 Q Who was it?

19 A The Defendant sitting at the Defendant's table there,
20 Mr. Gooden.

21 Q And did he come back to the scene while you were there?

22 A Yes, ma'am, he did.

23 Q And at that point was he in custody? Was he in
24 handcuffs?

25 A No, ma'am.

Motions

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1 Q Had he been arrested?

2 A No, ma'am.

3 Q Was there any reason that law enforcement made he was

4 not free to leave at that point that he returned?

5 A No.

6 Q Okay, and did he make a - any kind of statement as he

7 returned to the scene?

8 A Yes, ma'am, he threw his arms in the air and stated,

9 "It's me, I did it."

10 Q All right, was he under any duress or did anybody make

11 him say that?

12 A No, ma'am.

13 Q Okay.

14 MS. BAILEY: At this time the State would seek a ruling

15 that that statement was given, that it was a non-custodial

16 statement, so it's not subject to Miranda.

17 THE COURT: All right, Mr. Goude, any questions?

18 MR. GOUDE: No, Your Honor.

19 THE COURT: All right, you may step down. All right,

20 any other witnesses?

21 MS. BAILEY: No, Your Honor.

22 THE COURT: All right, Mr. Goude, do you have any

23 witnesses?

24 MR. GOUDE: No, Your Honor.

25 THE COURT: All right, any challenges?

1 MR. GOUDE: No, Your Honor.

2 THE COURT: All right, I rule that it was a non-
3 custodial statement, it is given voluntarily, not subject to
4 Miranda and is admissible.

5 MS. BAILEY: Thank you, Your Honor.

6 THE COURT: All right, anything further from the
7 State?

8 MS. BAILEY: Nothing pretrial, Your Honor.

9 THE COURT: Anything from the Defense?

10 MR. GOUDE: No, sir.

11 THE COURT: All right, it's about 11:15. I think we
12 can bring the jury in. I'll give them the preliminary charges
13 and we'll do the opening statements and then we'll just check
14 on the time; okay?

15 MS. BAILEY: Thank you, Your Honor.

16 THE COURT: For scheduling purposes do you know about
17 how long the first State's witness will take?

18 MS. BAILEY: The first State's witness will be brief.

19 THE COURT: Brief as in?

20 MS. BAILEY: As in less than 30 minutes.

21 THE COURT: Okay, all right, we'll check and see
22 where we stand then, okay?

23 MS. BAILEY: Thank you, Your Honor.

24 THE COURT: All right, let's go ahead and bring the
25 jury in.

Opening Instructions by Court

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1 (Whereupon, the following takes place in the presence of
2 the jury.)

3 THE COURT: All right, ladies and gentlemen, welcome
4 back. We're ready to begin the trial of this case. I
5 apologize for keeping you in the jury room for so long.
6 However, we did have some matters that we needed tending to
7 and rather than bringing you into the court and sending you
8 out and bringing you in and sending you out we just went ahead
9 and took care of all of our pretrial stuff before we even got
10 started. I understand is it, Mr. Simon or, Simon, am I
11 pronouncing it correctly?

12 FOREPERSON: You are.

13 THE COURT: All right, Mr. Simon, you have been
14 selected as foreperson I understand and I thank you for
15 serving in that capacity. If you'd always occupy the seat
16 where you now sit. Ms. Jones and Ms. Papadopoulos, if you'd
17 always occupy your two seats where you sit. The rest of you
18 are at liberty to sit in whatever seat you like throughout the
19 trial of the case, alternate seats, same seat, whatever makes
20 you feel more comfortable. All right, as I told you, jurors
21 are constantly taking oaths. So, if this jury would please
22 stand and raise your right hand so that the clerk administers
23 the oath for you to preside as jurors in this particular case.

24 (Whereupon, the jury is sworn by the clerk.)

25 THE COURT: All right, is there any member of the

Opening Instructions by Court

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1 jury who did not respond to the oath by saying I do; if so,
2 please stand?

3 (No response.)

4 THE COURT: All right, good.

5 All right, ladies and gentlemen, we're about to begin the
6 trial of this case in the State of South Carolina versus
7 Ronald Edward Gooden. Am I pronouncing it correct, Gooden,
8 is that how you pronounce it?

9 MR. GOODEN: Yes, sir.

10 THE COURT: All right, Ronald Edward Gooden. Now,
11 before we begin this trial I want to tell you that this trial
12 will probably be a little bit different from what you're
13 accustomed to from watching TV, the movies, reading books and
14 things of that nature. Oftentimes those trials are full of a
15 lot of suspense, a lot of action, a lot of anxiety and things
16 of that nature, and while that might be the case in this trial
17 it probably won't be. The primary function of this case is to
18 determine the truth, to find out what happened. Oftentimes
19 that is slow, repetitive and the exact opposite of what you
20 might be accustomed to from watching TV or movies or reading
21 books. However, I do hope you find the trial educational and
22 I want to thank you at the outset for serving as jurors in
23 this particular case. Now, the attorneys appearing before you
24 are advocates for the parties they represent, but first and
25 foremost they're officers of the court. They're sworn to

Opening Instructions by Court

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1 uphold the integrity and the fairness of our judicial system
2 and to help you in a search for the truth. You can expect
3 them to be professional, competent and ethical in the
4 representation of their client's interest.

5 Now, what I now say to you is intended to serve as an
6 introduction to the trial of this case. These remarks are not
7 a charge on the law in the case. I'll instruct you on the law
8 applicable to this case at the end of the trial before you
9 begin your deliberations. This is merely an explanation of
10 the procedure that we'll follow on the trial of this case so
11 that you can better understand what might be happening.

12 Now, the Defendant is charged by an indictment. This is
13 an indictment and the charge - and the Defendant is charged by
14 this indictment with the crime of attempted murder, the
15 elements of which I will explain to you at a later time. This
16 indictment is simply the charge by which this case is brought
17 into this court. It is not in any sense evidence of the
18 allegations it contains. The Defendant has pled not guilty to
19 this indictment and the State, therefore, has the burden of
20 proving each element of the indictment beyond a reasonable
21 doubt. It will be your duty, ladies and gentlemen, to decide
22 whether or not the State has met that burden. Your purpose as
23 jurors is to find and determine the facts. You are the sole
24 judge of the facts. If at any time I make any comment
25 regarding the facts you must disregard my comments. You are

Opening Instructions by Court

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1 to determine the facts from the testimony you hear and other
2 evidence introduced in court. It is up to you to determine
3 the inferences which you feel may properly be drawn from that
4 evidence. It is especially important that you perform your
5 duty of determining the facts diligently and conscientiously
6 because ordinarily there is no way to correct an erroneous
7 determination of the facts by a jury. On the other hand and
8 with equal emphasis the same law that makes you the judge of
9 the facts in this case makes me the judge of the law. The law
10 as given by the Court is the only law that you can consider.
11 You must accept and follow the law as I give it to you even
12 though you may disagree with it. Just as I cannot tell you
13 what the facts of this case are you cannot disagree with me
14 about the law to be applied in this case. Your job is to take
15 the law as I give it to you and apply it to the facts as you
16 find those facts to be, and after doing that you will render
17 your verdict, a true and just verdict under the oath that you
18 just took as jurors. Now, until I advise you to begin your
19 deliberations you must not discuss this case with anyone,
20 including your fellow jurors, your family, friends or anyone
21 else involved in the case. After the case is submitted to you
22 you must discuss it only in the jury room with your fellow
23 jurors. The attorneys and parties in the case have been
24 advised that they're not to talk to you at all. So, if they
25 act like they're ignoring you they're not being rude. They're

Opening Instructions by Court

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1 just following the directions of the court. During this trial
2 you are not to read, listen to or watch any news reports about
3 the case. This includes anything that might be in the
4 newspaper or on the Internet, on the radio or the television.
5 You must not consider anything you have read or heard about
6 the case outside of the courtroom, whether it is before the
7 trial or during the trial of this case. It is important that
8 you keep an open mind and not decide any issue in the case
9 until all of the evidence has been presented to you, the
10 parties have made their closing arguments and I've instructed
11 you on the law in the case. It's your solemn responsibility
12 to determine the guilt or innocence of the Defendant and your
13 verdict must be based solely on the evidence as it is
14 presented to you in this trial and on the law as I instruct
15 you during and at the close of the trial. Now, in just a
16 minute the Solicitor will make what's called an opening
17 statement in which the Solicitor will explain to you the
18 issues in this case or at least what the Solicitor feels the
19 issues in this case are. The attorney for the Defendant may
20 also make an opening statement, although he is not required to
21 do so. Now, what the attorneys tell you during their opening
22 statements is not evidence in this case. It is only their
23 contention as to what they think the facts are or what the
24 issues will be in this case. The evidence in this case will
25 be presented to you by testimony of sworn witnesses from the

1 witness stand and by any other exhibits that might be
2 introduced at trial. Now, in determining what the true facts
3 are in this case you must decide whether or not the testimony
4 of a witness is believable. It'll be my responsibility to
5 rule as a matter of law as to whether certain testimony is
6 admissible or not. However, once testimony is admitted
7 whether or not you believe it is solely for you to determine.
8 In deciding whether to believe a witness you have the right to
9 consider the interest of any witness, the bias of any witness,
10 the prejudice of any witness, the opportunity for the witness
11 to have seen the matters and things about which the witness
12 may testify and the way the witness acts on the witness stand.
13 You have the right to consider anything that is in the record
14 that will help you evaluate the testimony of the witnesses.
15 That means that it is your duty to pay close attention to the
16 witnesses, to observe them, to listen to them and to pay close
17 attention to the attorneys and to the Court. Don't let your
18 thoughts wander, but give strict attention to the testimony in
19 this case so at the end of all the testimony and at the end of
20 the closing arguments and a charge on the law you will then be
21 in a position to determine what the true facts are and apply
22 the law to those facts. It will be your duty, Mr. Simon, to
23 preside as spokesperson for the jury. So, if the jury has a
24 need or a question it's up to you to let the Court know;
25 okay? All right, any challenges or additions to the

Opening Statement by Ms. Bailey

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1 opening charges by the State?

2 MS. BAILEY: None, Your Honor.

3 THE COURT: Any by the Defense?

4 MR. GOUDE: No, sir.

5 THE COURT: All right, Ms. Bailey, you wish to make
6 an opening statement?

7 MS. BAILEY: Yes, Your Honor, may it please the Court.

8 THE COURT: Yes, ma'am.

9 MS. BAILEY: There's no excuse. October 22nd of 2010,
10 almost exactly a year ago Ronald Gooden walked in the Shaw's
11 Corner Store, walked directly up to Curtis Anderson, squirted
12 gasoline all over him and lit him on fire. There's no excuse
13 for that. There is no excuse for doing that to another human
14 being. I'm sure you're wondering why he did that and you'll
15 hear why. He says he was being picked on. He says he was
16 being called names. There's no excuse for that.

17 Ladies and gentlemen, my name is Erin Bailey. I'm an
18 Assistant Solicitor here in Georgetown. In South Carolina we
19 call the prosecutor solicitors, which is a little bit of
20 ancient language. In other states they're called district
21 attorneys or state's attorneys. It's all the same thing. I
22 represent the State of South Carolina when a crime has been
23 committed.

24 You may see sitting at the table with me our in-house
25 investigator, Steve Brown. He operates my equipment and will

1 help get some things up on your computer screen so that you
2 can see all the evidence in this case.

3 This case won't be long. It's not complicated. You will
4 hear from witnesses. There was a store full of people there
5 when it happened. You're going to hear from the officers that
6 investigated on the scene. You're going to get to see some of
7 the evidence and judge for yourself.

8 Jury service is one of the most important constitutional
9 services that we have in this country and I know that for some
10 of you this is jury number two this week and I thank you so
11 much for your patience and your service this week. I ask that
12 you be patient just a little while longer to hear the evidence
13 in this case, consider it carefully and to come back and let
14 the Defendant know there is no excuse for lighting another
15 person on fire.

16 THE COURT: All right, Mr. Goude, does the Defense
17 wish to make an opening statement?

18 MR. GOUDE: Thank you, Your Honor, yes.

19 My name is Reuben Goude. I'm a lawyer here in
20 Georgetown. I'm representing Ronald Gooden who is seated over
21 there beside me. What I ask you to do is listen to the
22 witnesses testify, listen and watch any exhibits that we put
23 into evidence with the court reporter, and when we finish this
24 case whether that's - it's 11:30 now, whether that's today or
25 tomorrow morning I will come back up here and talk with you

Jackie Shaw - Direct by Ms. Bailey

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1 all and go over and ask you how to vote in regards to your
2 verdict. Thank you.

3 THE COURT: All right, Ms. Bailey, you can call your
4 first witness.

5 MS. BAILEY: Thank you, Your Honor the State calls
6 Jackie Shaw.

7 Whereupon, Jackie Shaw was called to the stand, duly
8 sworn by the clerk and testified as follows:

9 THE CLERK: Thank you. Please be seated and state
10 your name for the record.

11 MR. SHAW: Jackie Shaw.

12 DIRECT EXAMINATION

13 BY MS. BAILEY:

14 Q Mr. Shaw, please be sure to speak into the microphone
15 and speak up so we can all hear you; all right?

16 A Okay.

17 Q Mr. Shaw, do you own a store in Andrews?

18 A Yes, ma'am.

19 Q And what store is that?

20 A Shaw's Corner Store.

21 Q Is that located in Georgetown County?

22 A Yes, ma'am.

23 Q And how long have you had the store?

24 A About five, six, seven years.

25 Q All right, and just to set the scene a little bit what

1 kind of store is it? Do you all sell gas or ---

2 A No, we don't sell gas. We sells beer, sodas, chips,
3 stuff like that, yes, ma'am.

4 Q Okay, so, do people hang out in your store?

5 A Yeah, they do.

6 Q Okay, and do you remember - were you there on October
7 22nd of 2010?

8 A I was there. I came late but I was there.

9 Q About - when you say you came late about what time did
10 you come?

11 A Between 6:30 to 7.

12 Q All right, and when you arrived who all do you remember
13 being there just the best you can remember?

14 A Okay, I remember seeing Curtis. I remember seeing ---

15 Q When you say Curtis do you know Curtis's last name?

16 A Anderson.

17 Q Okay.

18 A I remember seeing Candy Man which that he name Gerry
19 Chandler because we call him ---

20 Q Okay, so, Gerry Chandler and he has a nickname?

21 A Candy Man.

22 Q Okay.

23 A Uh-huh, and I saw Greg, Greg was there.

24 Q And do you know Greg's last name?

25 A I don't know if he a Graham or a Tisdale.

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11 Q Okay.

12 A One or the other one, uh-huh, yeah. All, all them was
13 there, uh-huh.

14 Q All right, and was Ronald Gooden there at the time when
15 you arrived?

16 A He came in about 5 minutes after I got there, something
17 like that, yes, ma'am.

18 Q And how long was he there?

19 A Like 30 or 45, maybe to an hour.

20 Q Okay, and so, did he leave at some point?

21 A He did. He left.

22 Q And how long was he gone?

23 A Maybe 30, 45 to an hour maybe.

24 Q Okay, and can you tell us what happened when he came
25 back?

A When he came back and when I noticed where he was he was
in the back part of the store.

Q Okay, and can you tell us what you remember about that?

A He was back there lean up against the pool table from
my, from my understanding because we have a little gated fence
divide the pool table and the store and I could picture him
back here.

Q Okay, and what happened next?

A He stayed back there and the rest of the guys we stayed
up at the front talking and ---

1 Q So, who all was standing up at the front?

2 A It was me, Curtis, Al Giles, Herman Scott, Candy Man and
3 my wife was in and out.

4 Q Okay, and what happened next?

5 A After that, a few minutes after that everything had die
6 down and everybody just been in that part and talking to each
7 other and he came in the store.

8 Q So, he had left again at some point?

9 A Yes, ma'am, he left and then he came back.

10 Q Okay, what happened then?

11 A Then he came - he stayed around there for a little while
12 and he came in the store. My wife was leaving. They was kind
13 of passing each other at the same time and she tried to, you
14 know, to talk, hey, then he didn't really pay her no attention
15 and he came right on up kind of sideways and the next thing I
16 know he said, yo, boo, flip and that's what happened.

17 Q Okay, and so, tell us more specifically what it is that
18 you saw, you saw - did you see him walk in the door?

19 A Yes, ma'am.

20 Q Okay, and so, did he pass your wife when he walked in
21 the door?

22 A Yes, ma'am.

23 Q Okay, did he - what did he do then, did he walk around
24 the store, did he go straight somewhere?

25 A No, ma'am, he just came straight up to where we were.

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1 Q Okay, and what did he do then?

2 A He, the guys been over there talking and they didn't pay
3 him no attention and usually when he come in he usually
4 regularly get a beer or a cigarette or, you now, and for some
5 reason he just didn't and he came up there and the guys was on
6 my right side and he said, yo, then he throw something and
7 light and ran out.

8 Q Okay, and so, did you see fire?

9 A Yes, I sure did.

10 Q Okay, did it - did - was it a little bit of fire that
11 spread slowly or was it a big flash?

12 A It, it was a big flash.

13 Q Okay, and so, did you see Mr. Gooden pour something on
14 him, on Mr. Anderson?

15 A He threwed something and it was flammable.

16 Q Okay.

17 A Uh-huh.

18 Q And what was the next thing that you saw after that?

19 A Everything was on fire.

20 Q Okay, and do you know Mr. Gooden, how well do you know
21 him?

22 A I know him just by being around. I don't know him
23 personally ---

24 Q Uh-huh.

25 A --- but I just know him because, you know.

1 Q How long had you known his name and been able to
2 associate his name with his face?

3 A Actually, about five or six months since he came back
4 down here.

5 Q Okay, so, you've known him for five or six months. So,
6 is there any doubt in your mind that it was him that walked
7 into the store?

8 A It wasn't no doubt in my mind.

9 Q And is there any doubt in your mind that it was him that
10 caused the flash as you said?

11 A No doubt in my mind.

12 MS. BAILEY: The State has no further questions for
13 Mr. Shaw.

14 THE COURT: All right, Mr. Goude, cross examination.

15 MR. GOUDE: Thank you, Your Honor.

16 Judge, we would ask the court reporter to mark these as
17 our first three exhibits, please.

18 THE COURT: All right.

19 (Defense Exhibits One, Two and Three marked for
20 identification.)

21 CROSS EXAMINATION

22 BY MR. GOUDE:

23 Q Mr. Shaw, I'm going to ask you to look at the calendar
24 for the year 2010 and the date on this is October - the
25 calendar of 2010 the date is October the 22nd. Would you tell

Jackie Shaw - Cross by Mr. Goude

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1 the jury what day of the week that was?

2 A It was on a Friday.

3 Q And I'm going to show you what's marked as and you said
4 six or seven. Was that six or seven p.m. when all this was -
5 when you came in to work that evening?

6 A Yes, sir; yes, sir.

7 Q And the approximate time that the flammable liquid would
8 have been thrown was that somewhere between nine and ten p.m.
9 that night?

10 A Yes, sir.

11 Q I'm going to show you what's marked as Defense Exhibit
12 Two, which is three photographs on it, and ask you can you
13 identify - that is basically a picture of your store; is that
14 correct?

15 A Yes, sir.

16 Q And the first picture which is labeled A, somebody would
17 be standing across the street and what street is in front of
18 your store?

19 A Martin Luther King.

20 Q And there is another street that runs right beside your
21 store. If you were standing in the parking lot of your store
22 looking at the front of your store there's another little
23 street that runs on the right-hand side of your store that
24 runs into Martin Luther King Road, what - Martin Luther, is it
25 road, drive or boulevard or what is the name of that Martin

1 Luther King, Martin Luther King is it Martin Luther King, is
2 the name of it street or road or boulevard?

3 A Martin Luther King Street.

4 Q Martin Luther King Street?

5 A Yes, sir, uh-huh.

6 Q And if you're in the front of your store looking at the
7 front of your store there's another little street over to the
8 right. What street is that that runs into Martin Luther King?

9 A Aspen.

10 Q That is what?

11 A Aspen.

12 Q Aspen?

13 A Yes, sir.

14 Q And when you go straight across the street from your
15 store behind where you would have taken this picture where
16 whoever took the picture is taking it, does Aspen continue
17 with the name of Aspen or does it change the name to Jones?

18 A It change the name to Jones Avenue.

19 Q Okey-dokey, and the second picture on this exhibit,
20 number B, is that a picture of your store, also?

21 A Yes, sir.

22 Q And the person would have been standing across in front
23 of your store over on Martin Luther King Street looking at
24 your store to take that picture B; is that correct?

25 A Correct.

Jackie Shaw - Cross by Mr. Goude

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1 Q And on the left side of your store that you can see in
2 picture C, if you're in the front of your store in the parking
3 lot looking at the front of the store are there some trees
4 over on the left side of your store which would've been over
5 in this direction?

6 A Yes, sir, it's a pine tree, big pine.

7 Q And does sometime members of the community sit out there
8 or stand out there in the shade at the end of your store and
9 talk?

10 A Yes, sir.

11 Q And I will show you what's Defense Exhibit Three and
12 there's three pictures on that one, two and is that top
13 picture also a picture of the front of your store?

14 A Yes, sir.

15 Q And the second picture B, is that also a picture of your
16 store from the person would've been standing on Aspen Street
17 showing the end of your store and it's got a red dot on the
18 end of the building, is that a liquor store, too, on the end
19 of the building?

20 A Yes, sir.

21 Q And across the street behind Martin Luther King Street
22 in front of your store it shows some mobile homes; is that a
23 little mobile home park over there?

24 A Yes, sir.

25 Q Is that where Greg Tisdale lives? Does he live in one

1 of those trailers across the street?

2 A He used to live there. They moved.

3 Q Okay, all right, and then the bottom picture, C, is that
4 showing the back side of your store?

5 A Yes, sir.

6 Q All right, thank you, sir, and you called the man Candy
7 Man. Is Candy Man Gerry Chandler?

8 A Yes, sir.

9 MR. GOUDE: Judge, we would offer these as three
10 exhibits into evidence, please.

11 THE COURT: Any objection?

12 MS. BAILEY: None from the State, Your Honor.

13 THE COURT: All right, Defendant's Exhibits One, Two
14 and Three are admitted into evidence without objection.

15 (Defendant's Exhibits One, Two and Three admitted into
16 evidence and appropriately marked.)

17 BY MR. GOUDE:

18 Q And Mr. Shaw, are Curtis Anderson - is - are any of
19 these people related to you at all, either Ronald Gooden or
20 Curtis Anderson or Gerry Chandler or Greg Tisdale, are any of
21 them related to you?

22 A No, sir.

23 Q Are any of them close personal friends of yours?

24 A No, sir, we just hang out.

25 Q You run the community store and all four of them visit

Jackie Shaw - Cross by Mr. Goude

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1 your store; is that correct?

2 A Yes, sir.

3 Q And some of the people that visit your store are they -
4 do some of the people who visit your store live in the
5 immediate community and not own vehicles, they just walk to
6 your store?

7 A Yes, sir.

8 Q And do you sell hotdogs in your store?

9 A Yes, sir.

10 Q And you sell soft drinks?

11 A Yes, sir.

12 Q You sell chips?

13 A Yes, sir.

14 Q And crackers?

15 A Yes, sir.

16 Q And nabs and peanuts and things like that?

17 A Yes, sir.

18 Q And if you wanted to have a little snack and eat there
19 at your store and you didn't have a car to drive far off to a
20 restaurant or to go to the grocery store or something could
21 you find enough to eat in your store to satisfy your hunger?

22 A Yes, sir.

23 Q And has Ronald Gooden visited your store - you say
24 you've known him six or seven or eight months, whatever it was
25 in that area, has he visited your store fairly regularly

1 during this period of time?

2 A Not that regular, no, sir.

3 Q How often would you say he would visit your store?

4 A Maybe twice a week.

5 Q And would some of those times he would buy hotdogs to
6 eat?

7 A Yes, sir.

8 Q And did - Mr. Anderson, Curtis Anderson is he roughly 30
9 years old?

10 A I would say maybe younger, maybe.

11 Q Somewhere around that area?

12 A Yes, sir.

13 Q Give or take?

14 A Yeah.

15 Q And would you say his height is somewhere around five
16 foot ten give or take?

17 A Give or take, yes, sir.

18 Q And is his weight somewhere around 180 pounds give or
19 take?

20 A Give and take.

21 Q And Mr. Anderson and Gerry Chandler or the Candy Man and
22 Greg Tisdale they hang around a lot together; is that correct?

23 A Yes, sir.

24 Q Are they friends?

25 A I would say that they're friends, yes, sir.

Jackie Shaw - Cross by Mr. Goude

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- 1 Q And is Gerry Chandler, would he be roughly 35 years old
2 give or take somewhere?
- 3 A Give or take, yes, sir.
- 4 Q And is his - roughly what would his height and weight be
5 roughly?
- 6 A Roughly he about four, five feet, maybe 135 pounds.
- 7 Q He's a smaller guy than Mr. Anderson?
- 8 A Yes, sir.
- 9 Q And Mr. Greg Tisdale is his age roughly 23 years old
10 give or take?
- 11 A Give or take, yes, sir.
- 12 Q And roughly what is his height and weight?
- 13 A He should be about the same height as Mr. Chandler, four
14 or five.
- 15 Q He's about - his height would have been approximately
16 what?
- 17 A Four or 5 feet maybe give or take.
- 18 Q How tall did you say?
- 19 A Four or five feet, give or take or more.
- 20 Q Now, four, four foot's pretty small, you know.
- 21 A Five or six feet, give or take, that's right, that's
22 what I'm saying, yeah, mean to say.
- 23 Q Okay, and his weight would have been roughly about what?
- 24 A 120.
- 25 Q 120?

1 A He slim, he a slim fellow.

2 Q Is he a small guy, too?

3 A Yes, sir, he slim.

4 Q Okay, and this happened supposedly, this happened
5 October as we've seen on the calendar, October the 22nd which
6 was a Friday nine to ten p.m., last year, a year ago, 2010,
7 and at some point before then, some point in that month did
8 Mr. Ronald Gooden come to you at your store and ask you if a
9 man named Johnny Bradshaw was gay and did you say yes?

10 MS. BAILEY: Objection, Your Honor, he didn't let him
11 answer that question.

12 Q Well, just answer that first question.

13 A Repeat it again.

14 Q Around October before this incident happened, before the
15 burning, before the fire took place, did Mr. Gooden at your
16 store ask you - have you heard of a man named Johnny Bradshaw?

17 A Yes, sir.

18 Q And you knew that at some or did you know, I'll ask you,
19 at some point did you know that Mr. Gooden had let Johnny
20 Bradshaw move into Mr. Gooden's trailer to live with him?

21 A At some point.

22 Q And did you know that Mr. Gooden was letting him move in
23 with him to help him pay rent so Mr. Gooden would have some
24 money?

25 A Yes, sir.

Jackie Shaw - Cross by Mr. Goude

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1 Q And did you know that Mr. Gooden was living in his
2 father's trailer and that was what, about a little bit less
3 than a half a mile from your store?

4 A Give or take, yes, sir.

5 Q And that was, what, down Jones Avenue?

6 A Yes, sir.

7 Q And you'd go down Jones Avenue and you'd turn a right?

8 A Yes, sir.

9 Q And did you know - and this was right before the fire,
10 weeks before, months before, up to the time of the incident in
11 your store. Did you know that Mr. Gooden did not have the
12 utilities, did not have the lights on in his trailer?

13 A Exactly, yes, sir.

14 Q And did you know that he did not have the money to have
15 the water and the sewer turned on into his trailer?

16 MS. BAILEY: Objection, Your Honor, I'm not sure of
17 the relevance of that.

18 THE COURT: Overruled, I'll allow it.

19 A Yes, sir.

20 Q At some point to get back to what we were saying, at
21 some point did you know that Mr. Gooden let Mr. Johnny
22 Bradshaw move into Mr. Gooden's trailer to help, to help him
23 pay some rent; did you know that?

24 A To be specific on staying there, no, I can't say that.

25 All I know I heard that.

1 Q Okay, you heard that?

2 A Yeah.

3 Q At some point in October, the month that this incident
4 happened do you recall Mr. Gooden coming to you and asking you
5 and saying, "Mr. Shaw" - how did he call you, Jackie, Mr. Shaw
6 or what did he call you?

7 A The majority of them call me boss.

8 Q Boss?

9 A Yeah.

10 Q Do you recall if Ronald Gooden sometime in October or
11 September of last year came to you and said, "Boss, is Johnny
12 Bradshaw, the guy I let stay in my trailer, is he gay?"

13 A I can't say because I don't know him. I don't know him
14 like that.

15 Q You don't know who?

16 A Mr. Bradshaw.

17 Q All right.

18 A I ain't care if - I don't know if he a man, woman,
19 whatever he is.

20 Q Do you know who he is?

21 A Yes, I have seen him.

22 Q And there is a man named Johnny Bradshaw in that area?

23 A Yes, sir.

24 Q Okay, all right, now, well, did you tell Mr. Gooden,
25 when he asked you that did you tell Mr. Gooden, "Yes, he is.

Jackie Shaw - Cross by Mr. Goude

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1 He will pull one on you?"

2 A No, I can't say.

3 Q Okay, now, Mr. Shaw had - at some point before this
4 incident this night had Mr. Gooden told you that these three
5 guys, Chandler, Tisdale and Anderson, were picking on him?

6 A They had words about that but then picking I wouldn't
7 say picking.

8 Q Is that what Mr. Gooden said though, did he say, "They
9 were continuing to pick on me?"

10 A He, he said that they were, that they were - kept asking
11 him about that.

12 Q Did he tell you that they were continuing to call him a
13 faggot?

14 A In, in words, it was, the rumor was out like that.

15 Q Did he ---

16 MS. BAILEY: Objection, Your Honor, at this point I
17 think the witness is testifying as to hearsay. He said that
18 he doesn't know and that that was what the rumor was. I would
19 just ask that Mr. Goude only elicit what the witness actually
20 knows.

21 THE COURT: It's a statement by - he was testifying
22 as to what the Defendant said. So, that's not hearsay. I'll
23 allow it. Go ahead.

24 Q Mr. Shaw, you said back in the pool table area are -
25 when you go in your store, as I understand it, you have a

1 counter in there where you have your cash register?

2 A Yes, sir.

3 Q And you have your Coca-Cola icebox over there for soft
4 drinks and things or in a picture that the Solicitor gave me
5 there's a Coca-Cola box sitting in the store; is that correct?

6 A Yes, sir.

7 Q And you said you have a pool table; is that correct?

8 A Yes, sir.

9 Q And back at the area where the pool table is are there -
10 is there an electrical outlet or electrical outlets on the
11 wall that sometimes some of the members of the community come
12 in and plug their cell phones into to charge them?

13 A Yes, sir, unknown.

14 Q That's another benefit of your store; is that correct?

15 MR. GOUDE: Thank you, we have no other questions,
16 Your Honor.

17 THE COURT: All right, redirect?

18 REDIRECT EXAMINATION

19 BY MS. BAILEY:

20 Q Did you personally witness anybody calling Mr. Gooden on
21 that day on October 22nd, did you witness anybody calling him
22 names?

23 A They were - it was a lot of noise. Now, names calling
24 that's mostly about a everyday thing.

25 MS. BAILEY: No further questions.

1 THE COURT: All right, you may step down. Let me see
2 the attorneys for a second.

3 (Whereupon, a bench conference is held in the presence
4 but out of the hearing of the jury.)

5 THE COURT: All right, ladies and gentlemen, we were
6 doing some scheduling. It's about five till 12. I'm going to
7 go ahead and break for lunch. I'm going to allow you to go to
8 lunch on your own. Please be back in the jury room at 1:30.
9 That will give you an hour and a half for lunch and be back at
10 1:30. Do not discuss the case even among yourselves at this
11 point in time. It's too early for deliberations. I'll let
12 you know when you can discuss the case. Also, don't try to
13 conduct any independent investigation or try to find out
14 anything about the case. I hope everybody has a good lunch
15 and we'll see you back at 1:30. If everyone else please
16 remain seated while the jury is excused.

17 (Whereupon, the following takes place outside the
18 presence of the jury.)

19 THE COURT: All right, before we break for lunch I
20 want to go ahead and put on the record and just let the
21 attorneys know Juror Number 11, Sandra Bonner, during
22 qualifications I had given her protection for Thursday and
23 Friday. I think she was going out of town or something like
24 that and I told her I would make - this is when I did not know
25 this yesterday was going to be an all-day affair on that.

1 motion to suppress; and so, I had told her that she would have
2 protection for Thursday and Friday. So, if this case goes
3 into tomorrow we're going to have to allow her to go and seat
4 one of the alternates; okay? Any objection by the State to
5 that?

6 MS. BAILEY: None from the State, Your Honor.

7 THE COURT: Any by the Defense?

8 MR. GOUDE: No, Your Honor.

9 THE COURT: All right, that sounds good and we'll
10 just see how far we get. Anything from the State before we
11 break for lunch?

12 MS. BAILEY: No, Your Honor.

13 THE COURT: Anything from the Defense?

14 MR. GOUDE: No, sir.

15 THE COURT: All right, let's be back about 1:30;
16 okay?

17 MS. BAILEY: Thank you.

18 THE COURT: Thank you.

19 OFF THE RECORD

20 (On the record.)

21 (Whereupon, the following takes place outside the
22 presence of the jury.)

23 THE COURT: All right, anything from the State before
24 we bring the jury in?

25 MS. BAILEY: Your Honor, I forgot to ask if Jackie

1 Shaw could be released from his subpoena.

2 THE COURT: All right, Mr. Goude, any objection?

3 MR. GOUDE: No, Your Honor.

4 THE COURT: All right, he's free to go. Thank you
5 very much.

6 MS. BAILEY: Thank you, Your Honor.

7 THE COURT: All right, anything further from the
8 State before we bring the jury in?

9 MS. BAILEY: No, Your Honor.

10 THE COURT: Anything from the Defense?

11 MR. GOUDE: No, sir.

12 THE COURT: All right, let's bring the jury in.

13 (Whereupon, the following takes place in the presence of
14 the jury.)

15 THE COURT: All right, ladies and gentlemen, welcome
16 back. I want to thank everyone for being prompt. I hope you
17 had a good lunch. We're now ready to resume the trial of this
18 case. Before we get started I want to remind you if you have
19 any cell phones or pagers or anything of that nature if you'd
20 please turn them off completely while we're in the trial of
21 this case if you brought them into the courtroom. All right,
22 Ms. Bailey, you can call your next witness.

23 MS. BAILEY: Thank you, Your Honor, the State calls
24 Tim Harrelson.

25 THE COURT: All right.

1 Whereupon, Timothy Harrelson was called to the stand,
2 duly sworn by the clerk and testified as follows:

3 THE CLERK: Thank you. Please be seated and state
4 your name for the record.

5 MR. HARRELSON: My name is Timothy Harrelson.

6 THE COURT: All right, Ms. Bailey.

7 MS. BAILEY: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MS. BAILEY:

10 Q Officer Harrelson, could you tell us how long have you
11 been in law enforcement?

12 A Since 2009.

13 Q And where have you worked?

14 A Georgetown County Sheriff's Office, Andrews Police
15 Department and now currently employed with Jamestown.

16 Q Okay, and on October 22nd of 2010 where were you employed
17 then?

18 A Andrews Police Department.

19 Q And did you have reason to respond to the Shaw's Corner
20 Store?

21 A I did.

22 Q And can you tell us about what you found when you got
23 there?

24 A I was flagged down by a pedestrian, explained to me that
25 she had observed a man on fire running across Martin Luther

Timothy Harrelson - Direct by Ms. Bailey

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1 King Boulevard, which is adjacent to Shaw's Corner Store. I
2 immediately was in route to that. As I was in route I was
3 called by central dispatch. They explained to me the same
4 thing, told them I was already in route. Whenever I arrived
5 on the scene I could see obvious signs of smoke in the air,
6 didn't see anybody. They said he was inside. I immediately
7 ran inside, found Mr. Curtis Anderson inside walking around
8 dazed, a little lethargic to say the least. He was obviously
9 burned to a large extent.

10 Q Can you describe where the burn injuries were on his
11 body?

12 A All over his face, nose, mouth, throat area, on his
13 chest, down his side, his arm. He was burned very severely.
14 His skin was peeling off to say the least.

15 Q And how was he dressed when you got there?

16 A When I got there he was wearing burned, tailored pants
17 dark-color, no shirt. They had torn his shirt off of him
18 because it was burning.

19 Q And while you were on the scene did - was there a
20 commotion outside?

21 A There was. While I was inside tending to him keeping
22 him, trying to keep him incoherent I heard a lot of screaming
23 and chaos outside. As I ran outside to find out what was
24 going on I saw Mr. Gooden and my partner tussling on the
25 ground and a crowd surrounding them.

1 Q How many people would you say were outside the store?

2 A Twenty-five, 30 people at least. They surrounded them.
3 I busted through the crowd, jumped on top. We got Mr. Gooden
4 detained trying to fight the crowd off. They were trying to
5 retaliate. Once we got them dispersed we got him safely
6 secured in the back of my patrol car.

7 Q All right, at some point did you give a Miranda warning
8 to Mr. Gooden?

9 A I did. Whenever we got in the vehicle and we were on
10 the way to the jail and he was in custody he was put, he was
11 placed with a Miranda warning.

12 Q All right, and after you gave him - and can you explain
13 for the jury what that Miranda warning says?

14 A The right to remain silent, anything he is - anything he
15 says can be used against him in a court of law. He had the
16 right to an attorney to be present while he was being
17 questioned. If he could not afford an attorney we would
18 appoint him with one. He basically said he understood his
19 rights and that was it.

20 Q After you gave him that Miranda warning did he initiate
21 further contact with you?

22 A He did.

23 Q And did you remind him of his rights at that point?

24 A He was reminded twice.

25 Q Okay, could you describe - let's go back in time just a

Timothy Harrelson - Direct by Ms. Bailey

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1 little bit. Could you describe more about the scene when you
2 got there?

3 A Whenever I arrived on scene there was a bunch of people
4 standing in the parking lot waiving me in. The - I could see
5 smoldering clothes laying in the highway from where he had
6 apparently ran across the street. There was smoldering
7 clothes in a trashcan where they had put a bunch of stuff in
8 the trashcan and tried to out the fire. His clothes were
9 continuing to burn because of the gasoline. When I got inside
10 he was - his - the skin on his face was ---

11 Q When you say he who do you mean?

12 A Mr. Anderson, Curtis Anderson, the victim in the case.
13 His skin was peeling away from his face. It was a very - it
14 was a gruesome scene to say the least. He - I'm trying,
15 trying not to be too terribly graphic. He was missing skin on
16 his face, his throat area, down his chest, his stomach, his
17 side and all down his arm.

18 Q Let's go back to that statement that you took on the way
19 to the jail, have you had the opportunity to review what has
20 been previously marked as State's Exhibit Number Nine?

21 A I have.

22 Q And could you describe what is on this CD?

23 A It is a - basically, a confession to what happened by
24 Mr. Gooden from the ---

25 Q It is, is it a true and accurate tape or recording of

1 that trip that you took or a portion of that trip that you
2 took from the scene to the jail?

3 A Yes, ma'am.

4 Q Okay.

5 MS. BAILEY: At this time the State would like to move
6 State's Exhibit Number Nine into evidence.

7 THE COURT: Any objection?

8 MR. GOUDE: No objection.

9 THE COURT: All right, State's Exhibit Number Nine is
10 admitted into evidence without objection.

11 (State's Exhibit Number Nine is admitted into evidence
12 and appropriately marked.)

13 MS. BAILEY: Thank you, Your Honor. Permission to
14 publish to the jury?

15 THE COURT: Yes.

16 BY MS. BAILEY:

17 Q Now, there is a time stamp at the bottom of this video.
18 Is that time and date stamp accurate?

19 A No, ma'am, not at all.

20 Q Okay.

21 (Whereupon, State's Exhibit Number Nine played in open
22 court.)

23 BY MS. BAILEY:

24 Q Now, to be clear from that statement that we just
25 watched who was it who gave that statement?

Timothy Harrelson - Cross by Mr. Goude

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1 A Ronald Gooden.

2 Q Okay, and so, that's you and him in the car? It's a
3 recording of that?

4 A Just us, yes, ma'am.

5 Q Okay, and that's, when you say Ronald Gooden is that
6 person in the courtroom?

7 A Yes, ma'am.

8 Q And could you point to where he is?

9 A Sitting right there.

10 Q Okay, let the record reflect he's pointing to the
11 Defense table.

12 MS. BAILEY: The State has no further questions for
13 this witness.

14 THE COURT: All right, Mr. Goude, cross examination.

15 MR. GOUDE: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. GOUDE:

18 Q And officer, when you first got to the Shaw's Country
19 Store, the little - the tape that we just saw, was there
20 another tape made while you were there at the Country Store?

21 A There was.

22 Q And can we ask Steve, could I ask you to play that?

23 MR. GOUDE: Judge, we would offer this next tape as
24 an exhibit made by the same officer.

25 THE COURT: Well, has it been marked? Let's - we've

1 got to get it marked and identified, follow the proper
2 procedures.

3 MR. GOUDE: We would offer this as our next exhibit
4 in order, Judge.

5 THE COURT: All right, so, what is that, Defense
6 Exhibit?

7 REPORTER: Four.

8 THE COURT: Any objection to Defense Exhibit Number
9 Four?

10 MS. BAILEY: No, Your Honor.

11 THE COURT: All right, Defense Exhibit Number Four is
12 admitted into evidence without objection.

13 (Defense Exhibit Number Four admitted into evidence and
14 appropriately marked.)

15 MR. GOUDE: And we would ask to publish this by
16 playing it to the jury, too, Judge.

17 THE COURT: All right, that'll be fine.

18 (Defense Exhibit Number Four played in open court.)

19 BY MR. GOUDE:

20 Q Officer, when all this happened was this roughly 9 to
21 9:30 p.m.?

22 A I don't remember the time exactly.

23 Q Would looking at the head of the police report refresh
24 your memory at the approximate time?

25 A It should, yes, sir, 9:21 p.m.

Timothy Harrelson - Redirect by Ms. Bailey

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1 Q 9:21 p.m. on October the 22nd, 2010?

2 A That's what it says, yes, sir.

3 Q Thank you, and you said you had been in law enforcement
4 since 2009; is that correct?

5 A That is.

6 Q Are you a resident or were you a resident of Andrews?
7 Had you lived there for a long period of time before last
8 year, before 2010?

9 A I had.

10 Q Do you - did you know Curtis Anderson before this
11 incident happened?

12 A I did not.

13 Q Did you know Gerry Chandler before this incident
14 happened?

15 A I did not.

16 Q Did you know Greg Tisdale before this incident happened?

17 A I did not.

18 MR. GOUDE: Judge, I have no other questions. Thank
19 you.

20 THE COURT: All right, redirect.

21 REDIRECT EXAMINATION

22 BY MS. BAILEY:

23 Q At the end of this video we just watched why did it quit
24 recording?

25 A I can - if I remember correctly my battery died and

1 that's whenever I put it on the charger in the car.

2 Q All right, and so, then did you - you turned it back on
3 at some other point for that second video?

4 A Correct, I turned it back - I turned it back on, pulled
5 it off of the charger once it got charged enough to collect
6 that statement at the end that you saw. It was - I was - I
7 would estimate 30 minutes after that video.

8 Q Okay, and in that time - well, just to clarify this one
9 we just watched ---

10 A Correct.

11 Q --- even though during the video you say that he's been
12 mirandized you - were you mistaken about that?

13 A I was, I was.

14 Q Okay, and in the time when your camera died and it was
15 recharging did you mirandize him then?

16 A As we were pulling out of Shaw's Corner Store parking
17 lot I mirandized him and he said he understood his rights and
18 anything he said during the trip would - could also be used
19 against him as well and he stated he understood.

20 Q Okay, so, the video that we watched first actually
21 happened last in time; is that correct?

22 A Happened what, I'm sorry?

23 Q The video that we watched first today ---

24 A Right.

25 Q --- that happened last in time?

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1 A Correct.

2 Q Is that correct?

3 A Correct.

4 Q No further questions.

5 THE COURT: All right, you may step down.

6 All right, I think it's a good time for us to take a
7 little break, let the jury stretch their legs, get something
8 to drink, use the restroom, whatever the case may be. If you
9 want to check your messages and return calls you can, but I do
10 caution you do not discuss this case with anyone, do not
11 discuss it even among yourselves at this point in time, don't
12 conduct any independent investigations or anything of that
13 nature. We're going to take about a 10 or 15 minute break and
14 come back and resume the trial in just a minute. Thank you
15 very much. If everybody else remain seated while the jury is
16 excused.

17 (Whereupon, the following takes place outside the
18 presence of the jury.)

19 THE COURT: All right, anything from the State
20 before we take a break?

21 MS. BAILEY: Your Honor, during that videotape there
22 was some discussion about charging and about various sentences
23 that different charges may receive. I would, I would just ask
24 Your Honor when the jury comes back or even before closing or
25 before - during the charge at the end that you - I would just

1 ask for an instruction that they are to disregard any
2 reference to the law that was contained in that videotape and
3 any reference to any sentence that the Defendant may receive.

4 THE COURT: All right, I'm not going to do it when
5 they come back in, but when I charge them on the law I'll make
6 a judgment call at that time, okay, and you can renew your
7 motion at that point in time. All right, all right, Mr.
8 Goude, anything from the Defense before we break?

9 MR. GOUDE: No, Your Honor.

10 THE COURT: All right, let's take about a 15 minute
11 break; okay?

12 MS. BAILEY: Thank you, Your Honor.

13 THE COURT: All right, thank you.

14 OFF THE RECORD

15 (On the record.)

16 (Whereupon, the following takes place outside the
17 presence of the jury.)

18 MS. BAILEY: Okay, may Tim Harrelson be excused?

19 THE COURT: Any objection?

20 MR. GOUDE: No, sir.

21 THE COURT: All right, he's free to go. Thank you
22 very much.

23 MS. BAILEY: Thank you, Your Honor.

24 OFF THE RECORD

25 (On the record.)

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1 (Whereupon, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right, anything from the State before
4 we bring the jury in?

5 MS. BAILEY: No, Your Honor.

6 THE COURT: Anything from the Defense?

7 MR. GOUDE: No, sir.

8 THE COURT: All right, let's go ahead and bring the
9 jury in.

10 (Whereupon, the following takes place in the presence of
11 the jury.)

12 THE COURT: All right, ladies and gentlemen, welcome
13 back. I remind you if you have any cell phones or pagers
14 please turn those off at this time.

15 Ms. Bailey, you can call your next witness.

16 MS. BAILEY: Thank you, Your Honor. The State calls
17 Matt Hoefffer.

18 THE COURT: All right.

19 Whereupon, Matthew Hoefffer was called to the stand, duly
20 sworn by the clerk and testified as follows:

21 THE CLERK: Thank you. Please be seated and state
22 your name for the record.

23 MR. HOEFFFER: My name is Matthew Hoefffer.

24 DIRECT EXAMINATION

25 BY MS. BAILEY:

1 Q And where are you employed?

2 A Andrews Police Department.

3 Q How long have you been in law enforcement?

4 A A little over four years.

5 Q And where all have you been employed?

6 A I worked three years here in the City of Georgetown
7 before going to Andrews about a year ago.

8 Q On October 22nd of 2010 did you have reason to go to the
9 Shaw's Corner Store in Andrews?

10 A Yes, ma'am.

11 Q And what did you find when you arrived?

12 A I found Officer Harrelson standing with the victim
13 Curtis Anderson in the parking lot of the Corner Store. I
14 observed Mr. Anderson to have severe third-degree burns to his
15 chest, face and both of his arms.

16 Q I'm going to hand up to you what's been previously
17 marked as State's Exhibits Seven and Eight. Do you recognize
18 those pictures?

19 A Yes, ma'am, I do.

20 Q What are those pictures of?

21 A They are pictures of the victim Mr. Anderson in the back
22 of the ambulance.

23 Q And do those pictures fairly and accurately depict his
24 injuries and his state when you arrived at the scene?

25 A Yes, ma'am, they do.

Matthew Hoeffler - Direct by Ms. Bailey

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1 MS. BAILEY: At this point the State would seek to move
2 State's Exhibit Seven and Eight into evidence.

3 THE COURT: Any objection?

4 MR. GOUDE: No, sir.

5 THE COURT: All right, State's Exhibit Number Seven
6 and State's Exhibit Number Eight admitted into evidence
7 without objection.

8 (State's Exhibit Number Seven and State's Exhibit Number
9 Eight admitted into evidence and appropriately marked.)

10 MS. BAILEY: Permission to publish to the jury?

11 THE COURT: Yes.

12 BY MS. BAILEY:

13 Q Can you describe what we're looking at in State's
14 Exhibit Seven as soon as it comes on the screen?

15 A That is the victim Mr. Anderson laying on the stretcher
16 in the back of the ambulance.

17 Q And State's Exhibit Eight, please? While we're pulling
18 that up, what kind of camera did you take these with?

19 A It's a digital pen camera.

20 Q Was it difficult to hold it still?

21 A Yes, it was. Again, Mr. Anderson on the, on the
22 stretcher. You can see at this point the skin missing from
23 his chest, various spots on his face, around his left eye,
24 right cheek and his chin also on both of his hands.

25 Q Now, in addition to the state of the victim what else

1 did you observe when you arrived on scene?

2 A There was some burnt clothing laying in the parking lot.
3 There was a burnt T-shirt just a few feet outside the front
4 door to the store. Further on beyond that through the parking
5 lot towards Martin Luther King Drive there was a black jean
6 jacket that had been damaged, burnt and then also there was a
7 thermal shirt that was laying in Martin Luther King Drive that
8 had also been burnt.

9 Q I'm going to show you what has been previously marked as
10 State's Exhibits Four - I'm going to show you what have been
11 previously marked as State's Exhibits One, Two, Three and Four
12 for identification purposes only. Do you recognize those
13 photographs?

14 A Yes, ma'am.

15 Q And what do those photographs depict?

16 A This first one is a picture from the interior of the
17 store out through the front door in which you can see the, the
18 victim's clothes laying just outside the ---

19 Q And that's State's One? Look on the back?

20 A Yes, ma'am.

21 Q Okay, how about State's Two?

22 A State's Two is a picture of the victim's clothes from
23 the exterior, the exact opposite side of that picture and
24 that's State's Two.

25 Q How about State's Three?

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1 A State's Three is the black jean jacket which our
2 investigation concluded belonged to the subject, Mr. Gooden.

3 Q And State's Four?

4 A State's Four is a picture of the shirt laying in the
5 roadway which our investigation also, you know, it belonged to
6 Mr. Gooden.

7 MS. BAILEY: At this time the State would seek to move
8 State's Exhibits One through Four into evidence.

9 THE COURT: Any objection?

10 MR. GOUDE: No, sir.

11 THE COURT: All right, State's Exhibit One, Two,
12 Three and Four admitted into evidence without objection.

13 (State's Exhibit One, Two, Three and Four admitted into
14 evidence and appropriately marked.)

15 MS. BAILEY: Permission to publish to the jury?

16 THE COURT: Yes.

17 BY MS. BAILEY:

18 Q Let's start with State's One.

19 A Again, in this photograph one you can see that this is a
20 picture from the inside of the store. You can see the pile of
21 burnt garbage and the shirt right outside the front door
22 there. That was the victim's shirt. Also you can see the
23 burn marks on the wall there to the right of the opening.

24 Q All right, and did you collect any evidence from that
25 particular pile of burnt rubble?

1 A Yes, ma'am, there's, there's some trash there and some
2 beer cans but as I said the victim's shirt was, was in that
3 pile of burnt rubble.

4 Q I'm going to ask you not to take this, hold on just one
5 moment. I'm going to ask you not to take this out of the bag
6 but just to look in the bag. I'm showing you what has been
7 previously marked as State's exhibit - what's the number on
8 the front?

9 A Number 10.

10 Q Okay, State's Exhibit 10. Would you look in that bag
11 and tell me if you recognize the contents?

12 A Yes, ma'am, I do.

13 Q And what are those contents?

14 A It is a - I guess it's a dark blue in colored long
15 sleeve T-shirt that the victim was wearing. It's - you can
16 see it's severely burned.

17 Q And that's what you recovered from the area located in
18 this picture from the pile of rubble outside the store?

19 A Yes, ma'am.

20 Q Okay, at this time the State would seek to move State's
21 Exhibit 10 into evidence.

22 THE COURT: Any objection?

23 MR. GOUDE: Can I see the bag? No objection, Your
24 Honor.

25 THE COURT: All right, State's Exhibit Number 10

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1 admitted into evidence without objection.

2 (State's Exhibit Number 10 admitted into evidence and
3 appropriately marked.)

4 MS. BAILEY: Permission to publish to the jury.

5 THE COURT: Okay.

6 MS. BAILEY: Please pull up State's Exhibit Two.

7 BY MS. BAILEY:

8 Q Can you describe what's in the photograph that's State's
9 Exhibit Two?

10 A Yes, ma'am, that is just another shot from the opposite
11 side. It's 180 degree difference there and again that's the
12 pile of burnt trash and the victim's T-shirt.

13 Q Do you know why the victim's T-shirt was in the trash,
14 was mixed in with all that other trash?

15 A My understanding was that when the victim was set on
16 fire bystanders ripped the shirt off of him while it was still
17 on fire and threw it in the trashcan and then apparently
18 caught the trash on fire.

19 MS. BAILEY: Exhibit Three, please.

20 BY MS. BAILEY:

21 Q We're now viewing for the record what's been entered
22 into evidence as State's Exhibit Number Three. Could you
23 describe what's in that photograph?

24 A Yes, ma'am, that's a black in color jean jacket. As you
25 can see it's possibly 20 or 25 feet further out into the

1 parking lot from that front door from where the victim's shirt
2 was recovered and our investigation determined that that black
3 jacket, which also has burn damage to it, belonged to the
4 Defendant, Mr. Gooden.

5 Q Did you collect anything from that particular pile?

6 A Yes, ma'am, I did collect that jacket.

7 Q I'm showing you what has been previously marked as
8 State's Exhibit Number 11 for identification purposes only.

9 A Yes, ma'am.

10 Q Would you take a look inside that bag and tell me if you
11 recognize it?

12 A Yes, ma'am, that is the jean jacket that I collected
13 that's shown in the photo there.

14 MS. BAILEY: At this time the State would seek to move
15 State's Exhibit Number 11 into evidence.

16 THE COURT: Any objection?

17 MR. GOUDE: No, sir.

18 THE COURT: All right, State's Exhibit Number 11
19 admitted into evidence without objection.

20 (State's Exhibit Number 11 admitted into evidence and
21 appropriately marked.)

22 MS. BAILEY: Permission to publish to the jury?

23 THE COURT: Yes.

24 MS. BAILEY: May I get permission for my investigator
25 to help me get this back into the bag?

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1 THE COURT: That'll be fine.

2 MS. BAILEY: It takes about four hands.

3 BY MS. BAILEY:

4 Q I'm showing you what has been previously marked as
5 State's Exhibit Four. Do you recognize that photograph?

6 A Yes, ma'am, that is the thermal shirt. As you can see
7 in the background there that's the Corner Store in the
8 background there. The unmarked highway patrol unit is there
9 in the roadway and then immediately out from the driver side
10 headlight of that vehicle is the thermal shirt that we
11 determined belonged to Mr. Gooden.

12 Q And so, it's a little bit further away?

13 A Yes, ma'am, it was, it was actually out in the roadway
14 in the middle of the roadway on Martin Luther King Drive.

15 MR. GOUDE: Thank you.

16 BY MS. BAILEY:

17 Q At this time I'm going to show you what's been
18 previously marked as State's Exhibit Number 12 for
19 identification only. If you could take a look in that bag and
20 let me know if you recognize that item.

21 A Yes, ma'am, that's a black in color thermal shirt which
22 also has burn damage to it and that's the same item that you
23 see in the photo there.

24 MS. BAILEY: At this time the State would seek to move
25 State's Exhibit Number 12 into evidence.

1 THE COURT: Any objection?

2 MR. GOUDE: No, sir.

3 THE COURT: All right, State's Exhibit Number 12
4 admitted into evidence without objection.

5 (Whereupon, State's Exhibit Number 12 admitted into
6 evidence and appropriately marked.)

7 MS. BAILEY: Permission to publish to the jury?

8 THE COURT: Yes.

9 BY MS. BAILEY:

10 Q Did you observe any, did you observe any damage to the
11 interior of the store?

12 A Yes, ma'am, there were burn marks along the wall, but
13 when you first walk into, into the business to the left along
14 the front wall there were burn marks along the wall. I
15 believe that's where the trashcan had been sitting right
16 inside the front door. There's also a gaming machine there, a
17 Mega-Touch gaming machine, that had some fire damage to it and
18 there were some other burn marks inside the store.

19 Q I'm going to show you what has been previously marked as
20 State's Exhibits Number Five and Six. Do you recognize these
21 photographs?

22 A Yes, ma'am, I do.

23 Q And can you describe for the jury what they are?

24 A State's Exhibit Number Five is a picture from the corner
25 of the bar where the victim Mr. Anderson would've been

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1 standing looking backwards into the store office and State's
2 Six is also again a shot in that direction although it's - I'm
3 standing further back in this picture.

4 MS. BAILEY: At this time the State would seek to move
5 State's Five and Six into evidence.

6 THE COURT: Any objection?

7 MR. GOUDE: No, sir.

8 THE COURT: All right, State's Exhibit Five and
9 State's Exhibit Six admitted into evidence without objection.
10 (Whereupon, State's Exhibit Number Five and Six admitted
11 into evidence and appropriately marked.)

12 MS. BAILEY: Thank you, Your Honor. Permission to
13 publish to the jury?

14 THE COURT: Yes.

15 MS. BAILEY: Okay, please pull up State's Exhibit
16 Five.

17 BY MS. BAILEY:

18 Q And could you describe what we're looking at here?

19 A Yes, ma'am, actually from the vantage point where I'm
20 taking the - this picture here was where the victim, Mr.
21 Anderson, would've been standing. However, he would've been
22 facing the other direction but our investigation yielded he
23 was standing at this point when he was doused in the gasoline
24 and set on fire. You can see on the floor there in the
25 doorway there are some wet spots and some burn marks where

1 apparently some of his clothing had fallen off and also where
2 they tried to douse him with water to put the fire out.

3 Q Please pull up State's Exhibit Six. For the record,
4 we're now looking at State's Exhibit Six. Could you please
5 describe what we're looking at here?

6 A Yes, ma'am, again, this is just a vantage point further
7 back right here at the corner of the bar in front of that
8 Coca-Cola cooler was where the victim, Mr. Anderson, would
9 have been standing where he was set on fire and then where he
10 retreated back into the office.

11 Q And where is the door in relation to this picture?

12 A From this vantage point it would be off to my left.

13 Q Thank you. After you responded to the scene was the
14 Defendant there when you first got there?

15 A No, ma'am.

16 Q Did the Defendant arrive there?

17 A Yes, ma'am, I was in inside with Officer Harrelson and
18 the victim Mr. Anderson. We received information that the
19 subject was outside. I exited straight out the front door and
20 proceeded into the gravel portion of the parking lot. On the
21 other side of that gravel along Martin Luther King Drive
22 there's a grass edge to the roadway. I observed the
23 Defendant, Mr. Gooden, standing in that grassy section there.
24 He put his hands up in the air and stated, "It's me. I did
25 it." At that point, I took my tazer out of its holster,

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1 pointed it at him and ordered him to the ground, and
2 obviously, based on the information we had, he was some type
3 of threat, ordered him to the ground. Unfortunately in that
4 process some bystanders grabbed a hold of him, took him to the
5 ground and Officer Harrelson and I pulled those individuals
6 off of Mr. Gooden and placed him in custody and put him in the
7 back of the police vehicle.

8 MS. BAILEY: All right, the State has no further
9 questions.

10 THE COURT: Mr. Goude, cross examination.

11 CROSS EXAMINATION

12 BY MR. GOUDE:

13 Q Officer, you, you said you have worked in Andrews for
14 about a year. Did you go over there in 2010, is that when you
15 started working in Andrews?

16 A Yes, sir, in September of 2010.

17 Q Were you from that area before then?

18 A No, sir, I'm from Pennsylvania.

19 Q Did, before this incident, did you know the man that got
20 burned, Curtis Anderson?

21 A No, sir, I did not.

22 Q Before this incident did you know Curtis Anderson's
23 friend, Gerry Chandler?

24 A I had seen him but I had never had any interaction with
25 him.

1 Q Before this incident did you know Curtis Anderson's
2 friend, Greg Tisdale?

3 A No, sir.

4 Q Thank you. That's all I have.

5 THE COURT: Redirect?

6 MS. BAILEY: None, Your Honor.

7 THE COURT: All right, you may step down.

8 A Thank you.

9 MS. BAILEY: May this witness be excused from his
10 subpoena?

11 THE COURT: Any objection?

12 MR. GOUDE: No, Your Honor.

13 THE COURT: All right, he's free to go. Thank you
14 very much. Call your next witness.

15 MS. BAILEY: Thank you, Your Honor, the State calls Al
16 Giles, Sr.

17 WHEREUPON, Alphonso Giles, Sr., was called to the stand,
18 duly sworn by the clerk and testified as follows:

19 THE CLERK: Thank you. Please be seated and state
20 your name for the record.

21 MR. GILES: My name is Alphonso Giles, Sr.

22 DIRECT EXAMINATION

23 BY MS. BAILEY:

24 Q Mr. Giles, where do you live?

25 A Andrews, [REDACTED] Martin Luther King Drive.

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1 Q And do you work for a living?

2 A Yes, I do.

3 Q What do you do?

4 A I'm a dry end supervisor at American Gypsum on
5 Pennyroyal Road.

6 Q On October 22nd of 2010 were you at the Shaw's Corner
7 Store in Andrews?

8 A Yes, I was.

9 Q And ---

10 THE COURT: Excuse me, if you could slide up and
11 speak into that microphone so we'll be able to pick you up.
12 Thank you.

13 A All right.

14 THE COURT: All right, go ahead.

15 Q About what time did you arrive there?

16 A I want to say after nine.

17 Q Okay, do you remember anything remarkable happening that
18 night?

19 A Oh, yes, a few, about probably 30 minutes after I was -
20 got there.

21 Q Okay, can you tell us what happened?

22 A Well, when I was there standing at the counter talking
23 to the owner of the store, Curtis was probably about two feet
24 beside me.

25 Q And when you say Curtis, do you know his last name?

1 A Yes, Curtis Anderson.

2 Q Okay.

3 A And just be - I was talking to the owner, you know, we
4 were laughing and joking and everything; and so, when I glance
5 or turn to the side at an angle I notice Ronald because like I
6 say Curtis's got a wide frame and Ronald is more skinnier.
7 So, I noticed Ronald when he came in and he's like he leaned
8 forward and said, you know, "Like I told you," that's all I
9 could hear, you know, could hear and then after that, bam, he,
10 Mr. Anderson burst out in flames.

11 Q Did you know Ronald before this?

12 A Yes, I do.

13 Q And how long have you known him?

14 A Me and him came - grow up together in school. So, I
15 knowed him probably 20, 20 something years, 30 years.

16 Q And you're certain it was him that you saw walk into the
17 store?

18 A Yes, ma'am.

19 Q Okay, can you pull up State's Five, please. If you'll
20 look at your screen there we're going to look at a picture.
21 Using this picture could you describe where you were standing?

22 A I was standing exactly at the corner, at the, at the
23 bar.

24 Q The corner that is closest to the camera or the corner
25 that is furthest away from the camera?

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1 A Furthest away to the camera, on the corner on the right-
2 hand side furthest away.

3 Q Okay, and where was Curtis Anderson standing?

4 A He was standing right there where the like - where the
5 racks at right there on the right-hand side on the counter.

6 Q Okay, and after you said that you saw - can you describe
7 it again what, what you saw happen?

8 A Just like a explosion pretty much.

9 Q Okay.

10 A Yeah, he was on fire.

11 Q After that explosion what's the next thing that you
12 remember?

13 A The next thing when that happened, Mr. Anderson he ran
14 towards me and the small room behind it he ran towards me, he
15 was on fire and we was trapped up in the room.

16 Q So, you and he were both in that room?

17 A In that small room, correct.

18 Q Was that door opened or closed when it happened?

19 A That's - I can't remember. I know he came - I can't
20 remember if it was open or closed.

21 Q Okay, but both of you ended up back in that small room?

22 A Correct, correct.

23 Q And what happened next?

24 A When he came in the room, like I say, it was dark but
25 the lights from him because he was so much still in flames

1 pretty much it - I was able, I was able - I felt, I fell down
2 first and I jumped back up because he came so quickly upon me;
3 and so, at the time I reached and try to find a rag so I can
4 try to pat out him. So, that's what I done. Like I say, and
5 that room was filled with - that's where he keep his boxes and
6 containers and paper and stuff like that. So, you know, I was
7 careful what I grab to try to out him because like I say he
8 was - his shirt and everything was on fire. So, I pat him,
9 out, out him, and then at that time we tried to exited. We
10 couldn't because the counter and everything else was -
11 couldn't let us get out.

12 Q Okay, why, why couldn't - well, at this point was he
13 completely put out or was he still on fire?

14 A Correct, yes, he was out.

15 Q He was, okay, and so, why couldn't you exit at that
16 point?

17 A Because of the - the - from the fire that the trashcan
18 and I guess whatever that he used got on the side of the wall
19 and the counter so we was trapped then, we couldn't get out at
20 the time at least about less than a minute.

21 Q And what happened next?

22 A After that we came out, kept him calm. So, I was on my
23 cell phone calling 911 at the time, and we kept him calm
24 talking to him, you know, he was nodding his head and
25 everything, and then, then he went outside. We tried to get

Alphonso Giles, Sr. - Cross by Mr. Goude

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1 him to come back inside because of the air and then he was
2 just burnt and then that's - by that time the officers came.

3 Q Okay.

4 MS. BAILEY: The State has no further questions for
5 this witness.

6 THE COURT: All right, Mr. Goude, cross examination.

7 CROSS EXAMINATION

8 BY MR. GOUDE:

9 Q Mr. Giles, how long have you known Curtis Anderson?

10 A I know probably of him probably I'd say probably 15
11 years but I've been know his family, but I know him probably
12 about 15 years.

13 Q Do you know Gerry Chandler?

14 A Yes, I do.

15 Q Is he called - do people call him the Candy Man?

16 A Yes, sir.

17 Q Do you know Greg Tisdale?

18 A Yes, I know him, also.

19 Q Are Curtis and Greg and Gerry are they, are they
20 friends, those three men?

21 A I don't know how close they are but I think they are
22 friends, but I don't know how close they are because ---

23 Q This evening when this burning happened were any of the
24 other guys, either Gerry Chandler or Greg Tisdale, were they
25 there in the store while you were there in the parking lot?

- 1 A Yes, Gerry, Gerry was in the store.
- 2 Q Do you know where he was?
- 3 A He was talking to my, my friend right on the other side,
4 I mean, right entering the store a little further next to the
5 counter.
- 6 Q Had you seen Greg there when you were there, Greg
7 Tisdale?
- 8 A Afterwards.
- 9 Q By afterwards you mean after the burning occurred?
- 10 A Yes.
- 11 Q Do you know a man named Johnny Bradshaw?
- 12 A Yes, I know of him.
- 13 Q Did you know whether or not Mr. Bradshaw was gay or not
14 gay?
- 15 A No.
- 16 Q No, he is not gay or no, you don't know?
- 17 A I don't know, I don't know.
- 18 MR. GOUDE: Judge, that's all I have. Thank you.
- 19 THE COURT: All right, redirect?
- 20 MS. BAILEY: None, Your Honor.
- 21 THE COURT: All right, you may step down.
- 22 A Thank you.
- 23 MS. BAILEY: May he be excused from his subpoena?
- 24 THE COURT: Any objection?
- 25 MR. GOUDE: No, sir.

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1 THE COURT: All right, he's free to go. Thank you
2 very much. The State can call its next witness.

3 MS. BAILEY: Thank you, Your Honor. The State calls
4 Curtis Anderson.

5 WHEREUPON, Curtis Anderson was called to the stand, duly
6 sworn by the clerk and testified as follows:

7 THE CLERK: Thank you. Please be seated and state
8 your name for the record.

9 MR. ANDERSON: Yes, my name is Curtis Anderson.

10 DIRECT EXAMINATION

11 BY MS. BAILEY:

12 Q Do you need some water?

13 A Yes.

14 Q Curtis, I'm going to ask that you speak into the
15 microphone and loudly and clearly so everybody in the jury can
16 hear you; okay?

17 A Yes.

18 Q And I know this is painful for you emotionally and
19 physically. So, I apologize for some sensitive questions, but
20 on October 22nd of 2010 were you up at Shaw's Corner Store?

21 A Yes, ma'am.

22 Q And how long had you been there?

23 A I can't really remember.

24 Q Would it be fair to say you were there on and off all
25 day?

1 A No.

2 Q Okay, were you there at night?

3 A Yes.

4 Q Okay, and do you know how long you had been there before
5 this happened?

6 A I would say probably about an hour or so.

7 Q Okay, and, and go ahead and just tell us what happened
8 that night to the best that you can remember.

9 A Well, I came and went to town. I went to meet a friend.
10 I went to the store and wait on him and while we were just
11 sitting there talking and just I was on fire.

12 Q Okay, did you see Mr. Gooden walk in the door?

13 A Yes, ma'am, when I turnt around.

14 Q Okay, and were you looking at him?

15 A Well, he came up and he said something behind me and it
16 was like, "Watch out." When I went to turn around he dashed
17 me with the gas.

18 Q And you said somebody said watch out. Was that Mr.
19 Gooden that said or Gooden that said watch out or was it
20 somebody else?

21 A It was just like, "Watch out." I don't know who said it
22 but when I - when, when it said watch out it's like everybody
23 who was with me like kind of like scrambled. So, I went to
24 scramble to.

25 Q Okay, and so, you said you remember being - what's the

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- 1 next thing after watch out what's the next thing that you
2 remember?
- 3 A Me being on fire.
- 4 Q Okay, and do you know who set you on fire?
- 5 A Yes, ma'am.
- 6 Q Who's that?
- 7 A Ronald Gooden.
- 8 Q Did you know him before this incident?
- 9 A Yes, ma'am.
- 10 Q How long have you known him?
- 11 A I know him for a while, probably about a year or so.
- 12 Q Okay, and is he here in the courtroom today?
- 13 A Yes, ma'am.
- 14 Q And where is he?
- 15 A Right there.
- 16 Q Okay, after - how did you end up leaving the scene that
17 night?
- 18 A I remember getting in the ambulance and I remember going
19 to a football field and getting into a helicopter and that's
20 pretty much it.
- 21 Q Okay, where did that helicopter take you?
- 22 A Augusta, Georgia.
- 23 Q And did you get medical treatment in Augusta?
- 24 A Yes.
- 25 Q Is there specialized medicine there? Is that why they

1 took you there?

2 A Yes.

3 Q And what kind of hospital do they have there?

4 A It's a burn center, it's a burn unit for a third degree
5 and third degree burns.

6 Q And how long were you at the burn center in Augusta?

7 A About three months.

8 Q And after you were released from the burn center where
9 did - did they let you go home?

10 A No, ma'am, I went to a rehabilitation center in Florence.

11 Q And how long did you have to stay there?

12 A For about almost a month.

13 Q And after three months in the burn center and one month
14 at the rehab center were you released then to come home?

15 A Yes.

16 Q What kind of - are you still under a doctor's care?

17 A Yes.

18 Q And how often do you see the doctor?

19 A Every month.

20 Q And where do you see the doctor?

21 A In Charleston.

22 Q And which doctor is that?

23 A Dr. Mullins.

24 Q And where is his primary practice?

25 A In Augusta, Georgia.

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- 1 Q Okay, so, you meet him in Charleston once a month?
- 2 A Yes.
- 3 Q Do you know how long you're going to have to do that
- 4 for?
- 5 A No, I don't.
- 6 Q During the time that you were in the burn center and up
- 7 until today could you please tell us more about the injuries
- 8 that you sustained and what kind of treatments you've had to
- 9 undergo?
- 10 A Well, I burned the right side of my face, my lips, my
- 11 chin, my throat, my whole right arm, my right-hand, my left
- 12 hand, my chest and my stomach and I got grafts on my stomach,
- 13 grafts on my legs, all over.
- 14 Q Did you say you had grafts?
- 15 A Yes, ma'am.
- 16 Q Okay, and what, what is a graft?
- 17 A Where they had to take skin from my legs to redo my face
- 18 and to redo my arms and my body and my hands.
- 19 Q Okay, what degree - do you know what degree burns you
- 20 have?
- 21 A Third-degree.
- 22 Q And were you under treatment to prevent any, any other
- 23 injuries as a result of those third-degree burns?
- 24 A I don't understand what you mean.
- 25 Q Did they, did they put you on antibiotics to prevent

1 infection?

2 A Yes.

3 Q And were you isolated at the burn center?

4 A Yes.

5 Q Okay, and why did they isolate you and put you on
6 antibiotics?

7 A I have no idea.

8 Q Okay, now, I know - did you recently undergo an
9 additional treatment?

10 A Yes, ma'am.

11 Q And what kind of treatment was that?

12 A Well, they do Kenalog injections where they have to
13 soften up scar tissue and they have to cut to release scar
14 tissue because it's interfering with my fingers.

15 Q And how recently did you undergo that, that kind of
16 treatment?

17 A Two weeks ago.

18 Q All right, in fact, did you have an appointment this
19 morning?

20 A Yes, ma'am.

21 Q And what kind of appointment was that?

22 A Where they had to release scar tissue at. They have to
23 make sure that the antibiotics are working and to set up
24 another appointment for two more weeks.

25 Q Okay, I know this is painful and I apologize to you for

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1 asking you to do this but it's important for the trial of this
2 case. I see that you wear a mask. What - why do you wear
3 that mask?

4 A It's to prevent the thickness of my scars. When I wear
5 it it reduces scar tissue and to basically like reform my skin
6 back.

7 Q Do you wear it any - do you wear any other garments
8 other than just on your head?

9 A Yes, I have to wear - it's an upper part top suit.

10 Q Okay, how about on your hands do you wear any on your
11 hands?

12 A Yes, I have to wear gloves, too.

13 Q Okay, I see that you have a bandage up your arm?

14 A Yes.

15 Q What is that from?

16 A That's to keep the skin tight on my right arm because
17 they haven't did the surgeries on this arm yet. So, I have to
18 wear this and when I'm not wearing this I have to wear the
19 shirt.

20 Q Okay.

21 A But I'm not wearing the shirt because I had surgery
22 here.

23 Q Now, on occasion do you ever go out without your mask
24 on?

25 A Yes.

1 Q And why is that?

2 A At - well, while they're doing the injections to my face
3 they're putting medication in my skin. So, as it, as it go in
4 it swells the skin. Once it swells it releases. So, when
5 they release it I can't have this on or it's pushing the
6 medicine out. So, I don't wear it.

7 Q Okay, I apologize to make you do this but I want this
8 jury to know everything that happened. Will you take your
9 mask off and let them see your scars?

10 A Yeah.

11 MS. BAILEY: And Your Honor, I would ask for
12 permission because the side that is scarred is facing away
13 from the jury permission for him to come down and stand in
14 front of the jury.

15 THE COURT: Well, I mean, he can do that or he can
16 just stand right there and turn and face them, however you
17 want to present it I'll allow him to do that.

18 MS. BAILEY: Okay.

19 BY MS. BAILEY:

20 Q If you could, if you could stand up?

21 A (Complies with request.)

22 Q And walk over here about to the corner of that rail and
23 if you could look over by that door, look towards that flag.
24 Okay, thank you. You can have a seat and you can put your
25 mask back on if you need to. Now, you said that you had known

Curtis Anderson - Direct by Ms. Bailey

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- 1 Ronald Gooden before this?
- 2 A Yes.
- 3 Q How did you know him?
- 4 A Just from being around.
- 5 Q Okay, did you have any previous problems with him?
- 6 A No, not - normally like the normal day with us.
- 7 Q Okay, did you, did you ever pick on him or call him any
- 8 names?
- 9 A Yes.
- 10 Q Okay, did you ever physically have any - did you and he
- 11 ever have any physical altercations where it got physical?
- 12 A No, ma'am.
- 13 Q Okay, did you ever threaten him?
- 14 A No, ma'am.
- 15 Q That day on October 22nd before this happened did you
- 16 have any words with him?
- 17 A No, ma'am.
- 18 Q Okay, now, Mr. Anderson, we're not trying to hide
- 19 anything. You do have a criminal record; is that right?
- 20 A Yes, ma'am.
- 21 Q And could you tell us about what that is?
- 22 A Which part?
- 23 Q Were you convicted of unlawful conduct towards a child?
- 24 A Yes, ma'am.
- 25 Q And when was that?

1 A About two years ago, two and a half years ago.

2 Q And were you convicted of involuntary manslaughter?

3 A Yes, ma'am.

4 Q And when was that?

5 A About 11 years ago.

6 Q Did either of those crimes have anything to do with Mr.
7 Gooden?

8 A Not my knowledge.

9 Q Okay.

10 MS. BAILEY: The State has no further questions.

11 THE COURT: All right, Mr. Goude, cross examination.

12 CROSS EXAMINATION

13 BY MR. GOUDE:

14 Q Sir, when this incident occurred, which was October the
15 22nd, 2010, a year ago Friday about 9 or 9:30 p.m. about what
16 was your height and weight at that time?

17 A About five nine, 273 pounds.

18 Q 273?

19 A Yes, sir.

20 Q 273 or 173?

21 A 273.

22 Q That's how much you weighed at that time?

23 A Yes, sir.

24 Q And how old are you now?

25 A I'm 30 years old.

Curtis Anderson - Cross by Mr. Goude

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- 1 Q And you have a friend named Gerry Chandler?
- 2 A Yes.
- 3 Q And how long have you and Mr. Chandler been friends?
- 4 A Oh, I knew him for a while but we like recently started
- 5 hanging out when I moved to a different area in Andrews.
- 6 Q About how long have you lived in Andrews?
- 7 A I would say probably about three or four years.
- 8 Q And Mr. Chandler, does he live in Andrews, too?
- 9 A Yes.
- 10 Q About how old a guy is he?
- 11 A Excuse me?
- 12 Q About how old is Gerry Chandler?
- 13 A I have no idea.
- 14 Q Like twenties, thirties, forties, fifties, sixties,
- 15 seventies?
- 16 A Thirties.
- 17 Q Thirties, and you have another friend named Greg Tisdale?
- 18 A Yes.
- 19 Q About how old is Mr. Tisdale?
- 20 A He's in his twenties.
- 21 Q Does Greg Tisdale, at that time was he living in a
- 22 trailer across from the Shaw's Country Store at that little
- 23 trailer park?
- 24 A I have no idea.
- 25 Q At that time, a year ago, did you have a vehicle?

- 1 A No, I didn't.
- 2 Q Did Mr. Chandler have a vehicle?
- 3 A Yes, he did.
- 4 Q Did you know where or let me ask you this way, Mr.
- 5 Gooden, if you were leaving from Shaw's Country Store going to
- 6 Mr. Gooden's house Mr. Gooden lived down Shaw Street or Shaw
- 7 Avenue, down the road or across from the Shaw's Country Store;
- 8 is that correct?
- 9 A I don't know where Mr. Gooden lives.
- 10 Q You know where Jones Avenue is?
- 11 A Yes, I do.
- 12 Q Is Jones Avenue straight across the street from Shaw's
- 13 Country Store?
- 14 A Yes, it is.
- 15 Q Now, before this time, like you have told the Solicitor a
- 16 minute ago, you had had some - you had picked on Mr. Gooden
- 17 before. At some point before this incident did you know that
- 18 Mr. Gooden lived in a trailer?
- 19 A No, I didn't.
- 20 Q Did you know that he had no utilities in his trailer?
- 21 A No, I didn't.
- 22 Q Did you know that he had no running water in his trailer?
- 23 A No, I didn't.
- 24 Q Did you know that he had no sewer in his trailer?
- 25 A No, I didn't.

Curtis Anderson - Cross by Mr. Goude

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- 1 Q Did you know that he had let a guy named Johnny Bradshaw
2 come and stay in Ronald's trailer to help pay rent?
- 3 A No, I didn't.
- 4 Q Have you ever heard of a guy named Johnny Bradshaw?
- 5 A I heard of him.
- 6 Q Have you heard that Johnny Bradshaw is gay?
- 7 A I heard of it.
- 8 Q Before this incident had you ever called Mr. Gooden a
9 faggot?
- 10 A Before what incident?
- 11 Q Before this burning incident?
- 12 A Yes, I have.
- 13 Q Before the incident had you said some words to the effect
14 of, "Mr. Bradshaw is sucking your penis?"
- 15 A No, I didn't.
- 16 Q Had you ever said words to the effect to Mr. Gooden that,
17 "You are sucking Mr. Bradshaw's penis?"
- 18 A No, I didn't.
- 19 Q Had you had words to the effect to Mr. Gooden that Mr.
20 Gooden and Mr. Bradshaw were having sex together?
- 21 A No, I didn't.
- 22 Q Before this burning happened this night, did you see Mr.
23 Gooden in the store before the burning happened?
- 24 A No, I didn't.
- 25 Q Did you and Mr. Gooden talk in the store this same

1 evening before the burning happened?

2 A No, sir.

3 Q Did you - did Mr. Gooden ask you before the burning
4 incident to, "Please stop picking on me?"

5 A No, sir.

6 Q Did he ever ask you to, "Please stop saying that I'm
7 gay?"

8 A Yes, sir.

9 Q Did he tell you and your friends, you and Mr. Chandler
10 and Mr. Tisdale, did Mr. Gooden tell you all that, "I am not a
11 faggot?"

12 A No, sir.

13 Q Did he ever tell you all that he had a little son in
14 Andrews and he didn't want his son hearing that he was a
15 faggot?

16 A No, sir.

17 Q On the day previous to this incident, which would have
18 been Thursday, October the 21st, 2010, did Mr. Gooden - did you
19 and Mr. Chandler and Mr. Tisdale, did you all call him faggot
20 or whatever names the day before this burning incident there
21 at the country store?

22 A No, sir.

23 Q On the day before this burning incident did Mr. Gooden
24 say to you all, "If you all don't quit picking on me I'm going
25 to set your ass on fire?"

Curtis Anderson - Cross by Mr. Goude

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1 A No, sir.

2 Q On the evening of the burning, this same day when you got
3 burned, did Mr. Gooden tell you there at the store, "If you
4 don't quit picking on me I'm going to set your ass on fire?"

5 A No, sir.

6 Q Did you or Mr. Chandler or Mr. Tisdale then say to Mr.
7 Gooden, "Come back here and we'll set your ass on fire?"

8 MS. BAILEY: Objection, Your Honor, he already said
9 that the first part didn't happen.

10 THE COURT: Overruled. I'm going to allow it. Go
11 ahead.

12 Q Did either you or Mr. Chandler or Mr. Tisdale say, "Come
13 back here and we got guns?"

14 A No, sir.

15 Q Did you own a weapon at that time?

16 A No, sir.

17 Q Now, Mr. Chandler has an involuntary manslaughter
18 conviction, too; doesn't he?

19 A You would have to ask him that.

20 Q Say again.

21 A I don't know.

22 Q He's killed somebody before or been convicted for it;
23 right?

24 A I don't know.

25 Q Would you agree that if you had never said a word in your

1 life to Ronald Gooden that you would never have been burned by
2 Ronald Gooden?

3 MS. BAILEY: Objection, Your Honor, calls for
4 speculation, hypothetical.

5 THE COURT: Ask - what was the question again?

6 Q Do you believe that if you had never said a word in your
7 life to Ronald Gooden do you believe that you would now be
8 burned by Ronald Gooden?

9 THE COURT: I'm going to allow it. Go ahead.

10 A No, sir.

11 Q On this day when this incident occurred how much alcohol
12 had you had to drink that day?

13 A I can't remember.

14 Q And the type of alcohol you were drinking that day was
15 what type?

16 A I can't remember.

17 Q Was it beer or wine or liquor?

18 A I can't remember.

19 Q What did you normally drink during that time?

20 A You mean what do I normally drink or what was I drinking
21 that day?

22 Q What kind of alcohol were you normally drinking at that
23 time?

24 MS. BAILEY: Objection, Your Honor.

25 A I don't know.

Curtis Anderson - Cross by Mr. Goude

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1 MS. BAILEY: I'm not sure of the relevance of this line
2 of questioning.

3 THE COURT: Overruled. I'll allow it.

4 A I can't remember what type of alcohol I was drinking.

5 Q Well, did you normally drink beer, did you normally drink
6 vodka, did you normally drink Merlot red wine?

7 A I normally drink a beer.

8 Q What percent of the time now that you're - do you wear
9 the mask do you think and what percent of the time do you now
10 not wear the mask, like do you wear the mask half the time or
11 don't wear it half the time or do you wear it eight percent of
12 the time and don't wear it 20 percent of the time or some
13 other percent that you would assign? How often do you think
14 you wear the mask now?

15 A It varies.

16 Q Roughly.

17 A I don't know. It varies.

18 Q Half and half or ---

19 A Like sometime half and half, sometime more than half. I
20 don't know.

21 Q Now, a few days before this incident had you and Mr.
22 Chandler shown Mr. Gooden some knives in the back of Mr.
23 Chandler's vehicle?

24 A No, sir.

25 Q Did Mr. Chandler hold a knife to Mr. Gooden's throat a

1 few days before this incident?

2 A Not to my knowledge.

3 Q Did you shoot - before this incident did you shoot any
4 holes into Mr. Gooden's trailer?

5 A No, sir.

6 Q Did you tell Mr. Gooden before you were burned that you
7 had shot holes in his trailer?

8 A No, sir.

9 Q Had you used any - up until this burning incident
10 happened this night, during that day, had you used illegal
11 drugs that day?

12 A No, sir.

13 Q There at Mr. Shaw's Country Store that evening did you
14 tell Mr. Gooden that you were getting a gun?

15 A No, sir.

16 Q Did you hear Mr. Chandler or Mr. Tisdale say to Mr.
17 Gooden that they were going to get a gun?

18 A No, sir.

19 Q Had you and Mr. Chandler and another person beat Mr.
20 Gooden up a few days before this incident occurred?

21 A No, sir.

22 Q Before this burning happened, when Mr. Gooden asked you
23 to quit, you and Mr. Chandler and Mr. Tisdale to quit picking
24 on him ---

25 MS. BAILEY: Objection, Your Honor. The victim already

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1 said that he never said that, that that statement was never
2 made.

3 THE COURT: I sustain that. That was his testimony.

4 Q You said Mr. Gooden never asked you to quit calling him
5 a faggot?

6 A Yes, sir.

7 Q You just called him a faggot and he liked that you
8 called him that?

9 A He never said nothing.

10 Q He never said that. Before this incident happened,
11 before you got burnt, why didn't you just shut up and not call
12 Mr. Gooden a faggot?

13 A He was calling people faggots, too.

14 Q Did he call you a faggot?

15 A Yes, sir.

16 Q Did Mr. Gooden tell you before this incident happened
17 that somebody had shot into his trailer?

18 A No, sir.

19 Q Did you tell him that you would not miss the next time?

20 A No, sir.

21 Q When you were burned was your friend, Mr. Chandler,
22 there in the store with you?

23 A Yes, sir.

24 Q Had Mr. Tisdale, Greg Tisdale been there in the store
25 with you that evening before the burning?

1 A I don't remember seeing him.

2 Q Thank you, sir.

3 MR. GOUDE: That's all the questions we have, Judge.

4 THE COURT: All right, redirect?

5 MS. BAILEY: None, Your Honor.

6 THE COURT: All right, you may step down. All right,
7 you can call your next witness.

8 MS. BAILEY: At this time the State rests, Your Honor.

9 THE COURT: All right.

10 All right, ladies and gentlemen, the State has rested
11 their case and now is the time of the trial where I need to
12 take up some matters of law with the attorneys. Given the
13 time of day I think we are going to go ahead and I'll excuse
14 you for the remainder of the day. The reason I excuse you
15 when we address these matters of law because as I told you in
16 the opening charges you and you alone decide what the facts of
17 this case are and you decide your facts based upon the
18 testimony and evidence presented at trial. Now, when I
19 discuss these matters of law with the attorneys sometimes it
20 requires me as the judge and it requires the attorneys to
21 discuss factual issues. Well, what we say in deciding these
22 legal matters is not evidence, and so, that is why we excuse
23 you is so that you would not be influenced by anything that I
24 might say or anything that the attorneys might say in deciding
25 these legal matters. So, I'm going to go ahead and excuse you

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1 for the remainder of the day. Please be back in the jury room.
2 tomorrow morning at 9:15 and we'll try to get started as soon
3 after 9:15 as we can.

4 Now, Ms. Bonner, I had excused you for Thursday and
5 Friday. So, I was hoping we could get this trial in today.
6 We're not going to be able to. So, I'll go ahead and excuse
7 you since you had protection for Thursday and Friday. You are
8 excused for the remainder of the week and I want to thank you
9 for your services; okay? We do have some alternates and we
10 will seat one of the alternates with this jury, but since you
11 had that prior engagement and had already made the request and
12 I had granted you protection I'll go ahead and allow you to
13 go. The rest of you if you'd please be back in the jury room
14 at 9:15 tomorrow morning. Do not discuss the case with
15 anyone. Do not discuss it among yourselves at this point in
16 time. I'll let you know when you can begin your
17 deliberations. Don't to try to conduct any independent
18 investigations. Don't go looking on the Internet or looking
19 through newspapers or listen to any accounts about it. I hope
20 everyone has a good evening and we'll see you back at 9:15
21 tomorrow morning. Thank you very much. Everyone else please
22 remain seated while the jury is excused.

23 (Whereupon, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right, any motions at this time?

1 MR. GOUDE: Your Honor, the Defense makes a motion for
2 a directed verdict of not guilty on the grounds of
3 insufficiency of the evidence.

4 THE COURT: All right, your motion is noted. I'm
5 going to deny it. I think there is a sufficient amount to at
6 least go to the jury at this point in time.

7 MR. GOUDE: Thank you, Your Honor.

8 THE COURT: Anything else?

9 MR. GOUDE: No, Judge, unless you wanted to give Mr.
10 Gooden his ---

11 THE COURT: Yeah, I was going to go ahead and advise
12 him of his rights, let him take the evening to think about it
13 and then when we bring him back tomorrow I will question him
14 on his right to testify or his desire to testify.

15 All right, Mr. Gooden, if you'd please stand.

16 (Complies with request.)

17 THE COURT: All right, hold for one second. All
18 right, sir, if you would please raise your right hand.

19 (Whereupon, the Defendant is sworn by the Court.)

20 THE COURT: All right, you may put your hand down.

21 Sir, your name is Ronald Edward Gooden?

22 MR. GOODEN: Yes, sir.

23 THE COURT: All right, Mr. Gooden, at this time I'm
24 going to explain to you certain rights that you have. If you
25 do not understand anything I say please let me know. If you

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1 want me to explain anything in more detail please let me know.

2 Do you understand that?

3 MR. GOODEN: Yes, sir.

4 THE COURT: All right, we've now reached the stage of
5 the trial where you may present your defense. You have the
6 right to claim protections given to you by the Fifth Amendment
7 of the United States Constitution. This amendment states in
8 part that no person shall be compelled in any criminal case to
9 be a witness against himself. This means that you cannot be
10 required to testify in this case. You have the right to
11 testify on your own behalf. However, no one can make you
12 testify. This is a personal right and no one can waive this
13 right except for you. If you decide to testify you will be
14 subject to the same rules that govern other witnesses and you
15 may be examined and cross examined on any relevant issue in
16 this case. In addition, if you have any convictions involving
17 dishonesty or false statement or for crimes punishable by
18 imprisonment for more than one year and this Court determines
19 that the probative value of admitting this evidence outweighs
20 its prejudicial affect to you the Solicitor will be able to
21 introduce your record to attack your credibility, and as I
22 understand you have a prior record for larceny of a firearm
23 and strong-arm robbery which the State will be able to use
24 against you if you testify, only if you testify. Do you
25 understand that?

1 MR. GOODEN: Yes, sir.

2 THE COURT: All right, if you decide to testify this
3 decision on your part must be freely, voluntarily and
4 intelligently made with knowledge of the protections given to
5 you by the Fifth Amendment and the consequences of your
6 decision to testify. If you decide not to testify I will
7 instruct the jurors that they cannot give the fact that you
8 did not testify any consideration whatsoever and that there is
9 to be absolutely no prejudice to you because you did not
10 testify. It is left entirely up to you whether or not you
11 testify. You may talk with your attorney, your family and
12 friends or anyone else but the final decision will be left
13 entirely up to you. Do you understand what I've explained to
14 you?

15 MR. GOODEN: Yes, sir.

16 THE COURT: All right, do you have any questions about
17 what I've explained to you?

18 MR. GOODEN: No, I do not.

19 THE COURT: All right, I'm going to go ahead and give
20 you this evening, allow you the opportunity to speak with your
21 attorney, whoever you want to talk to regarding this matter,
22 discuss it however you want to. When we come back tomorrow I
23 will ask you tomorrow morning if you have any questions
24 regarding your protections granted to you by the Fifth
25 Amendment and your right to testify and I'll ask you at that

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1 time whether or not you wish to testify in this case. Okay?

2 MR. GOODEN: Yes, sir.

3 THE COURT: All right, thank you very much. Anything
4 further the State wants to put in the record in that regard?

5 MS. BAILEY: Your Honor, we have several witnesses who
6 were subpoenaed in this case that the State did not call.

7 THE COURT: Excuse me, but before we get to that, I
8 mean regarding his right to testify, anything you want to ---

9 MS. BAILEY: I'm sorry.

10 THE COURT: --- put on the record.

11 MS. BAILEY: Nothing, no, Your Honor.

12 THE COURT: Anything you want to put on the record in
13 that regard, Mr. Goude?

14 MR. GOUDE: No, Your Honor.

15 THE COURT: All right, thank you very much. All
16 right, you all may be seated. All right, Ms. Bailey?

17 MS. BAILEY: Thank you, Your Honor, just two brief
18 matters. There are several witnesses who have been waiting
19 outside who were subpoenaed in this case. The State did not
20 call them. However, when I discussed, before we started
21 trial, discussed this with Mr. Goude he indicated that even if
22 I didn't call them he wanted them to be here and available to
23 testify. These folks are all - they all work real hard and
24 have already missed two days of work waiting on the trial and
25 I just want to get some clarification for them as to whether

1 they need to stay for tomorrow or whether they can go.

2 THE COURT: All right, Mr. Goude, do you want them to
3 stay under their subpoena?

4 MR. GOUDE: Who, who - which ones are they?

5 MS. BAILEY: We've got Sheila Shaw, Gerry Chandler and
6 Herman Scott are the ones who have not yet testified, and for
7 - just for the Court's information Gary Tisdale - no, Gregory
8 Tisdale is also under subpoena and was told to be here today
9 but didn't show up, although the State never intended to call
10 him.

11 MR. GOUDE: We'll keep Mr. Chandler and Ms. Shaw. Mr.
12 Scott, I don't know anything about him.

13 MS. BAILEY: Okay.

14 THE COURT: All right, so, you're talking about Sheila
15 Shaw?

16 MR. GOUDE: Yes, sir.

17 THE COURT: All right, Sheila Shaw and Gerry Chandler?

18 MR. GOUDE: Yes, sir.

19 THE COURT: All right, so, those two need to come back
20 tomorrow. Anybody else?

21 MR. GOUDE: And I think that's all on mine. Mr.
22 Scott, I don't know him, Judge.

23 THE COURT: Okay, well, on your witness list you had
24 Jackie Shaw, Curtis Anderson, Greg Tisdale, Gerry Chandler and
25 Sheila Shaw. All right, so, the ones that are on the State's

1 witness list that are under subpoena, Jackie Shaw can go?

2 MR. GOUDE: Yes, sir.

3 THE COURT: All right, Sheila Shaw needs to stay here?

4 MR. GOUDE: Yes, sir.

5 THE COURT: Gerry Chandler needs to stay?

6 MR. GOUDE: Yes, sir.

7 THE COURT: And who was the other one?

8 MR. GOUDE: Herman Scott was on the State's list.

9 THE COURT: Herman Scott needs to stay.

10 MR. GOUDE: He can go.

11 THE COURT: He can go. So, the ones that you want to

12 stay are Sheila Shaw, Gerry Chandler and who else?

13 MR. GOUDE: That's it.

14 THE COURT: That's it, just those two. All right, so,

15 Sheila Shaw, Gerry Chandler will need to come back tomorrow

16 morning at 9:15. The rest are released from their subpoena

17 and can go. All right.

18 MS. BAILEY: Thank you, Your Honor.

19 THE COURT: Is Sheila Shaw here and Gerry Chandler?

20 All right, if you'd please stand, if you two would please

21 stand. We'll need you to be back at 9:15 tomorrow morning,

22 okay. All right, thank you very much.

23 MS. BAILEY: Your Honor, just one more matter, the

24 State has prepared a State's request to charge and already

25 provided it to the Defense. I'll just provide it to Your

1 Honor for review overnight.

2 THE COURT: All right, thank you. All right, anything
3 further from the State before we recess for the evening?

4 MS. BAILEY: No, Your Honor.

5 THE COURT: Anything from the Defense?

6 MR. GOUDE: I may as well do the same, Judge, on some
7 jury charges.

8 THE COURT: Well, let me ask you at this point in
9 time, are you all going to be putting up a defense, any
10 defense even if your client - well, I'll wait and ask you
11 tomorrow morning. That'll be fine. I'll let you decide. I
12 won't ---

13 MR. GOUDE: Thank you.

14 THE COURT: --- I won't, I won't decide. All right,
15 anything from the Defense before we break for the evening?

16 MR. GOUDE: No, Your Honor.

17 THE COURT: All right, all right, we'll stand in
18 recess. I've got the jury coming back at 9:15. I'll take the
19 bench at 9:30. Okay?

20 MS. BAILEY: Thank you, Your Honor.

21 MR. GOUDE: Thank you, sir.

22 THE COURT: All right, thank you very much. Let's
23 make sure we've got all of the exhibits.

24 OFF THE RECORD

25 (On the record, October 27, 2011.)

1 (Whereupon, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right, the first thing we need to do
4 is to seat one of the alternates for Ms. Bonner. Let's see,
5 our two alternate jurors are Ms. Victoria Jones and Ms.
6 Papadopoulos. As I understand in a criminal case I just put
7 those names in a cup and draw it at random. All right, who
8 do we want? Just let the clerk pull one of the names out? Is
9 that sufficient?

10 MS. BAILEY: Yes, Your Honor.

11 THE COURT: All right. All right, it'll be Ms.
12 Papadopoulos, Juror Number 107, will be seated and that will
13 be in place of Juror Number 11, Sandra Bonner.

14 All right, Mr. Gooden, if I could get you to stand again,
15 please?

16 (Complies with request and Defendant is sworn by Court.)

17 THE COURT: All right, Mr. Gooden, do you recall your
18 rights as I explained them to you, granted to you under the
19 Fifth Amendment of the United States Constitution yesterday,
20 in other words, your right to testify or not testify?

21 MR. GOODEN: Yes, sir.

22 THE COURT: Do you have any questions about your
23 rights to testify or not testify in this case?

24 MR. GOODEN: No, I don't.

25 THE COURT: And have you had an ample opportunity to

1 discuss this matter with your attorney and with whomever else
2 you want to discuss the matter with?

3 MR. GOODEN: Yes.

4 THE COURT: All right, and have you decided whether
5 or not you wish to testify in this case?

6 MR. GOODEN: Yes, I have.

7 THE COURT: All right, and do you wish to testify in
8 this case?

9 MR. GOODEN: I wish, to.

10 THE COURT: Okay, all right, Mr. Goude, anything
11 further you want to put on the record in that regard?

12 MR. GOUDE: No, sir.

13 THE COURT: Excuse me, Ms. Bailey, anything further
14 you want to put on the record in that regard?

15 MS. BAILEY: No, Your Honor.

16 THE COURT: All right, anything further from the
17 State before we bring the jury in?

18 MS. BAILEY: No, Your Honor.

19 THE COURT: Anything further from the Defendant,
20 Defense before we bring the jury in?

21 MR. GOUDE: No, sir.

22 THE COURT: All right, all right, you all can be
23 seated. Let's go ahead and bring the jury in.

24 (Whereupon, the following takes place in the presence of
25 the jury.)

1 THE COURT: All right, ladies and gentlemen, welcome
2 back. We're now ready to resume the trial of this case. I
3 hope everyone had a good evening, a nice restful evening. I
4 remind you if you have any cell phones or pager devices if
5 you'd turn them off completely at this point in time or if you
6 have brought them into the courtroom. Also, as you might
7 recall when we broke yesterday I had excused Ms. Bonner from
8 the jury because she had a prior engagement and had requested
9 during jury qualifications to be excused; and so, Ms.
10 Papadopoulos, as the alternate you will now be a part of the
11 regular jury; okay?

12 MS. PAPADOPOULOS: Okay.

13 THE COURT: All right, and I'll let you know the
14 way that we select that is unlike civil cases where you go in
15 the order the alternate is chosen, in criminal cases names are
16 drawn at random. So, you and Ms. Jones, you all's names were
17 put in a cup, drawn at random and you were the lucky winner.
18 So, you're on the jury. Okay? You can stay seated in that
19 seat for right now. When we come back in you can shift and
20 sit in whichever seat you like; okay?

21 All right, Mr. Goude, you can call your first witness.

22 MR. GOUDE: Judge, we would call Ronald Edward Gooden
23 to the stand.

24 THE COURT: All right.

25 Whereupon, Ronald Edward Gooden was called to the stand,

1 duly sworn by the clerk and testified as follows:

2 THE CLERK: Thank you.

3 THE COURT: All right, Mr. Goude.

4 DIRECT EXAMINATION

5 BY MR. GOUDE:

6 Q Ronald, if you would tell the ladies and gentlemen of
7 the jury your full legal name.

8 A My name is Ronald Edward Gooden.

9 Q What is your date of birth and how old are you?

10 A My date of birth is [REDACTED]-68. I'm 41 years old.

11 Q And what's your marital status? Are you married now or
12 not married?

13 A I'm single.

14 Q And do you have any children?

15 A Yes, I have two.

16 Q And what are their ages and sexes?

17 A I have one 19 here in South Carolina. I have one ten
18 years old in North Carolina.

19 Q And the one that's 19 is that a boy or a girl?

20 A He's a boy, a boy.

21 Q And where does he live?

22 A He live with his grandmother in Andrews, South Carolina.

23 Q Okey-dokey, now, where were you raised as a child?

24 A I was raised partially Bridgeport, Connecticut, and then
25 I moved here when I was about ten years old, South Carolina.

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1 Q And you lived in Andrews from the time you were about
2 ten years old until about what age?

3 A Till I was about, I'd say about 20, 21.

4 Q And did you move back there, this is October 2011 today,
5 this incident that we're here in court on was October of 2010,
6 a year ago, when had you moved back to Andrews before this
7 incident last year?

8 A That was at the end of 2009.

9 Q 2009?

10 A Yes.

11 Q So, you'd been living back in Andrews roughly a year?

12 A Roughly a year.

13 Q And where did you live in Andrews?

14 A I lived at the bottom of Jones where my father gave me a
15 trailer. It was like a fix up and try to get myself back on
16 track.

17 Q Okay, now, for most of the end of 2009 up until this
18 incident happened in October of 2010 were you living in your
19 father's trailer?

20 A Yes, sir.

21 Q And for most of that time period who else was living in
22 the trailer with you?

23 A It was just me by myself.

24 Q All right, now, what was your financial condition during
25 most of that time, the end of '09 up till October of 2010?

1 A I was broke, excuse me.

2 Q Did you have money to have the lights, the electricity
3 turned on in the trailer while you were living there?

4 A No.

5 Q And did you have the money to have the city water and
6 the city sewer turned on in the trailer while you were living
7 there?

8 A No, not yet.

9 Q Now, if you had no electricity how were you able to run
10 a refrigerator in your trailer to keep your food in the
11 refrigerator?

12 MS. BAILEY: Objection, Your Honor, I'm not sure of the
13 relevance of this line of questioning.

14 THE COURT: I'm going to allow it. Go ahead.

15 Q If you had no electricity how were you able to keep your
16 refrigerator running in your trailer to keep the food in it?

17 A Well, it wasn't, it wasn't nothing inside the trailer,
18 there was nothing, no refrigerator, no stove. It was just I
19 got a bed and I just had a bed.

20 Q Did you have a vehicle during this period of time?

21 A No, I haven't.

22 Q No car, no truck?

23 A No.

24 Q Where would you often go to get something to eat?

25 A I would go to Shaw's Corner Store.

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1 Q And what type of things did they sell there to eat or to
2 drink?

3 A I would basically get like a hot dog, two hot dogs, a
4 sausage and something to drink or I might get a beer, buy some
5 cigarettes.

6 Q Did they sell sodas, soft drinks?

7 A Yes, sir.

8 Q Did they sell like orange juice and milk, things like
9 that?

10 A Yes.

11 Q Approximately how far down Jones Avenue was it from your
12 trailer where you lived to Shaw's Country Store?

13 A I'd say about a half a mile or probably a little bit
14 more. It's a stretch going up the block, all the way up the
15 block, yes.

16 Q Now, at some point while you were living there in the
17 trailer did you try to get a tenant to move into the trailer
18 to help you financially?

19 A Yes.

20 Q And did you get a tenant to move in?

21 A Yes, I found one.

22 Q Who was the person's name?

23 A Well, his name was Johnny Bradshaw.

24 Q And after - and about when was it when he moved into the
25 trailer with you roughly?

1 A It was probably two weeks or something prior to this
2 incident.

3 Q Two weeks prior to October the 22nd, 2010?

4 A Yes.

5 Q Okay, now, and after he moved in with you did you hear
6 rumors going on about yourself as far as being a homosexual or
7 not?

8 A You talking about before he moved in or after he moved
9 in?

10 Q After he moved in.

11 A Well, it wasn't that day or the next day, you know what
12 I'm saying, some things had occurred to lead up to that.

13 Q What occurred?

14 A You know, with this lady, Ms. Birdie, she stopped. I
15 was walking up the street. I was going to the car wash.
16 That's where I worked at, and she pulled over and she told me,
17 and she told me, she said, "Oh, I hear that you had a - you
18 have a boyfriend," and I was like, "What you mean," and she
19 said Johnny Bradshaw. I said, "What?" I said - he said, I
20 asked her what is he gay, and she like, "You should know," you
21 know what I mean. That's when I went to the Corner Store and
22 that's when I asked Jackie, you know what I'm saying, about
23 Johnny Bradshaw was he gay and he told me that he was known to
24 pull on one.

25 MS. BAILEY: Objection, Your Honor, that's hearsay.

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1 MR. GOUDE: We're not offering it for the truth.

2 THE COURT: Yeah, he's not offering it for the truth
3 of the matter asserted. So, I'll allow it. Overruled.

4 BY MR. GOUDE:

5 Q What does he's known to pull on one mean to you?

6 A He's known to suck on a penis.

7 Q When you learned that what did you do?

8 A I went back home. He was there.

9 Q He who?

10 A Johnny Bradshaw he was there. I told him he had to get
11 out, you know, because I asked him was he gay, you know, he,
12 he confessed to it. He was gay and then I kicked him out that
13 same day.

14 Q Had he paid you any money on the rent to live there with
15 you?

16 A Yes, yes, he pay me \$200.

17 Q And what did you do insofar as the money?

18 A Well, I got some can goods so I could have something to
19 eat in the trailer, you know, things like that.

20 Q Did you refund him any of his rent?

21 A I gave him \$100 back.

22 Q And did he move out?

23 A Yes, he, he, he got out.

24 Q Now, did you know a gentleman named Curtis Anderson?

25 A Yes.

1 Q Where did you meet him?

2 A Actually I didn't meet him, he met me, you know, he
3 intruded on me.

4 Q Where did he meet you?

5 A I was walking down the street and they be over on the
6 side. They be drinking and stuff like that and Gerry and them
7 they be - I know Gerry from when he was small and so he get -
8 he call me over there and I was talking to Gerry and stuff
9 like that and that's how we kind of like got to know each
10 other right there.

11 Q And where would Gerry and Curtis be talking where they
12 would call you over? Where was that located?

13 A It's right there on the beginning of Jones Street right
14 at the top in front of the store.

15 Q Now, did Curtis say anything to you about you letting
16 Johnny Bradshaw live in the trailer with you?

17 A Not right then, no, not right then. He didn't actually
18 say nothing, you know what I'm saying, it was more Gerry at
19 that time, you know.

20 Q All right, well, let me rephrase the question. At any
21 time after you let Johnny Bradshaw stay in the trailer with
22 you up until the time of the burning incident did Curtis
23 Anderson ever say anything to you?

24 A Yes, sir.

25 Q What kind of things did he say?

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1 A He would say, "Yeah, I know Johnny Bradshaw sucking your
2 dick," excuse my language, "I know you," can I - I can curse;
3 right?

4 Q Well, say what he said.

5 A Well he was saying like, "Yeah, I know you're fucking
6 him in his ass," and things like that and, "Yeah, because he's
7 known to pay people for him to suck your dick, suck his dick,"
8 you know what I'm saying, they were saying like he gave me
9 \$200 for I would let him suck my, my penis.

10 Q Now, well, who would hang around often with Mr.
11 Anderson, Curtis Anderson?

12 A It would be him, Gerry Chandler and Greg Tisdale and
13 some other friends of theirs.

14 Q And would Gerry Chandler say anything to you along those
15 lines to you?

16 A Yes, he would.

17 Q What would he say?

18 A He would call me dick sucker, "Yeah, Johnny Bradshaw is
19 looking for you," from out the blue, I be minding my business
20 and, "Yeah, you know you fucked that man in his ass," and
21 things, things of that nature, you know. I'm not used to
22 that.

23 Q And would Greg Tisdale, did he say anything to you along
24 those lines?

25 A Yes, he's like the runt of the pack. He, he follows

1 everything they do, yes.

2 Q Had you said anything to those three guys about what they
3 were saying to you - you said - did you told them you liked
4 it, didn't like it, asked them to keep saying it or not say it
5 or had you said things to them about it?

6 A Well, on a couple, couple, certain occasions, yes, I did
7 tell them. I asked them, I begged them. I came to them just
8 like a man. I'm 40 years old. I said, "Please leave me
9 alone." I said, "I'm not gay." I said, "I don't know why you
10 all chose me to pick on me." I don't - I couldn't even
11 understand why they was saying things like that on me and I
12 pleaded with them. They just laughed. They just laughed at
13 me. I just I ain't know what to do.

14 Q At some point in there in that same time period, did they
15 invite you to come over to a barbeque or something in their
16 yard?

17 A Yes, that's - that was when I first - when I first came
18 down here, you know, I was kind of hungry and stuff like that.
19 Me, I'm thinking that Gerry was being a good friend since I'd
20 known him when he was small. He's, he's, he's a little,
21 little guy, you know. They invited me down to the picnic. I
22 went down there. My clothes was kind of messed up because I
23 didn't have no washing machine. I used to wash my clothes out
24 in a bucket and stuff like my shoes and stuff. I'm trying to
25 get - do the best I can.

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1 They invite me down there. They fixed me a plate. Then
2 all of a sudden, Gerry Chandler, he turns the attention on me
3 and it's all, it's all - it wasn't Greg there. It was just
4 him and Curtis there this time. Then he was like, "Boy, I
5 know you hungry. Boy, you know, your stomach rumbles." He
6 said, "Yep, I know your stomach don't even know what food is,"
7 and at that time everybody start laughing at me, you know, and
8 it was just like my stomach was saying, "Oops, oh, what's
9 that? What's coming down my throat?" You know what I'm
10 saying, "Oh, it's food." You know what I'm saying, boy, you
11 know I be hungry man, you know. Back then I didn't have my
12 food stamp card and stuff like that and, so, yes.

13 Q At some point in the month of October before this
14 incident did any of these gentlemen show you anything in the
15 trunk of their car out there at the parking lot of the store?

16 A Yes, Gerry Chandler, on the night that was - I think it
17 was the night before or I'm not, I'm not, I'm not sure. We
18 got into it because when I walked up to the store, I just got
19 off from work. I was washing cars all day long. I go on.
20 I'm coming up in the parking lot. They standing out there by
21 his car. He's like, "Oh, there go" - he said, "There go
22 Ronald Gooden." He said, "Yo, Johnny Bradshaw looking for
23 you." I'm like I'm ignoring them. Then he was like, "Man,
24 you need to go wash your clothes," and stuff like that, you
25 know what I'm saying. He was talking about, "Johnny Bradshaw

1 was around here looking for you," you know what I mean and
2 that's - he's implying gay things, you know and just ---

3 Q Did they show you anything in the trunk of their car?

4 A Yes, that's when - right then I was, I was heated, you
5 know, and then words got exchanged. Then Gerry went inside
6 his trunk of the car and he pull out like two long like
7 swords, like ninja swords and put them to my neck. I wasn't
8 even expecting it.

9 Q Did you all get in any kind of a scuffle?

10 A Yes, we did.

11 Q What?

12 A After Gerry put the knives back, it was one of their
13 friends, one of their cousins named Lamb, but he's not here.
14 He stole off on me. He punched me, knocked me down, then
15 Curtis, he came and kicked me in my ribs.

16 Q And who was present at that occasion?

17 A It was Lamb, his cousin. It was Curtis and there was
18 Greg.

19 Q Greg or Gerry?

20 A Gerry, excuse me. I'm nervous, Gerry.

21 Q And this happened where?

22 A It was right there in front of the store.

23 Q The store being the Shaw's Country Store?

24 A Yes, sir.

25 Q Is it country store or community store?

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1 A Really I'm not even sure. I just, I just call it the
2 Corner Store.

3 Q And this happened, when they beat you up, was how long
4 before the burning incident?

5 A It was like a day or maybe two days before the incident.

6 Q Now, you said you lived in a trailer?

7 A Yes, sir.

8 Q I'm going to show you what's marked, I'm going to show
9 you what's marked as Defense Exhibit Five. It's got three
10 pictures on it, A, B and C, and tell the ladies and gentlemen
11 of the jury what that picture in the exhibit shows.

12 A Well, in Exhibit A, that's a picture of my trailer
13 looking between some bushes, and Exhibit B, that's my trailer
14 from the back, and C, this is the other picture of my trailer
15 from the back.

16 Q And the part of the trailer where it's got the two double
17 windows together facing the picture, what room in the trailer
18 is that?

19 A Well, that's the, that's the living room, but I was
20 sleeping there so I can see out the window.

21 Q Okay, I'm going to show you another picture which is
22 marked as Defense Exhibit Six which has got two pictures on
23 it, A and B, and tell the ladies and gentlemen of the jury
24 what that exhibit is.

25 A Exhibit A, that is a picture of my trailer on the far

- 1 left when you're coming into my trailer.
- 2 Q And B under that would be what?
- 3 A That would be the yard, yeah, that's, that's the front
- 4 yard, but it would be the backyard because my trailer is
- 5 facing - the back of my trailer is facing the front of the
- 6 property.
- 7 Q Okay, and Exhibit Seven, what is shown in that exhibit?
- 8 A You talking about right here?
- 9 Q Just is that your trailer?
- 10 A Yes, this is my trailer.
- 11 Q All three pictures?
- 12 A All three pictures.
- 13 Q And that is the side of your trailer facing the road in
- 14 front of your ---
- 15 A Right, the back of the trailer is facing the road.
- 16 Q And Defense Exhibit Eight, is that the same thing?
- 17 A Yes, sir.
- 18 Q Three pictures of your trailer?
- 19 A Yes, it is.
- 20 Q Facing the little road in front of your house?
- 21 A That's right.
- 22 Q Now, do all three of these pictures, do they accurately
- 23 show how your trailer looked back in October 2010?
- 24 A It is exactly how it looked.
- 25 MR. GOUDE: Judge, we would offer these as our next

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1 exhibits in order.

2 THE COURT: Any objection?

3 MS. BAILEY: None from the State, Your Honor.

4 THE COURT: All right, Defendant's Exhibit Number
5 Five, Defense Exhibit Number Six admitted into evidence
6 without objection.

7 MR. GOUDE: Judge, it was Five, Six, Seven and Eight
8 if it pleases the Court.

9 THE COURT: Okay, all right, Defendant's Exhibits
10 Five, Six, Seven and Eight admitted into evidence without
11 objection.

12 (Whereupon, Defendant's Exhibit Five, Six, Seven and
13 Eight admitted into evidence and appropriately marked.)

14 BY MR. GOUDE:

15 Q Now, Mr. Gooden, a few days or so before the burning
16 incident, one night while you were sleeping in your trailer
17 did you hear anything?

18 A Yes, I was awake by some gunshots.

19 Q And where were the gunshots, where did the gunshots
20 sound?

21 A Right there in the back of my trailer. I was sleeping
22 right there by the window and I heard the gunshots and I heard
23 the bullets coming through, in through my trailer.

24 Q And was this at nighttime or daytime?

25 A It was, it was really, it was late. I was already - I

1 was already asleep and it was probably like two, three
2 o'clock, something in the morning.

3 Q Now, when the daylight came did you go out and look at
4 your trailer?

5 A Yes, I did.

6 Q And what did you see when you looked at your trailer?

7 A I seen bullet holes in my trailer.

8 Q How many was there?

9 A I seen two.

10 Q And did you talk with Mr. Anderson - and this happened
11 before the burning incident; correct?

12 A Yes, this was before the burning incident.

13 Q Did you talk with Mr. Anderson about somebody having shot
14 into your trailer?

15 A Yes.

16 Q What did you tell him?

17 A Well, on that evening when I went to the store, I got off
18 of work, I went to the store. They started in on me again,
19 the same thing. It was Greg and Curtis. They started in on
20 me again with the gay things, saying you was - I don't want to
21 curse, but, you know, he sucking your dick and it's the same
22 thing everyday and I then confronted him. I told him, "Yeah,
23 I know that was you that shot inside my trailer." Then he was
24 like, "It wasn't the first time that I try to kill somebody."
25 He said like - he didn't say killed. He said it was the first

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1 time that I ---

2 MS. BAILEY: That's certainly hearsay.

3 MR. GOUDE: We asked the witness ---

4 THE COURT: Yeah.

5 MR. GOUDE: --- Mr. Anderson specifically ---

6 THE COURT: Yeah, I'm going to allow it. Go ahead.

7 A He didn't say kill. He said it wasn't the first time

8 that I try to get somebody.

9 Q Now, if you will step down here in front of the jury.

10 COURT REPORTER: He needs to face me, please.

11 THE COURT: Yeah, put him near a microphone and have

12 him face.

13 Q Would you stand on this side for me, please?

14 THE COURT: Yeah.

15 Q And on this picture, which is Defense Exhibit Five, and

16 the top one which is the - has a - an A on it, it shows a

17 little red car and a little dirt street. What does that

18 picture show? Speak up loudly so the court reporter can get

19 you ---

20 A Oh, that's the ---

21 Q --- and the jury can see you and hear you.

22 A That's a picture of my trailer right here peeking through

23 the bushes.

24 Q And the part of your trailer that you would see through

25 this little street through these little bushes, is that the

1 back side of your trailer or the front door of your trailer?

2 A That's the back side of my trailer right there.

3 Q All right, the picture B, the picture B in the same
4 thing, what does that show on Exhibit 5-B?

5 A That right there is the back side of my trailer right
6 there.

7 Q And picture C on five, what does that show?

8 A That's the same picture, that's the back side of my
9 trailer.

10 Q Picture six, the photograph A, what does that show?

11 A That's the end of my trailer right there. So, that's
12 where the kitchen would be right there.

13 Q So, the person taking that picture would he be looking
14 out toward the little road in front of your house if he was
15 taking it at the end of the trailer?

16 A Yeah, he'd be looking out facing.

17 Q And picture B would be what?

18 A That would be a picture of the front yard.

19 Q That would be between your trailer and the little street
20 that - in front of it?

21 A Right, so my - it's very secluded.

22 Q Picture seven, which has got A, B and C on it, picture A
23 is a shot of what part of your trailer?

24 A That's the front, I mean, the back.

25 Q That's the part facing the little street in front of you?

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- 1 A Yes.
- 2 Q And B, what is that?
- 3 A It's the same. It's the back facing the street.
- 4 Q And C, what is that?
- 5 A That's the same picture. It's facing the back.
- 6 Q Now, on picture B, would you point to where you say you
- 7 saw the bullet holes that morning when it became daylight?
- 8 A There's one right here and there's one right there.
- 9 Q That would be one to the bottom left of the double window
- 10 and one about center right of the double window?
- 11 A Yes.
- 12 Q And as picture - Exhibit 8-A, does that show the same
- 13 double windows?
- 14 A Yes, sir.
- 15 Q And is B a close-up of where you say the bullet hole is
- 16 to the right center of the window?
- 17 A Yes, sir, it is.
- 18 Q Picture 8-B, is that the - what you said was the bullet
- 19 hole to the right center of your window that faces the little
- 20 street?
- 21 A Yes, it is.
- 22 Q And is picture 8-C the bullet hole to the bottom left of
- 23 the double window?
- 24 A Yes, that is.
- 25 Q Okay, Mr. Gooden, if you will have a seat back up there.

1 The day of the incident, the day of the burning, which was as
2 we've seen with the calendar and let's refresh all our minds,
3 October the 22nd, 2010, was what day of the week?

4 A It was on a Friday.

5 Q All right, that Friday, and the deputies have testified
6 this happened around nine or 9:30 that evening, that Friday
7 night. When did you go to the store, Shaw's store, that day?
8 When was the first time you went to the store that day?

9 A It was right after I got off from work. It was probably
10 four or five, something like that. I'm not - it's been a year
11 ago.

12 Q Did you see any of the three men there, Mr. Anderson, Mr.
13 Chandler?

14 A Yes, sir, all three of them was in the store.

15 Q And were they drinking alcohol at that time or not
16 drinking alcohol at that time?

17 A They wasn't drinking no alcohol far as I - I wasn't
18 trying to look for that, but I didn't see no alcohol in their
19 hand.

20 Q Was there any trouble at that time?

21 A Yes, when I went into the store, yes.

22 Q And what happened?

23 A Well, when they started saying the names and like that,
24 things got out of hand because right then, you know, I had
25 worked a whole, a whole day and it just - everything was just

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1 boiling up to a head and they just, just so relentless on me.

2 I didn't know what to do, so words got exchanged.

3 Q What kind of words?

4 A I said, "If you keep bothering me," I did, I'm not going
5 to sit here and lie. I said, "You keep lying on me," I said,
6 "I'm going to set your ass on fire."

7 Q And what did they say to you?

8 A They said, "Yeah, and we'll set your ass on fire."

9 Q Now, and what else did you say to them? What else did
10 they say to you?

11 A Well, they was like, "Yeah, we'll set your ass on fire.
12 We have guns," like that, you know, and they was just -
13 everything was just heated. Everything was just going out of
14 control and then it was Gerry, I mean, Greg Tisdale, he jumped
15 up and he was like, "Yeah, well, I got a gun, you know what
16 I'm saying?" Then I said, "Well, what you going to do?"
17 Right then I was just - I was ready to die. They was ready to
18 die, just I was tired of it and they just wouldn't leave me
19 alone. So, he got up. He went out the door, you know.

20 Q He who? Greg?

21 A Greg, he went out the door. Okay, Curtis, he, he was
22 playing a big part, too, because he already, you know what I'm
23 saying, when he told me that - okay, he said that it wasn't
24 the first time that I killed - I mean, "It wasn't the first
25 time that I tried to get somebody before." Right then that

1 let me know that, you know what I'm saying, he was the one
2 that shot in my trailer, you know. I took it as that; and so,
3 Greg, I mean Gerry, him and Greg, he got up and he left and I
4 went out behind him, you know, and ---

5 Q Well, let me ask you this, not to interrupt the flow, but
6 you said Curtis had said he had tried to kill somebody before.
7 Did you know that Gerry Chandler had also killed somebody
8 before?

9 A Yes, I knew he had killed somebody before, too, because
10 he said, "I already have" - he said, "I have one under my
11 belt, too," and that right there, I was - I already knew. I
12 already knew what I was dealing with with them and I knew they
13 already had killed a person a piece; and so, I was, man, I
14 didn't - I just came - I'm new down there. I have no family.
15 They jumped me before and they - it's always they in a group
16 and I just was I was scared for my life. I was - I didn't
17 know what to do. I was scared to even go home. I didn't ---

18 Q Why didn't you just stand up to them one at the time and
19 you all have like a little wrestling match?

20 A No, it wouldn't have been like that because they jumped
21 me before and they not going to take no - they, they not going
22 to let a outsider beat one of their own, you know. I'm the
23 only one there. I have no family here. It's just, it's just
24 me. It's just me.

25 Q So, Greg leaves the store. He says, "I'll get a gun,"

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1 and you do what?

2 A What I did?

3 Q What you did.

4 A I followed him, you know, because right then when he was
5 going to get a gun, I was, I was planning on, okay, I need to
6 jump him. I need to do something right now, but then he made
7 it to his trailer before I could even grab a hold of him and
8 ---

9 Q Where did he live?

10 A He lived right across the street from the Corner Store.

11 Q And in one of the other exhibits - step down here one
12 second, please, and remember, speak up loudly ---

13 A Okay.

14 Q --- for Ms. Hurley. On Defense Exhibit 3-B, does that
15 photograph, does that photograph show a little trailer park
16 across the street ---

17 A Yes.

18 Q --- from the country ---

19 A Yes, yes, that is the trailer park right there across the
20 street.

21 Q And if you were going to your house leaving this store,
22 which way would you go to go down Jones Street?

23 A I'd be going across the street right there, that's Jones
24 - going down Jones right there. I see the park right there.

25 Q Come down and show these jurors down here where Jones is,

1 where you would walk to go.

2 A Right down there, but we went over there. We cut through

3 the trailer park right there.

4 Q Behind or through the trailer park?

5 A Right. He live over here and he was going in that

6 direction.

7 Q Greg lives in the trailer park?

8 A Yes.

9 Q Let's make sure these jurors down here - show where you

10 were going, and if you would, where were you - you - Jones

11 Street or Jones Avenue is where on this picture?

12 A It's right here, going down there right beside the park.

13 Q And this is the front of the store here?

14 A Yes, sir, it is.

15 Q And is that the mobile home park over there?

16 A Yes.

17 Q That's where Mr. Tisdale lives?

18 A Right, that's where he went, when we came out the store

19 he was going right across - right there and he live right, he

20 lives right there, a couple of trailers right beside that.

21 Q Okey-dokey, and so he leaves - or, if you will, have a

22 seat back. So, Greg leaves the store and then what do you do?

23 A I go behind him because he - he showed me a gun before

24 and ---

25 Q What ---

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1 A --- he goes ---

2 Q --- sort of a gun had he shown you?

3 A Excuse me?

4 Q What sort of gun had Greg Tisdale shown you before?

5 A I don't know the caliber, but I know it's a black one.

6 It look almost like a 38, snub nose, something about like
7 that.

8 Q It was a pistol, not a shotgun?

9 A No, it was a pistol.

10 Q Okay, so, Greg leaves the store and you follow him. What
11 do you do?

12 A Okay, he goes in. All right, then I was going - since I
13 missed him, I couldn't get him, so I was going to my house. I
14 was, I was thinking. I was like what can I do, you know what
15 I mean. I said - I thought about - I was going to - I was
16 going to get a bush axe, you know what I mean, because I knew
17 they had guns and I know Greg had a gun. So, I didn't have no
18 gun. I didn't have nothing to fight back. So, I went home.
19 I had a bush axe, long bush axe and I cut it in half, you know
20 what I mean, and I said, "Okay, this is what I got to use, you
21 know what I'm saying, if they pull a gun or whatever, I got to
22 use this so."

23 Q So, you cut the bush axe in half there ---

24 A Yeah.

25 Q --- at your own house that night?

1 A Yeah, I cut in half so it could be ---

2 Q How did you cut it in half?

3 A I - it was a saw. I had a saw.

4 Q A hand saw?

5 A Yes, and so, I cut it in half and then I picked it up,
6 looking at it ---

7 Q And a bush axe, in case everybody has not worked cleaning
8 hedgerows with a bush axe, what is a bush axe?

9 A That's what you clean bushes with, got a big blade on it
10 with a tall handle on it. Yeah, and so, I looked at it and I
11 said, "Man, I can't do this." I said I couldn't do that. I'm
12 not - I'm not a killer. I wasn't trying to kill nobody, I
13 just - I try to picture myself doing it. I wanted to do it,
14 but I just couldn't do it. That's not me. So, I left the
15 bush axe home and I walked back up to - back up the street,
16 which I shouldn't have done ---

17 Q Why did you go back up the street? Where were you
18 headed?

19 A Well, I was heading back to the store because at that
20 time I left - I had left my cell phone in the back of the
21 store. I left it back there charging.

22 Q Why were you not charging your cell phone at your own
23 home?

24 A I have no electricity there.

25 Q And is there a place in the Shaw's Country Store where

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1 you can charge your cell phone?

2 A Yes, it's right there in the back where they be playing
3 pool and things like that.

4 Q They got a pool table in there?

5 A Yeah, a couple of poker machines and stuff in there.

6 Q And what type of electrical outlet is in the store where
7 you were charging your cell phone?

8 A Just a regular outlet.

9 Q Had you seen other people doing the same thing?

10 A Oh, yes, many times.

11 Q Okay, you're going back up to the store to get your cell
12 phone?

13 A Right, and so, on the way back, I noticed that they was
14 just pulling back up. So, obviously they went somewhere, you
15 know what I mean, and I stayed and I watched. I said, "Man,
16 I don't know if I should go back over there right now," but
17 because my cell phone over there and I was cocky and I said,
18 "Bump it, I'm just going to go over there. I'm going to get
19 my cell phone." So, I walked over there. When I walked in
20 the back, I got my cell phone, and then at that time - let me
21 back up, before I went into the store I noticed there was some
22 gas. There was a gas - there was a lawnmower on the side of
23 the store that had a jug on it, you know. Right then I said,
24 "Okay, if anything go down, you know what I'm saying, I might
25 could use that or maybe scare them or whatever that - whatever

1 might happen." So, I seen that on the side, but I wasn't like
2 intentionally was going to use it.

3 Q Where was it located?

4 A It was like in the front but more on the side in the
5 corner.

6 Q If you're going in the front of the store and you're in
7 the parking lot would the lawnmower have been off to the right
8 side of the store or the left side?

9 A It was like in front of the liquor store, the part, but
10 it was like on the side. You couldn't like really see it.

11 Q On the side of the liquor store?

12 A Yes.

13 Q That was the, that was the picture that showed the end of
14 the store with the red dot that Mr. Shaw said was the liquor
15 store that's in Exhibit 3-B and C?

16 A Right.

17 Q The lawnmower would have been at the end of the building?

18 A Not right there, but in front of it.

19 Q In front of the little liquor ---

20 A But yeah ---

21 Q --- store would have been in the middle?

22 A And it's in, yeah, and it's another wall in front of that
23 where you couldn't see it from the front.

24 Q Okay, you see, you see the little lawnmower and you say
25 there was a jug of gas on it?

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- 1 A Yes, it wasn't - I don't know what it was. I don't know,
2 I don't know what it was. It just happened so quick. I just
3 know it was, it was like a container or something.
- 4 Q You remember if it was a riding lawnmower or a push
5 lawnmower?
- 6 A It was a push lawnmower.
- 7 Q A push lawnmower?
- 8 A Yes.
- 9 Q Okay, and so, you see that and what happens? You go in
10 the store?
- 11 A I go into the store. I get my cell phone and something
12 just told me - I just - I looked over because in the store -
13 it's a back and then, and then you can see the front of the
14 store and you can see the people standing up right there
15 drinking at the bar and then when I looked at Curtis, he made
16 a motion to me like, like this.
- 17 Q Like what?
- 18 A Like, like that's - he going to kill me. He going to
19 shoot me.
- 20 Q With his hand ---
- 21 A With his hand.
- 22 Q --- with his thumb up and his fingers pointed ---
- 23 A Like this.
- 24 Q --- like a pistol?
- 25 A Like this, yes.

1 Q Like he's moving his thumb to cock the hammer of the
2 pistol?

3 A Yes, sir, like this.

4 Q So, I'm trying to talk out loud so the court reporter
5 will have a record of what kind of symbol you're making with
6 your hand.

7 A Okay.

8 Q Okay, all right, so Mr. Anderson does that and what
9 happens then?

10 A Then, I'm sorry that everything went down like that. I
11 apologize to you, Curtis, man. It hurts me. I didn't even
12 know I was going to mess you up like that and I hope God
13 forgive me. I went outside. I got the, I got the gas and I
14 threw it and somebody said, "Hey." I wasn't, I wasn't even
15 going to throw it in his face, but he turnt around so quick
16 and it just was in one motion and I did it. Man, I seen you,
17 I seen the pictures on the camera yesterday. Man, I swear to
18 God, man, I - much as, much as man, I was - you all aggravate
19 me and things, but I didn't, I didn't mean for that to happen
20 like that, man, and I hope that you can forgive me, man. I
21 wasn't trying to kill you. I just wanted you all to feel my
22 pain, man. I just wanted you to feel some of the pain that
23 you was giving me, man, you and Greg and them, man. I made a
24 - I might have overreacted, bro. I'm sorry. I'm sorry.

25 Q And so, how did the - who was in the store, Mr. Gooden,

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1 when you - you walked outside and got the gas and came back
2 in?

3 A Yes.

4 Q Who was in the store that you remember seeing?

5 A When I walked into the store, it was, it was Al Giles, it
6 was - Curtis was in there. Greg was in there and it was a
7 girl, Angie, she was in there.

8 Q Greg was in there?

9 A No, not, not Greg was in there, Gerry. I keep getting
10 their names mixed up. It was Gerry in the store.

11 Q And you said Sheila or Jackie Shaw, the owners of the
12 store?

13 A Jackie was there. I didn't even see Sheila because I was
14 - they had me so upset when I was inside the store. She was
15 in there and I, I felt somebody touch me, but then when Gerry
16 left, I was - after him, I didn't even know she was in the
17 building. She said she tried to stop me. I didn't even see
18 her, man, it just ---

19 Q How did you light up the gasoline?

20 A I had a lighter. I had a lighter.

21 Q And what did you do? Throw the lighter on Mr. Anderson
22 or hold it in your hand and light it or how did you?

23 A No, it - really, I threw the gas. It was one motion. I
24 didn't even - I wasn't even close to him like that, but when I
25 hit him with the gas, the gas came on me, too, because I also

1 got burned. When I did that, I caught on fire and he caught
2 on fire from the fumes, you know. It was as if the fumes got
3 - the fumes caught.

4 Q Did you keep the lighter in your hand or did you throw it
5 or do you remember?

6 A Everything was in such chaos, I don't even know what
7 happened. I know that I ran. I ran behind the daycare
8 center. I was back there in the woods.

9 Q Where is the daycare center?

10 A It's on Martin Luther King Street.

11 Q In other words, when you came out of the store, which
12 direction did you take?

13 A I took a left and I ran and I ran behind some bushes and
14 I went behind the building. I laid there in the woods and I
15 thought about what I did, thought about what I had just done.
16 I heard the police and all of that and I just was in the
17 woods, man, just - I was like, "I don't know where I'm going
18 to run, why am I running. I have nowhere to run." I figure I
19 was in the right. I got up. I said, "Well, I'm going to turn
20 myself in, there's no need to run." I got up and I walked
21 down the street and I seen the crowd. I didn't want to go. I
22 didn't want to. I was afraid and I walked anyway and they - I
23 said, "It's me. I did it. It's me," and then that's when
24 chaos - the crowds jumped on me and the police tried to
25 contain us and stuff like that.

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1 Q When you threw the gas on Mr. Anderson, what were you
2 intending to do to him?

3 A I was intending him - it wasn't - I wasn't really
4 intending to do it like, "This is what I'm going to do," and
5 throw it on him, I just wanted him just to - just - I just
6 wanted him just to leave me alone, just - I wasn't trying to
7 kill him. I wasn't trying to kill him. I just wanted him to
8 feel my pain, "Just, just, just leave me alone, please. Why
9 is you aggravating me? Just leave me alone," that's all I
10 been asking you all to do, just please leave me alone. That's
11 it.

12 Q I think in the police video in the car you had said that
13 earlier that day you had seen the guys at the store and they
14 were not drinking at that time and they had not said anything
15 to you. Had you been over to the store earlier that day when
16 the three guys were not drinking?

17 A I was - when I got off of work, yeah, I came to the store
18 and they was there. They was sitting there. I don't know if
19 they wasn't drinking. I don't know if they was drinking or
20 not because when I went in the store they started in on me.

21 Q All right, well, when you had gotten off work that was
22 about what time?

23 A It was probably like five o'clock, something like that.

24 Q Okay, and this incident happened like 9 or 9:30, the
25 police dispatch and the police report said when he was burned.

1 So, at five o'clock, had you gone home or somewhere and then
2 came back over later when you all had the trouble because
3 there's a long time between five and nine o'clock.

4 A Yeah, I know that, but I couldn't even tell you where
5 time - where the time went. I was, I was over at the trailer
6 park. When I went to the store, it was just - we got into it
7 and Greg did that and I went. I don't know where the time
8 went. I don't know. I was in the back of the store for
9 awhile, for a little bit.

10 Q What did you think that these three guys were going to do
11 to you this evening that provoked you to throw the gas?

12 A I thought they was going to hurt me. Honestly, I knew
13 they killed people. I thought you don't play with killers. I
14 thought they was going to kill me because I stayed back there
15 in that little spot back there and my house is surrounded by
16 trees. They already had shot in my trailer. I thought I was
17 in grave danger and I wish I could avoid them. I couldn't
18 avoid them because every day I come up the block. I go to
19 work in the morning, wherever they might be out there. When I
20 get off, I have to come back the same way. I couldn't avoid
21 them. I eat right there and for me to avoid them I have to
22 walk like a mile or so out out my way and go to another store,
23 you know. I just prayed on it, just prayed that they leave me
24 alone and I leave it up to God, you know.

25 Q You say in the police video that you had called your

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1 mother and asked her suggestions on how to deal with the
2 situation before the burning happened?

3 A Yes, my dad, my dad, he's a bishop. My mother, she's an
4 evangelist. I called her up. She told me just avoid them. I
5 told her I'll try. She said just, just try to avoid them,
6 that's what she told me.

7 Q You say in the police video that you had prayed on the
8 matter before this incident ---

9 A Yes.

10 Q --- occurred?

11 A I have. I'm a very religious person. I do believe in
12 God. I believe in prayer. I prayed for them boys to leave me
13 alone. I actually got on my knees and prayed. It just seem
14 like my prayers wasn't even answered.

15 Q Did you say you had a teenage son that lived in Andrews?

16 A Yes.

17 Q And why did you care if they - if the three guys kept
18 calling you faggot and stuff, what would that have to do with
19 your son?

20 A Well, I been away from my son for a long time. I
21 decided, okay, I'm going to come down to South Carolina. I'm
22 going to be with him because I left him when he was a child,
23 you know. I got locked up. I did some time. I got out and I
24 - that was like a whole seven years that I missed out of his
25 life; and so, I said I'm going to come to South Carolina. I'm

1 going to be - get close as he would, whatever I can do with,
2 for him or whatever. Yeah, I just wanted to be with my son
3 and I wanted him to look at me as a father figure. I couldn't
4 just come in and tell him what to do or whatever. I had to
5 earn that from him. I needed that trust. I needed him to
6 love me; and so, with this going on and Andrews is a small
7 place and words get around and they just - word gets around
8 and if he would - somebody would have told him that, you know,
9 I mean, then they would be pick on - picking on him. "Oh,
10 your daddy's a faggot," you know what I'm saying and then he
11 would have - he would catch it. He would have to go through a
12 hard time and I didn't even want that and I told them, you
13 know, I told you all, man, I begged you all, man.

14 Q How many times you reckon you asked Mr. Anderson to leave
15 you alone and quit insulting you or quit cussing you?

16 A Well, it was probably like four or five times, man.

17 Q Had ---

18 A Four or five times.

19 Q --- you asked Mr. Chandler before to leave you alone and
20 quit insulting you and quit cussing you?

21 A Yes, I went up to them humble, humble hearted. I said,
22 "Listen, you all don't know me." I say, "I'm down here. I'm
23 struggling." I said, "You can look at me and tell me that I'm
24 struggling, you know." I was weighing a hundred and - I was
25 weighing 168 pounds at the time. I been locked up and I

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1 gained all this weight.

2 Q How much do you weigh now?

3 A I weigh 207 pounds now and right then, you know, I was
4 real scraggly, and I - I asked them, they might tell you, they
5 might tell you the truth. I said, "Man, please leave me
6 alone," three or four times, four or five times, "Please, just
7 leave me alone." I begged them. They just sit there and
8 laugh in my face. They just called me faggots with no
9 remorse. I know he's - I know he come up here, I'm saying I'm
10 sorry. He, he looks bad. What I did, I probably overacted
11 and I did too much, but you got to understand they are also
12 bad seeds. They're bad seeds in the community and you all
13 know the only thing you all do all day is pick on people, man.

14 MS. BAILEY: Objection, Your Honor. At this point it's
15 a narrative.

16 THE COURT: I sustain.

17 A That's all you all do.

18 THE COURT: Sustained.

19 Q Did the three guys seem to act differently towards you
20 when they were drinking alcohol as compared to when they were
21 sober and not drinking?

22 A They did it whether they was drinking or not.

23 Q Had you ever been in either one of the three guys' house
24 to socialize with them?

25 A Only when Gerry invited me to the cookout when I first,

1 when I first came back to South Carolina.

2 Q Had either one of the three guys been in your house
3 socializing with you?

4 A No, never.

5 Q Now, if you had no electricity at your trailer, does that
6 mean you had no outside lights at your trailer?

7 A Exactly, I have no outside - it's just pitch dark.

8 Q Had Greg Tisdale come back to the store when you got back
9 to the store?

10 A No, when I was in the police car then he came up on the
11 scene but he wasn't even there. He was in his trailer.

12 Q And he had left the store shortly before you left,
13 before you went home, where did you think he was going?

14 A Oh, he was going to get a gun and he did come out and he
15 did show me. He did produce a gun. He did show me a gun.

16 Q Where at, where did he show you a gun?

17 A That was right in front of his, right in front of his
18 trailer, that was right in front of his trailer. He did show
19 me a gun, then he went back into the trailer.

20 Q What kind of gun?

21 A It was a black one. I don't know if it was - yes.

22 Q A handgun, a pistol?

23 A Yeah, it was a pistol. I don't know if it was the same
24 one or not.

25 Q And that was - you left the store and went home to cut

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1 the bush axe in half?

2 A Right.

3 Q Thank you, sir.

4 MR. GOUDE: That's all the questions we have, Your
5 Honor.

6 THE COURT: All right, cross examination.

7 CROSS EXAMINATION

8 BY MS. BAILEY:

9 Q It was Greg Tisdale had a gun. Isn't that right?

10 A Greg, yes, he showed me.

11 Q And he showed you the gun and then he went back inside
12 his house. Isn't that right?

13 A No, when he - when I went after him, he showed me a gun,
14 then I went to the house.

15 Q Right, he didn't shoot you with that gun, he just showed
16 you a gun and then he went back inside his house. Isn't that
17 right?

18 A That's right.

19 Q And then you went back inside your house. Isn't that
20 right?

21 A No, ma'am.

22 Q Then where - then - but you were able to leave the scene.
23 Isn't that right? He showed you a gun and you were able to
24 leave. Isn't that right?

25 A Yes.

1 Q And it was Gerry Chandler, not Curtis Anderson that
2 showed you swords in the trunk. Isn't that right?

3 A They was all together and ---

4 Q But it was Gerry Chandler's car.

5 A Uh-huh.

6 Q It was Gerry Chandler's swords.

7 A Right.

8 Q And he showed them to you. Isn't that right?

9 A Yes, ma'am.

10 Q And when Gerry, Cousin Lamb and Curtis supposedly beat
11 you up that night ---

12 A Uh-huh.

13 Q --- you didn't call the police. Isn't that right?

14 A Right.

15 Q You didn't call 911.

16 A Right.

17 Q You didn't go to the police, fill out a statement.

18 A No, ma'am.

19 Q And when you supposedly heard gunshots in the middle of
20 the night at your house, you didn't call 911; did you?

21 A No.

22 Q You didn't call the police?

23 A No, ma'am.

24 Q You didn't go to the police station, fill out a report?

25 A No, ma'am.

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1 Q And in fact, that night you didn't go outside your house;
2 did you?

3 A That night, it was in the morning.

4 Q It was in the morning?

5 A Yes.

6 Q Did you go outside your house?

7 A That morning, no. I went out in the, in the - that
8 morning.

9 Q You went out the next morning, but when the shots were
10 being fired or shortly after the shots were fired, you did not
11 go outside; did you?

12 A It was dark.

13 Q You didn't look outside; did you?

14 A Yes, I looked.

15 Q Did you see who fired shots?

16 A I saw a vehicle leaving my property.

17 Q Okay, but you don't know who fired those shots. Isn't
18 that correct?

19 A But he told me in the store it wasn't the first time,
20 that he had another one.

21 Q You didn't see ---

22 THE COURT: Only one speak at a time. Let him finish
23 answering the question before you ask your question. Go
24 ahead.

25 A When I was in the store he told me it wasn't the first

1 time that he tried to - that he - he get one.

2 Q I understand, that's - isn't it true that you did not see
3 who fired the shots into your house?

4 A I never seen.

5 Q On October 22nd of 2010 after you were arrested, you gave
6 statements. Isn't that correct?

7 A Yes, I did.

8 Q And we watched those statements. Isn't that right?

9 A Yes.

10 Q On those statements, you say that you went to Shaw's
11 Corner Store to get a few beers, not a hot dog. Isn't that
12 right?

13 A Well, it was - I - all the chaos had happened and
14 adrenaline was running, it's not precise.

15 Q Okay, let me ask you again because you didn't answer my
16 question. That night when you gave a statement to police, you
17 said that you went to the store to get a few beers, not a hot
18 dog. Isn't that correct?

19 A Okay, yes.

20 Q Okay, and that night when you gave a statement to
21 police, you said that you can't be laughed at. Isn't that
22 right?

23 A Yes, I think so.

24 Q You said that you needed to be respected. Isn't that
25 right?

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1 A As a man.

2 Q And you said that, that you couldn't have these rumors
3 getting back to your son. Isn't that right?

4 A Yes, ma'am.

5 Q And that night you told Officer Harrelson a lot about
6 what happened. Isn't that right?

7 A Yes.

8 Q Okay, what you did not tell him that night is you didn't
9 make any mention of Curtis Anderson making that gun gesture
10 that you made to us earlier; did you?

11 A Right.

12 Q You didn't make any reference to that?

13 A There's a lot of things I didn't say, yes.

14 Q You think you did?

15 A No, I said there's a lot of things that I didn't say.

16 Q Uh-huh, and so right after the incident you told Officer
17 Harrelson that you set him on fire because they were picking
18 on you. Isn't that right?

19 A Well, it was all together. You know, I mean, I felt
20 threatened. Right then I might have said that, but I felt
21 threatened because ---

22 Q Okay, my question ---

23 A --- of them.

24 Q My question is about what you said that night. That
25 night you said you set him on fire because they were picking

1 on you. Isn't that right?

2 A They threatened me, too. He shot in my trailer. He did
3 all of that.

4 Q But did you say it that night?

5 A No, ma'am, I didn't say that that night.

6 Q And that night did you tell Officer Harrelson anything
7 about your trailer being shot up a couple of days before?

8 A No.

9 Q You called Curtis Anderson a faggot back. Isn't that
10 right?

11 A No, ma'am.

12 Q Now, Curtis didn't set you on fire; did he?

13 A No.

14 Q You told these guys that if they kept bothering you, you
15 would set them on fire. Isn't that right?

16 A At that time, I didn't mean it like literally, but it
17 turnt out to be that.

18 Q You said it. Isn't that right?

19 A Yes, ma'am.

20 Q And supposedly they said that if you did that, they were
21 going to set you on fire. Isn't that right?

22 A Yes.

23 Q But in the end, you're the only one that set one of them
24 on fire. Isn't that right?

25 A No, he tried to set me on fire when he shot in my

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1 trailer.

2 Q In the end, on October 22nd of 2010, after you said that
3 you would light them on fire and they supposedly said they
4 would light you on fire back, Curtis Anderson is the only one
5 that got lit on fire. Is that correct?

6 A True.

7 Q You've been convicted of larceny of a firearm in North
8 Carolina in 2007. Is that right?

9 A Yes, that's correct.

10 Q That means that you stole a gun. Isn't that right?

11 A Yes.

12 Q And in 1992 you were convicted of a strong arm robbery.
13 Is that right?

14 A I pleaded to it, yes.

15 Q And that means you took something by force that didn't
16 belong to you. Is that right?

17 A Yes.

18 Q Now, you've testified that supposedly Curtis, Greg and
19 Gerry were picking on you that night, October 22nd, and calling
20 you a faggot, but isn't it true that it was you that made the
21 first physical threat of, "I'm going - if you all don't stop,
22 I'm going to come back and light you on fire?"

23 A The first physical threat?

24 Q Is that a physical threat? If you don't stop, I'll come
25 back and light you on fire?

1 A Yes, yes, yes, that's correct.

2 Q So, when they were calling you bad names on October 22nd
3 isn't it true that it's you that made the first physical
4 threat?

5 A Well, he shot in my trailer the night before. He, he did
6 the first threat.

7 Q Okay, but you didn't see who shot in your trailer.

8 A I know he did. I - I'm a peaceful person. I don't cause
9 no trouble. I had no enemies. They was the only persons that
10 I was - had problems with.

11 Q You were safely in your home that night. Isn't that
12 correct? You had left the store. You had left all them
13 picking on you and you had gotten back to your house. Isn't
14 that right?

15 A Yes.

16 Q And you made the decision to go back to the store. Isn't
17 that right?

18 A Well, at - I made a decision I wasn't even going to stay
19 in my trailer that night because I figured that they was going
20 to come back. I wasn't - I didn't know what I was going to
21 do.

22 Q You made the decision to go back to where you knew they
23 were. Isn't that right?

24 A My cell phone was there, yes.

25 Q But you made the decision to go back to where they were.

Ronald Gooden - Cross by Ms. Bailey

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1 Isn't that right?

2 A Yes, my cell phone was in the back of the store, yes.

3 Q Okay, these people who were supposedly threatening you
4 and you were supposedly scared for your life, you decided to
5 go back to where you knew they were. Isn't that right?

6 A Yes.

7 Q You set Curtis Anderson on fire that night. Isn't that
8 right?

9 A Yes, I did.

10 Q You planned that act out. Isn't that right?

11 A No, I didn't plan that out.

12 Q You collected gas from a can and went into the store.
13 Isn't that right?

14 A It wasn't planned. I was in the back of the store ---

15 Q That was not my question. You collected gas from a can
16 and went into the store. Isn't that right?

17 A No, I did not collect any gas from out no can. I didn't
18 take no gas and poured it into another container. It was
19 already on top of the lawnmower.

20 Q And you took that gas ---

21 A Yes.

22 Q --- from outside and you walked inside where you knew
23 Curtis Anderson would be. Is that correct?

24 A Yes.

25 Q You're aware that people die from fire. Isn't that

1 right?

2 A Yes, I am.

3 Q No further questions.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 BY MR. GOUDE:

7 Q Mr. Gooden, why did you not call the police when you
8 heard the shots and saw the bullet holes in your trailer?

9 A Because I wasn't really sure that it was him that did it.
10 I wasn't sure.

11 Q And how did you become sure?

12 A When I confronted him on that. He was like, yes, it's
13 not the first time that I tried to get somebody.

14 Q Why didn't you call the police then?

15 A Well, I don't even know. I don't even know why I didn't
16 even call the police right then, right then because it was, it
17 was, it was heated. Everything was in motion. Everything was
18 in motion.

19 Q When Greg Tisdale showed you the pistol at his trailer
20 when you and he left the store this night, October the 22nd,
21 when you were walking home, why did you not call the police on
22 him then?

23 A All right, really I didn't even have no phone. Really, I
24 didn't have no phone. I just didn't even think about it.

25 It's like when you, when you get into a fight or you get into

Ronald Gooden - Redirect by Mr. Goude

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1 a heated, for me, from my experience, it's like you don't make
2 the wisest decisions and everything. This was just, okay, you
3 do this. Okay, I'm going to do this and you just - you forget
4 about the police. You forget about things like that when you
5 do things you don't normally do.

6 Q Why didn't you call the police when Gerry and Lamb and
7 Curtis beat you up a few nights before this incident?

8 A Well, if I'd a done - if I'd done that then they would
9 have been like, oh, he's a snitch or something like that
10 because they wouldn't have went to jail or nothing like that.
11 I would have been labeled a snitch and faggot then, I figured.

12 Q The Solicitor asked you one time you said you went to the
13 store that evening to get a hot dog ---

14 A Right.

15 Q --- and then the Solicitor asked you but in another place
16 you said you went to get a beer. Can you go to the store and
17 get a beer and a hot dog at exactly the same time?

18 A Right, exactly. That's, that's what I was trying to tell
19 her.

20 Q Can you eat a hotdog and drink it down with a beer at the
21 same time?

22 A Yes, I do often.

23 Q The Solicitor asked you one time you said they were
24 picking on you, another time you said they were threatening
25 you. Well, isn't picking on you and threatening you exactly

1 the same thing?

2 A No, to me it is, but then they was threatening me and
3 picking on me.

4 Q All right, if I tell you I'm going to beat your behind,
5 can that be considered picking on you?

6 A That's a threat, to me.

7 Q Okay, since the day of this incident, October the 22nd,
8 2010, up until this present day right now, where have you been
9 since then?

10 A I didn't - say that again, please?

11 Q Since this incident that occurred ---

12 A Yes.

13 Q --- when you walked up to the police car and surrendered
14 yourself to the police ---

15 A Right.

16 Q --- where have you been since then?

17 A I've been locked up, basically about a whole year since
18 that incident.

19 MR. GOUDE: I have no other questions, Your Honor.

20 THE COURT: All right, you may step down. All right,
21 you can call your next witness.

22 MR. GOUDE: Judge, we would call Gerry Chandler.

23 THE COURT: All right.

24 Whereupon, Gerry Chandler is called to the stand, duly
25 sworn by the clerk and testified as follows:

Gerry Chandler - Direct by Mr. Goude

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1 THE COURT: All right, be sure to speak in the
2 microphone. If you'd please give the court reporter your name
3 and spell your last name.

4 MR. CHANDLER: Gerry Chandler, C-H-A-N-D-L-E-R.

5 THE COURT: All right, Mr. Goude.

6 MR. GOUDE: Thank you, Judge.

7 DIRECT EXAMINATION

8 BY MR. GOUDE:

9 Q Mr. Chandler, would you tell the ladies and gentlemen of
10 the jury your age, please?

11 A Thirty-five.

12 Q And where do you live?

13 A Andrews.

14 Q And about how long have you lived there?

15 A All my life.

16 Q What is your height?

17 A Five-four.

18 Q What is your weight?

19 A 186.

20 Q Are you friends with Curtis Anderson?

21 A Yes, sir.

22 Q About how long have you been friends with him?

23 A Probably three, four years.

24 Q Are you friends with Greg Tisdale?

25 A Yes, sir.

1 Q About how long have you been friends with him?

2 A Actually, he's my cousin, so a long time.

3 Q And Mr. Tisdale, how old is he? How old is Greg?

4 A I'm not quite sure how old he is.

5 Q Is he in his like early twenties?

6 A Yes, sir.

7 Q And as I understand it, he lives across the street from
8 Shaw's Country Store or did back then at the - in that mobile
9 home park. Is that correct?

10 A Yes, sir.

11 Q Now, and you know why we're here about the burning of Mr.
12 Anderson, October the 22nd, 2010. Prior to that date, prior to
13 the burning incident, had you and Mr. Tisdale and Mr. Anderson
14 called Ronald Gooden faggot before?

15 A No, sir.

16 Q Had you all in your opinion picked on Ronald Gooden?

17 A We joked, all of us joked a lot.

18 Q Had Ronald asked you all to quit joking with him in the
19 manner that you all were joking?

20 A Yes, sir.

21 Q Had you all stopped joking or not stopped joking with
22 him?

23 A Well, actually I, I stopped joking with him. When I -
24 when he first told me about it, I left him - I never did
25 really bother him like that again.

Gerry Chandler - Cross by Ms. Bailey

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1 Q Had you heard that Mr. Gooden had let a gentleman named
2 Johnny Bradshaw move into Mr. Gooden's trailer?

3 A No, sir.

4 Q Had you ever heard of the name Johnny Bradshaw?

5 A Yes, sir.

6 Q As I understand it, Mr. Chandler, you were convicted or
7 pled guilty to involuntary manslaughter in 2003. Is that
8 correct?

9 A Yes, sir.

10 Q Thank you.

11 MR. GOUDE: Your Honor, that's all we have.

12 THE COURT: All right, cross examination.

13 CROSS EXAMINATION

14 BY MS. BAILEY:

15 Q You have a job, right?

16 A Yes, ma'am.

17 Q Where do you work?

18 A Simpson Lumber Company.

19 Q And were you present when this happened, when the burning
20 happened?

21 A Yes, ma'am.

22 Q Were you inside the store?

23 A Yes, ma'am.

24 Q Could you tell us what happened?

25 A We was in there. All us was standing at the bar talking,

1 laughing, and from what I remember when he walked in, when I
2 turned around, he threw gas and he lit a - he striked a
3 lighter and set Curtis on fire and he ran out the door.

4 Q In the community that you live in, is it common to joke
5 back and forth with people?

6 A Yes, ma'am.

7 Q Does that mean that you don't like them or don't respect
8 them?

9 A No, ma'am.

10 Q Is that just something you all do?

11 A Yes, ma'am.

12 Q You do it walking down the street?

13 A Yes, ma'am.

14 Q Do you all do it at the Shaw's Corner Store?

15 A Yes, ma'am.

16 Q You all do it with just about everybody?

17 A Yes, ma'am.

18 MS. BAILEY: No further questions.

19 THE COURT: Redirect?

20 MR. GOUDE: No further questions, Your Honor.

21 THE COURT: All right, you may step down.

22 All right, Mr. Goude, you can call your next witness.

23 MR. GOUDE: Judge, if we could have about a two minute
24 break before I call the next witness. I think I'll have one
25 more to call.

Gerry Chandler - Cross by Ms. Bailey

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1 THE COURT: That'll be fine. That'll be fine. All
2 right, ladies and gentlemen, we'll take about a five, ten
3 minute break - well, about a ten or 15 minute break, give you
4 an opportunity to get something to drink, stretch your legs,
5 use the restroom. If you need to check your phone messages
6 and return your calls, you can do that, but please keep in
7 mind that you cannot discuss this case with anyone even among
8 yourselves at this point in time. It's still too early for
9 deliberations. Don't conduct any independent investigations
10 or anything of that nature. I hope you have a good break and
11 we'll bring you back out in just a second. Everyone else
12 please remain seated while the jury's excused.

13 (Whereupon, the following takes place outside the
14 presence of the jury.)

15 THE COURT: All right, anything from the Defense
16 before we break?

17 MR. GOUDE: No, sir.

18 THE COURT: Anything from the State?

19 MS. BAILEY: No, Your Honor.

20 THE COURT: All right, let's take about a 15-minute
21 recess.

22 MR. GOUDE: Thank you, sir.

23 OFF THE RECORD

24 (On the record.)

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right, Mr. Goude, anything from the
3 Defense before we bring the jury back in?

4 MR. GOUDE: Judge, the Defense will rest at this time.

5 THE COURT: All right, any motions?

6 MR. GOUDE: Judge, we would have a motion for a
7 directed verdict on the charge of attempted murder on two
8 grounds: first, the charge requires the specific intent to
9 kill under the Statute 16-3-29 says a person who with intent
10 to kill attempts to kill another person with malice
11 aforethought. The indictment says that we did with intent to
12 kill attempt to kill him with malice aforethought. Mr. - the
13 evidence is that Mr. Gooden threw gasoline on the gentleman.
14 As far as intent, at the scene, the evidence, the police
15 videos, Mr. Gooden specifically says, "I did not want to kill
16 them. I went home to get the bush axe. I wanted to chop
17 their necks off, but I got home and I thought about it." This
18 is on the police video at the night of the incident before we
19 ever had a chance to talk with a lawyer to learn what the law
20 is, to be coached or whatever. "I did not want to kill them.
21 I did not want to go to prison for life. I did not want to
22 kill them. I just wanted to hurt them," and that evidence
23 would negate the intent to kill which is a specific
24 requirement of the statute. Therefore, we would ask the Court
25 for a directed verdict of not guilty on the attempted murder

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1 and which would leave the charges of assault and battery of a
2 high and aggravated nature or assault and battery in the first
3 degree as charges against Mr. Gooden.

4 THE COURT: All right, I'm going to deny your motion.
5 Anything else?

6 MR. GOUDE: Judge, we have submitted to the Court
7 yesterday requests to charge, but I have nothing. The other
8 motion, Judge, would be a not guilty on the insufficiency of
9 the evidence.

10 THE COURT: Okay, your motion is denied.

11 MR. GOUDE: And Judge, we have presented our request
12 to charge if the Court's ready to ---

13 THE COURT: No.

14 MR. GOUDE: --- talk about.

15 THE COURT: Not, not right now.

16 MR. GOUDE: Yes, sir.

17 THE COURT: We're not going over that right now. All
18 right, anything - any motions or anything from the State?

19 MS. BAILEY: Your Honor, only previously I made a
20 motion that Your Honor direct the jury or charge the jury to
21 disregard any discussion of sentencing in the video. I'm
22 going to withdraw that motion at this point.

23 THE COURT: Okay, all right, I still think - well, I'm
24 still working on charges and I'm going to probably charge it.
25 So, I understand you're withdrawing your motion, but I'm still

1 drafting my charges.

2 All right, is there going to be any reply or rebuttal
3 from the State?

4 MS. BAILEY: No, Your Honor; no, Your Honor.

5 THE COURT: All right, so now we just have closing
6 arguments, charge and deliberations? All right, then let me
7 hear from you, Mr. Goude, on your request for charge.

8 MR. GOUDE: Judge, we have on lesser included offenses
9 what we would ask the Court to charge is that the Court charge
10 as a lesser included offense of the indicted charge of murder
11 that the Court charge assault and battery of a high and
12 aggravated nature and that the Court charge assault and
13 battery in the first degree.

14 THE COURT: I, I don't think that's a lesser included
15 offense. Attempted murder is the attempt to kill someone and
16 you can attempt to kill someone without an assault and without
17 a battery. Now, I understand that the facts of this case
18 might support an assault and battery, but the Defendant was
19 not charged with assault and battery. The State's not seeking
20 a conviction on assault and battery and I just - I don't see
21 where assault and battery is a lesser included offense simply
22 because assault and battery requires the proof, number one, of
23 a battery, whereas attempted murder, you don't even have to
24 have a battery. Do you have any - what's the State's position
25 on that?

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1 MS. BAILEY: Your Honor, I believe that the new statute
2 provides that - do you have this new, the new statute with
3 you?

4 THE COURT: Do you have something that shows ---

5 MS. BAILEY: I believe that it provides that they're
6 all lesser included offenses of each other.

7 THE COURT: Of assault and battery in the first
8 degree, second degree, third degree, but yeah, this is
9 attempted murder.

10 MS. BAILEY: Uh-huh.

11 THE COURT: An attempted murder means the attempt to
12 kill someone with malice aforethought.

13 MS. BAILEY: We do have the new statute which indicates
14 that assault and battery of a high and aggravated nature is a
15 lesser included offense of attempted murder.

16 THE COURT: That's right because attempted murder is
17 lesser than assault and battery of a high and aggravated
18 nature because assault and battery of a high and aggravated
19 nature has lesser - I mean, has additional elements that you
20 have to prove. So, I can see where attempted murder is a
21 lesser of assault and battery with intent to kill, assault and
22 battery of a high and aggravated nature and things of that
23 nature, but the opposite's not true because all of the assault
24 and battery charges contain the elements of assault, which you
25 don't have to have an attempted murder, and battery which you

1 don't have to have an attempted murder.

2 MS. BAILEY: I understand that, Your Honor, and my
3 concern is about this case coming back at some point. Section
4 - looks like 16-3 ---

5 MR. GOUDE: Is that 50 or not 50?

6 MS. BAILEY: No, I'll hand up this page while we get
7 the complete statute, but it says assault and battery of a
8 high and aggravated nature is a lesser included offense of
9 attempted murder according - statutorily ---

10 THE COURT: Is lesser of attempted murder, I thought
11 you said the opposite.

12 MS. BAILEY: I mean I agree.

13 THE COURT: That attempted murder was a lesser
14 included offense of assault and battery, but if we've got a
15 statute that says it.

16 MS. BAILEY: The statute says it. I agree that the
17 elements don't line up, but I think, I think statutorily, it -
18 they have made it a lesser included offense under the new
19 statute.

20 THE COURT: Well, let me see if the statute says that.

21 MR. GOUDE: Judge, that would be 16-3-600. I didn't,
22 I didn't photocopy the first page of the statute.

23 THE COURT: Of this - that's what she just gave me?

24 MR. GOUDE: Yes, sir.

25 THE COURT: Okay.

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1 MR. GOUDE: 16-3-600.

2 THE COURT: Yeah, by statute, it does say that. So if
3 it says that it's a lesser included offense I'll certainly
4 charge it. I'll charge ---

5 MR. GOUDE: Judge ---

6 THE COURT: So we're charging lesser included offense
7 assault and battery of a high and aggravated nature, assault
8 and battery in the first degree. Any other - the - what about
9 second degree, third degree simple assault and battery? What
10 does the statute say on those? Anything that by statute is a
11 lesser included offense we'll charge it.

12 MS. BAILEY: Your Honor, my understanding is that the
13 statute reads that they're all lesser included offenses of
14 each other. I don't - the State ---

15 THE COURT: Well, then we'll go all the way down to
16 simple assault.

17 MR. GOUDE: Yes, sir.

18 THE COURT: I'll need - let me pull the statute and
19 see what it says, but anything that by statute is a lesser
20 included offense of attempted murder we'll charge.

21 MR. GOUDE: That's what it says there, they're all
22 lesser.

23 THE COURT: You got the statute? All right. Okay, so
24 we'll be charging with assault and battery of a high and
25 aggravated nature, assault and battery in the first degree,

1 assault and battery in the second degree and assault and
2 battery in the third degree.

3 MS. BAILEY: Thank you, Your Honor.

4 THE COURT: Is that correct?

5 MS. BAILEY: Yes, Your Honor.

6 THE COURT: All right.

7 MS. BAILEY: That's my understanding.

8 MR. GOUDE: Yes, sir.

9 THE COURT: All right, anything else?

10 MR. GOUDE: Judge, we have submitted six additional
11 charges which I think we gave you all yesterday and I will put
12 a copy into the - with Ms. Hurley, the court reporter. We
13 would present these to Ms. Hurley, Your Honor, the court
14 reporter, our requests to charge. There's six of them all
15 stapled together?

16 THE COURT: Those are the ones that you handed up, the
17 copies that you handed up to me?

18 MR. GOUDE: Yes, sir.

19 THE COURT: All right, I'll take a look at them when
20 I'm drafting the charges and I'll give you all a copy of the
21 charges; okay?

22 MR. GOUDE: Thank you, sir.

23 MS. BAILEY: Your Honor, the State previously handed up
24 the State's requests to charge. The State has no objection to
25 the Defense requests to charge so long as all the State's are

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1 included. Also ---

2 THE COURT: Well, that's one thing and I've got to
3 talk to you on this, I don't know that I can charge - let's
4 see, on attempt where it says necessary, intent may be shown
5 by acts and conduct of the accused and other circumstances
6 from which a jury may naturally and reasonably infer intent
7 such as evidence of the character of the means or instrument
8 used because when you got - I think under that new Supreme
9 Court case when you've got self defense they cannot infer the
10 use of a deadly weapon as intent or no that's on malice.

11 MS. BAILEY: Yes, yes, Your Honor.

12 THE COURT: Okay, they can't - so, you can't - they
13 can - I need to go back and look at that case. So, the use of
14 a deadly weapon is not evidence of malice.

15 MS. BAILEY: Yes, Your Honor, and specifically that
16 case was talking about a gun, that the use or the presence of
17 a gun.

18 THE COURT: Because well, I mean, it was somebody
19 shooting somebody else, which you - whether you're shooting
20 somebody or throwing gas on them and lighting them on fire, if
21 it's self defense it's self defense and what they said is you
22 cannot use a Defendant's - you cannot charge a jury that the
23 Defendant's use of a gun in shooting somebody else is - you
24 can't infer malice ---

25 MS. BAILEY: Right.

1 THE COURT: --- from that.

2 MS. BAILEY: And the State would request that that
3 charge not be given as part of the self defense charge, that
4 it's separate and apart, that it actually has to do with the
5 attempted murder charge, that, that the instrumentality used
6 is - can be an inference as to whether or not it was an
7 attempted murder for the intent to kill.

8 THE COURT: No, no, no. I don't think - I think
9 that's exactly what the Supreme Court case said is when you
10 have somebody using a deadly weapon in the act of self defense
11 then the jury cannot consider the use of that deadly weapon or
12 cannot infer from the use of that deadly weapon as evidence of
13 malice in the case in chief. I need to go back and take a
14 look at it because I was thinking in that case the Judge had
15 instructed the jury and I can't remember the charge, whether
16 it was murder or whatever it was, it might have been murder
17 where the Defendant shot and killed somebody and the judge
18 charged you can infer the use of a deadly weapon as malice
19 aforethought as implied malice and the Supreme Court said no,
20 not when they're claiming self defense. If they're claiming
21 self defense they can use a deadly weapon and you can't infer
22 that.

23 MS. BAILEY: Yes, Your Honor, and the State is not
24 requesting that it be charged regarding malice but
25 specifically that it be charged as to the with intent to kill

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1 section of the statute.

2 THE COURT: Well, that's what I've got to check and
3 see. I don't know if it just dealt with malice or if it dealt
4 with malice and intent. I mean, you've got to have criminal
5 intent. Criminal intent means the intent to commit the crime
6 and if they're using a deadly weapon in self defense, can a
7 jury infer from the use of that deadly weapon that they
8 intended to commit a crime? I don't know. I need to go take
9 a look at that.

10 MS. BAILEY: The other thing that the State would just
11 request in addition to the charges provided by the Defendant
12 is the standard self defense charge as well with the four
13 elements of self defense and the words alone charge, which I
14 believe is in your charge book that says words alone are not
15 enough to sustain a charge of self defense.

16 THE COURT: All right, I'll take a look at it and see.

17 MR. GOUDE: The only objection I have to the
18 Prosecutor's requests to charge, Judge, is on number two which
19 says intent to kill need not be separately established. I
20 know they cite a 2007 or eight case, but the statute was
21 specifically enacted, the one we're dealing with here, in 2010
22 after those cases, and our statute specifically says that a
23 person who with intent to kill attempts to kill another person
24 with malice, it's got both malice and intent specifically set
25 forth in the statute.

1 MS. BAILEY: So, that's as to number two only?

2 MR. GOUDE: Yep, that's the only, number two.

3 THE COURT: Okay, all right, well, I'm going to take a
4 look at all of your charges and I'll make you a copy of the
5 charges and we'll take a look at them and go over them.

6 MS. BAILEY: Thank you, Your Honor.

7 THE COURT: My question now, this is going to take
8 some time. I'm wondering if we want to go ahead and cut the
9 jury loose and go to lunch even though it's only 11:30, giving
10 them a nice long lunch and then bring them back and close up
11 everything this afternoon because it's going to take me awhile
12 to get these charges particularly with these lesser included
13 offenses. I think you're probably looking at an hour and a
14 half for me to at least get my charges together unless you all
15 want to bring them back and do your closing arguments. I
16 assumed you wanted to see the - my charges before you do your
17 closing arguments.

18 MS. BAILEY: Yes, Your Honor.

19 MR. GOUDE: That would be helpful, yes, sir.

20 THE COURT: So, what's you all's thinking on
21 scheduling?

22 MR. GOUDE: I vote for your first choice, send the
23 jury to lunch now.

24 MS. BAILEY: Whatever the Court sees fit is fine with
25 the State.

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1 THE COURT: Okay.

2 MR. GOUDE: And then come back and do it all.

3 THE COURT: All right.

4 MS. BAILEY: I would also request that Your Honor think
5 about sending a copy of the written charge back to the jury
6 since it - there's so many lesser includeds and self defense
7 and it's a complicated legal - relatively complicated legal
8 case, that just that Your Honor consider that.

9 THE COURT: All right, Mr. Goude, what's your position
10 on that?

11 MR. GOUDE: I have no objection to that, Judge.

12 THE COURT: All right, then I'll do that. All right,
13 anything from the State before we bring the jury in?

14 MS. BAILEY: No, Your Honor.

15 THE COURT: All right, anything from the Defense?

16 MR. GOUDE: No, sir.

17 THE COURT: All right, let's bring the jury in.

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

20 THE COURT: All right, ladies and gentlemen, welcome
21 back. I apologize for keeping you in the jury room for so
22 long; however, because of the structure of the case we did
23 have some legal matters. The Defense has rested their case.
24 The State does not have anything in reply. So, now is the
25 time of the trial where the attorneys will make their closing

1 arguments to you. I will then charge you on the law to be
2 applied in the case and then at that time you will begin your
3 deliberations; however, in formulating these charges, I'll
4 need to meet with the attorneys so that we can go over the
5 charges to see if they have any additions to it or if they
6 want to - I've got to give them a copy of my proposed charges
7 for them to review before I charge you and that might take
8 some time.

9 So, I'm going to go ahead - we're going to break for
10 lunch at this time and I'm going to ask that you please be
11 back, be back in the jury room at a quarter till two, that'll
12 give you two hours for lunch, give you a nice long break and
13 we'll be working through lunch, but hopefully we'll have
14 everything set and ready for you to go when you return and we
15 can start back soon after 1:45. So, please be back in the
16 jury room at 1:45 and we'll resume the trial at that time.

17 Do not discuss the case even among yourselves. Don't
18 conduct any independent investigations. I hope everybody has
19 a good lunch and we'll see you back at 1:45. Thank you very
20 much.

21 (Whereupon, the following takes place outside the
22 presence of the jury.)

23 THE COURT: All right, anything from the State before
24 we break for lunch?

25 MS. BAILEY: No, Your Honor.

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1 THE COURT: Anything from the Defense?

2 MR. GOUDE: No, sir.

3 THE COURT: All right, I'll try - they'll be back at
4 1:45. I'll try to have everything ready for you, you know,
5 15, 20 minutes ahead of time, but we've got a number of
6 charges that we're going to have to add as lesser included
7 offenses and I'm going to have to formulate that, but I'll get
8 it to you as quickly as I can; okay?

9 MS. BAILEY: Thank you, Your Honor.

10 MR. GOUDE: Thank you, sir.

11 THE COURT: All right, stand in recess.

12 OFF THE RECORD

13 (On the record.)

14 (Whereupon, the following takes place outside the
15 presence of the jury.)

16 THE COURT: All right, I've given each of you a copy
17 of the charge as well as the proposed verdict form. I'll give
18 you an opportunity after I charge the jury if you want to
19 raise any objections, additions or challenge it in any way.
20 Is there anything from the State with regard to the charge of
21 the law at this time?

22 MS. BAILEY: Yes, Your Honor. The, the State's
23 contention is that it is improper to charge the jury on
24 assault and battery second and third degree because there's no
25 evidence of the non-severity of the injuries, that all of the

1 evidence would indicate that this is either an attempted
2 murder, an ABHAN or an assault and battery in the first
3 degree.

4 THE COURT: All right, Mr. Goude, let me hear from you
5 on that.

6 MR. GOUDE: I would request that the Court charge all
7 of the lesser includeds. The statute says that and if the
8 jury finds that there was injury and there was no self defense
9 they can find Mr. Gooden, the result either the attempted
10 murder or the assault and battery of a high and aggravated
11 nature, the assault and battery in the first degree or the
12 second degree or the third degree.

13 THE COURT: Okay, all right, I'm going to leave them
14 in there and your objection's noted, but I'm going to leave
15 them in there. All right, anything else from the State?

16 MS. BAILEY: No, Your Honor.

17 THE COURT: All right, anything from the Defense?

18 MR. GOUDE: Judge, two little things, one, on page
19 nine of the Court's charges down where it defines attempted
20 murder, it looks to me like the Court copies the statute where
21 it says on line one, two, three, four, under attempted murder,
22 Judge, it says the Defendant attempted to kill another person
23 with malice aforethought either express or implied, that's an
24 exact copy from the statute which we agree with. Our only
25 request is that after the word Defendant on that one, two,

1 three, four, line four, the charge exactly follow the statute
2 which the statute says a person who with intent to kill
3 attempts to kill another person with malice aforethought
4 either express or implied, we would ask the Court to insert on
5 line one, two, three, four of the charge after the word
6 Defendant the exact language from the statute which is with
7 intent to kill and I'm looking at the statute right now and
8 I'm reading that and that's what it says, Your Honor.

9 THE COURT: Have you got a copy of the statute? Let
10 me see.

11 MR. GOUDE: Yes, sir.

12 THE COURT: Because I took this straight from the
13 charge book.

14 MR. GOUDE: Well, I note that the - this law changed
15 about a year or so ago. There's the book and there is the
16 photocopy of the statute I made where it's got the words with
17 intent to kill and that's 16-3-29.

18 THE COURT: I mean, what is - let's see, the ---

19 MR. GOUDE: The murder is ---

20 THE COURT: --- the attempted murder is ---

21 MR. GOUDE: 16-3-29.

22 THE COURT: --- 3-29. All right, that is exactly what
23 the statute says. Let me hear from you on that, Ms. Bailey.

24 MS. BAILEY: Your Honor, I would just submit that the
25 charge that you received has been endorsed by the Supreme

1 Court. It's given to all judges. Just because the
2 legislature's repetitive doesn't mean that Your Honor has to
3 be.

4 THE COURT: Okay, all right, well, I'm going to grant
5 your motion. I'm going to add that one section with intent to
6 kill.

7 MR. GOUDE: Thank you, Your Honor.

8 THE COURT: Anything else?

9 MR. GOUDE: Judge, the only other little thing that I
10 would request is on the - and the Court very thoroughly set
11 out the different alternative charges, attempted murder,
12 assault and battery of a high and aggravated nature, assault
13 and battery first degree, assault and battery second degree,
14 assault and battery third degree. The only thing I would ask
15 is that in our jury charge request number one, which I took
16 out of the ---

17 THE COURT: Oh, you're talking about the if they, if
18 you have a reasonable doubt as to whether it's this charge or
19 this charge, you've got to - no, I'm not - I see where you put
20 that in there.

21 MR. GOUDE: And, Judge, I will note in this request to
22 charge book, South Carolina request to charge criminal by
23 Judge Ervin, it specifically cites that if you as jurors have
24 a reasonable and this is on page ---

25 THE COURT: Well, the fact of the matter is is it's

1 not whether or not they have a reasonable doubt as to this
2 charge or this charge, it's whether or not they have a
3 reasonable doubt as to this charge. If they have a reasonable
4 doubt as to this charge, then they consider the second one.
5 So, I'm going to - I note your - I understand your argument
6 and I note your objection but I'm going to deny it. I'm going
7 to leave it the way it is because I don't think, I don't think
8 it's proper to say if you have a reasonable doubt as to
9 whether it's crime A or crime B, you choose crime B. I think
10 the question is do you have a reasonable doubt as to whether
11 or not it's crime A. Now, if you have a reasonable doubt as
12 to crime A, then you look at crime B. So, I understand what
13 you're saying but I'm going to deny your motion.

14 MR. GOUDE: Judge, we would ask that that charge be
15 admitted as like as an appellate exhibit in case we lose,
16 that'll be part of the record.

17 THE COURT: The - your request to charge?

18 MR. GOUDE: Number one, yes, sir.

19 THE COURT: Yeah, let's - well, your entire request to
20 charge we can mark that if you want to just put that down as
21 Court's Exhibit Number, that'll be Court's Exhibit Number Two
22 and we'll put it there.

23 MR. GOUDE: What was Court Exhibit Number One, Your
24 Honor?

25 THE COURT: That was the sheet that they sent out with

1 the name of the foreperson on it.

2 MR. GOUDE: Thank you, sir.

3 (Court's Exhibit Number Two [Defense Request to Charge]
4 appropriately marked.)

5 MS. BAILEY: Your Honor, the State just would like to
6 make the State's request to charge a Court's Exhibit as well.

7 THE COURT: All right, we'll make that - that'll be
8 Court's Exhibit Three.

9 MS. BAILEY: And just make a ---

10 THE COURT: Yeah, that'll be fine.

11 MS. BAILEY: Thank you, and make a general objection
12 that the State believes that all those requests to charge
13 should be included as well.

14 THE COURT: Yeah, I reviewed it.

15 (Court's Exhibit Number Three [State's Request to Charge]
16 appropriately marked.)

17 THE COURT: All right, anything else from the Defense?

18 MR. GOUDE: No, sir.

19 THE COURT: Anything else from the State?

20 MS. BAILEY: No, Your Honor.

21 THE COURT: I keep wanting to say Plaintiff, State.

22 All right, let's take about five minutes. Let me make this
23 one addition - I'm not going to - I'm not going to make a copy
24 of the entire thing to give to you. I'm just going to change
25 my copy and the copy that's going back to the jury and then

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1 that'll be it. Any objections to the form of the verdict
2 form, the way I've used it?

3 MR. GOUDE: No, sir.

4 THE COURT: All right.

5 MS. BAILEY: No, Your Honor.

6 THE COURT: All right, sounds good. All right, let's
7 take about five minutes. I'll be right back.

8 OFF THE RECORD

9 (On the record.)

10 (Whereupon, the following takes place outside the
11 presence of the jury.)

12 THE COURT: All right, anything further from the State
13 before we bring the jury in?

14 MS. BAILEY: No, Your Honor.

15 THE COURT: Anything from the Defense?

16 MR. GOUDE: No, sir.

17 THE COURT: All right, let's bring the jury in.

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

20 THE COURT: All right, ladies and gentlemen, welcome
21 back. I hope everyone had a good lunch. I apologize for
22 keeping you so long back in the jury room, but I do want to
23 thank you for being prompt and returning on time. We've now
24 reached that stage of the trial where the attorneys will make
25 their closing arguments.

1 Now, just like their opening statements these closing
2 arguments are not evidence in this case. It is simply the
3 attorney's contention as to what the facts in this case are
4 and what the law in this case is. If at any time an attorney
5 makes reference to a fact that is different from the facts as
6 you find them to be or makes mention of a law that is
7 different from the law as I charge you at the close of their
8 arguments, then you're to disregard their statements because
9 it is simply the attorney's opinion or contention as to what
10 the facts and law are in this case.

11 All right, Ms. Bailey, does the State wish to waive
12 opening or open first?

13 MS. BAILEY: The State wishes to close last.

14 THE COURT: Okay, all right, Mr. Goude, closing
15 arguments.

16 MR. GOUDE: The Judge will tell you all in a few
17 minutes what the law are, are, laws are and the Judge will
18 give you a set of jury instructions to take back with you into
19 the jury room to repeat what the laws are and how to vote
20 procedurally-wise in the case.

21 Some of the things we know are undisputed and plain and
22 clear. We know that the Prosecution witness, Mr. Anderson,
23 was burned and is burned and still has burns on him. We know
24 that Ronald Gooden threw the gasoline on him and threw the Bic
25 cigarette lighter on Mr. Anderson and lit him. We know all

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1 this happened at Shaw's Country Store. So, the question is is
2 Mr. Gooden guilty or not guilty of a crime in doing that? Did
3 he have a legal right to do it? If he did have a legal right
4 to do it, which is self defense, the Judge will tell you that
5 your job is to vote not guilty of any charge. If Mr. Gooden
6 did not have the right to act in self defense, the Judge will
7 tell you that there are five charges that you can choose from
8 in deciding to assign or assess Mr. Gooden an amount of guilt.
9 The Judge is going to tell you that that's either the most
10 serious is on top, the least serious is on the bottom, the
11 least serious on the bottom, which is not guilty, most serious
12 on top, which is the charge attempted murder. Under that,
13 it's sort of like Tupperware bowls, you got the bigger bowl on
14 top of the smaller bowls, the worst, most serious on top
15 attempted murder, under that assault and battery of a high and
16 aggravated nature, under that assault and battery in the first
17 degree, under that assault and battery in the second degree,
18 under that assault and battery in the third degree. The Judge
19 is going to read you the law on each of these charges to tell
20 you the difference in them so you'll know what to do.

21 The actual charge, the actual indictment is Ronald Edward
22 Gooden did in Georgetown County about October the 22nd, 2010,
23 with intent to kill Curtis Anderson, attempted to kill Curtis
24 Anderson, the victim, with malice aforethought either express
25 or implied malice aforethought, to wit, that is that the

1 Defendant, Ronald Gooden, squirted gasoline on the victim,
2 Curtis Anderson, and set Curtis Anderson afire in violation of
3 the law that the Judge is going to read you, in violation of
4 the statute.

5 What we ask you in the overall picture of the case, to
6 begin with on the attempted murder charge what we ask you to
7 listen to the Judge say is the Judge will say on the attempted
8 murder charge, and I've got the same instructions you're going
9 to have, so I'm going to read them right to you. On the
10 attempted murder charge the Judge will say, read to you the
11 law which is that Mr. Gooden with intent to kill attempted to
12 kill Mr. Anderson. This is the first charge, attempted
13 murder. The Judge will say with intent to kill, that he
14 intended to kill him, and then you go on into the other stuff
15 about malice and all that, but the simple, easy thing for us
16 to understand is in this charge it is that Mr. Gooden with
17 intent to kill threw the gas on him.

18 Well, the Judge is going to tell you that intent - when
19 Matt Dillon on Gunsmoke every night on Encore at 7 p.m., when
20 he walks out into the street and the other guy walks out and
21 they draw the guns, Matt Dillon and the other guy that's
22 drawing against him do not say at the beginning of Gunsmoke,
23 "I am intending to kill you, Marshall Dillon," and Matt Dillon
24 does not say, "Well, if you draw on me, I am intending to kill
25 you." They don't say that because the Judge is going to read

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1 you that intent cannot always be proven by a mathematical
2 certainty. Medical science cannot dissect a person's brain
3 and determine what the person had in mind. So, the law says
4 criminal intent may be inferred from the circumstances. So,
5 if Matt Dillon and the guy are out there drawing on each
6 other, even though they don't say I am intending to kill you
7 by drawing and shooting you, you can infer that by them
8 drawing the pistols and shooting each other that they're
9 intending to kill each other. So, that's what they mean that
10 they don't always have to say it.

11 So, in Ronald Gooden's case, the Judge is going to tell
12 you you have to decide has the Prosecution proven beyond a
13 reasonable doubt, any reasonable doubt, all reasonable doubt,
14 one reasonable doubt, two reasonable doubts, 18 million
15 reasonable doubts, it gets kind of complicated there, but the
16 Judge is going to say the common sense thing is has the
17 Prosecution proven to you beyond any reasonable doubt that
18 Ronald Gooden intended to kill the man when Ronald Gooden in
19 the middle of the store, with half a dozen witnesses there,
20 Jackie Shaw, Sheila Shaw, Mr. Scott, Gerry Chandler and Mr.
21 Anderson and Mr. Giles who testified, all here in this - all
22 here in the store, did he intend to go in the store, throw the
23 gas on him, kill the man so he could get life in prison or the
24 electric chair, and you say, "Well, how in the world are we
25 going to figure out what Ronald Gooden thought or wondered and

1 stuff because the Judge is going tell us about we've got to
2 figure out what his intent was and all this stuff." Well, we
3 have the police video made on the scene that night in the
4 dark, 9:30 p.m. the policeman said, Friday night, October the
5 22nd, 2010, a year ago at the scene by Ronald Gooden. He told
6 you what he intended to do. He didn't have a lawyer there. I
7 was not there in the chair on the police car with Ronald
8 Gooden saying, "Ronald, now, I want you to make up a little
9 story to tell the policemen here on the video so that it'll
10 sound nice a year from now when we go to court." I was not
11 there. I was not in the police car. There was no lawyer in
12 the police car. Nobody was there telling Ronald Gooden what
13 to say. Remember the policeman said Ronald Gooden came up to
14 the crowd, held his hands up and said, "I did it. I threw the
15 gas," and then the crowd - friends of - just like Ronald
16 Gooden had been saying, "All of the people there were either
17 friends of Mr. Anderson and Gerry Chandler and Greg Tisdale.
18 I was new. I had just moved back in here after being gone 20
19 years, been here eight or ten months. I didn't have a gang
20 with me." A gang does not - does not mean Jessie James'
21 outlaw gang, the Crypts out of Los Angeles, California, or the
22 Bloods. It just means two or more friends that hang together
23 that will help each other out. If one of them gets in a
24 fight, they will help their friend. They will not help the
25 stranger or they will not sit there and watch the stranger

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1 beat up their friend, if two or three or four or a dozen
2 friends will get together and beat up the one little stranger,
3 skinny Ronald Gooden. He's fat as a hog now. Like he said,
4 he's been in jail for a year eating that food for three times
5 a day whereas then he had no money, no lights, no utilities,
6 no water, no sewer in the trailer, broke, eating the little
7 stuff he could afford to buy after washing cars from Shaw's
8 Country Store. The beer, the hotdog, the Coca-Cola, that was
9 his meals then, that's why they all called him Slim as they
10 said.

11 So, little Ronald Gooden with no lawyer, no advisor goes
12 up to the police right at the scene, sits in the police car
13 and he tells you his intent. You didn't have to dissect his
14 brain. He told us his intent on the video. "What was my
15 intent? What was my intent on the attempt to murder charge,
16 what was my intent on the intent to kill the man charge? My
17 intent, Officer, was I did not want to kill them." Them, and
18 notice he said them. This is no lawyer, F. Lee Bailey if he's
19 still alive, Johnny Cochran, I know that got off O.J. Simpson
20 is dead. So, he cannot help Ronald Gooden. Swerling and
21 Harpootlian or McMaster or Lionel Lofton from Charleston and
22 Columbia, they were not there in the police car to advise,
23 these are famous lawyers, to advise Ronald Gooden on what to
24 say to help his case. He's sitting right there telling the
25 policemen what he wanted to do. "I had to do something

1 instead of killing them. I did what I wanted to do. I did
2 not want to kill them."

3 Well, he has answered the question for you on your voting
4 on the attempted murder charge which is not guilty on the
5 attempted murder because he didn't want to kill him. Did he
6 think about it? Yeah, he thought about killing them. Why
7 would he think about killing them? Well, Gerry Chandler,
8 who's already killed one person, on the stand said, "I have
9 already killed one person. I have already been convicted of
10 involuntary manslaughter." He said, "All this was just a
11 joke, see. All of us, me, Curtis, Greg and our friends when
12 we would cuss out, insult and humiliate Ronald, that was
13 friendly, that's the way we do our friends. We really like
14 Ronald, that's why we cussed him out, insulted him, calling
15 him a queer," and starving to death, no money, doesn't even
16 have lights in his trailer, no water, can't take a bath except
17 from his neighbor's water hose and a bucket like he said, no
18 refrigerator to keep anything cold, cheese, bologna, the
19 cheapest food you can find, he can't keep it in the house
20 without it rotting in a day or two because he's got no
21 utilities, can't use the toilet in your bath, in your trailer,
22 can't pee, can't do-do, can't take a shower, washing cars to
23 stay alive to get enough money a day so he can stop at Shaw's
24 Store and buy a beer or a Coca-Cola or a milk or an orange
25 juice and a hotdog on that little machine where it rolls

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1 around all day long. Maybe that hotdog wiener has been there
2 two or three days, hard as that microphone stand on you all's
3 jury panel bench so he'd have something to eat. Then he walks
4 the other half a mile home to go stay in his trailer when it's
5 a hundred degrees last summer, the summer of 2010, with no AC
6 in a trailer, you know how hot that gets. It's like being in
7 a trailer with no AC is what it's like being in or the winter
8 before that in the end of 2009 when it gets 14 degrees in
9 December and he's got no heat pump, he's staying in the
10 trailer trying to mind his own business like a little dog,
11 like a little puppy, goes out to the community store like a
12 little dog. You know how when you go home in the evening and
13 your dog comes up to you wants you to just pet him just a
14 little bit on the head, little tongue hanging out, he just
15 wants a little bit of love and affection, just a tiny bit.
16 You don't have to take the dog in the house, sit him up on top
17 of your kitchen table, put you a big mink coat on him. All
18 you've got to do is pet the little dog a tiny little bit, say,
19 "Good Mac, good Boone," then the little dog will like you and
20 he'll stay out there all night in the cold under the carport.

21 So, little Ronald Gooden, he comes out to the little
22 store, walks from working washing cars, making no money, got
23 the great thrill and pleasure of walking to his little
24 trailer, if it's hot or if it's cold, to sleep there tonight
25 by himself, got no family, no girlfriend, no wife, no children

1 living with him, nobody, just him, poor, back down here
2 recently. So, he goes out to the little store to get
3 something to eat after he's worked a day's honest work, made
4 his little bit of money. What do you make washing cars, \$30 a
5 day, 40, 50? Get him something to eat to go home. A little
6 bit of kindness would go a long way.

7 How about, "How you going - how you doing, Ronald?
8 What's going on? How are the Gamecocks doing? You like
9 Clemson? How about those Carolina Panthers," or any little
10 kindness would go a long way. Remember Mr. Anderson said on
11 the stand, "If I had never said a word to Ronald Gooden I
12 would not be here burned," but instead of a tiny little bit of
13 kindness to the little dog that's coming up to you, got no
14 friends, nobody, just him living in a little trailer that his
15 daddy owns, what does the great bold and brave, wonderful
16 members of the community do to the little stray dog coming up
17 to them, Mr. Anderson, Mr. Chandler, Mr. Tisdale and their
18 friends, the brave men that they are, the ones that have
19 already killed two people, they say, "Hey, Ronald, you sucked
20 any dicks lately? Has you let Mr. Bradshaw stick his pee-wee
21 in your butt or in your mouth lately? Have you licked his
22 pee-wee lately? Now, we know you got a little teenage boy
23 around here. Maybe he'll be proud to know that his daddy
24 licks pee-wees of other men. Ha, ha, ha, ha, ha, what, that
25 is so funny, Ronald. Why don't you get the joke? I can't

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1 understand why you don't get the punch line, my God. What is
2 wrong with your sense of humor, you old queer you. You gay
3 faggot, what's wrong with you? You just take it the wrong
4 way, ha. All we're doing is trying to be friendly. We like
5 you. My God, this is our way of showing you how much we love
6 you and care about you. Now, if you don't like that what you
7 going to do about it, you skinny little thing? Huh? If
8 you're so brave, come over here to us and just say one word to
9 us. We'll stomp your ass, yes, sir. Yo, get your little tail
10 on home. Go home. Run home, dog." So, he goes home and
11 every night goes home and that's not enough. That's not
12 enough. That's not enough.

13 So, a few nights before this shooting happens down at the
14 end of Jones Street a half a mile from the little store, off
15 the little dirt road, it's off of Jones Street where Ronald
16 lives, a little dirt road with his little trailer, you can see
17 through the bushes, off the little dirt road where you can see
18 his little trailer off the bushes where you see this car
19 parked on the little dirt street, the little dirt road in
20 front of his house which goes straight to the back side of his
21 little trailer, straight to the back side of his little
22 trailer where the double window is, which he said was the
23 living room that he slept on because he didn't have a
24 refrigerator or stove in there, that he slept on the floor on
25 the bed, right through those bushes and right in the tree,

1 right up to the double window, right up to the double window
2 on his trailer as you get close to it you see the two little
3 holes, one to the left side of the window, one to the bottom
4 left, and then as you get closer with your photograph you see
5 the little hole that Ronald says the bullet holes came into
6 his trailer a few days or nights in the dark in the nighttime
7 before this.

8 Well, the Prosecutor said, "Why didn't you call the
9 police? Why didn't you call the police?" Well, why didn't he
10 call the police? He could have called the police. It would
11 not have hurt a bit in the world to call the police. Of
12 course if he had called the police there was no eyewitnesses
13 who did it. You can't convict anybody right then. Of course,
14 you could have made a report, that's very true. Yes, he could
15 have done that. That's exactly true.

16 So, then what does Ronald say about that? He says,
17 "Well, I go up to Mr. Anderson and I tell him that and he says
18 well, 'I've already killed one, I've already learned how to
19 kill one,'" and so Ronald believes and understands that Mr.
20 Anderson had shot the two holes in his trailer. Is that all?
21 Seemed like a night or two before this he says he's at the
22 country store and Gerry Chandler, the one that's already
23 killed one, Curtis Anderson, the one that's already killed
24 one, and their good friend Lamb they call him, Jesus' little
25 lamb, their cousin or friend is standing there with them and

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1 they open the trunk of Gerry's car and show him some long
2 knives in it, hold it to his throat. Lamb sucker punches
3 Ronald, knocks him down and Mr. Anderson, in the height of
4 glory, goes over there and (knocks on jury box three times),
5 kicks him while he's down on the dirt, the three of them, the
6 three brave ones, Lamb, Gerry Chandler, that's murdered one
7 already or killed one already, and Mr. Gaithers that's killed
8 one already. So, they beat him up. Why didn't he go to the
9 police on that? Well, he could have. He could have went to
10 the police on that. He could have said, "They attacked me."
11 I guess they could have said, "Yes, we attacked him," or I
12 guess they could have said, "Attacked him? Is he crazy? We
13 hadn't done a thing, we - all three of us." "Did you do
14 anything Gerry?" "No, I didn't." "Did you do anything,
15 Lamb?" "No, I didn't." "Did you anything, Curtis?" "No, I
16 didn't." "He's lying. There's three of us saying we did
17 nothing. We did not a thing to him."

18 So, and this is over in the Martin Luther King Drive area
19 of Andrews. Mr. Gooden says, "Well, why did I keep going to
20 this little store?" "Well, I went to this little store
21 because where I work and I walk, I got no vehicle. We got no
22 public transportation. I walk by the little store on the way
23 to my little trailer to get something to eat at night when I'm
24 coming home so I won't starve to death because I got nothing
25 in the house. I can't keep anything in there because I got no

1 stove or electricity to cook it, no refrigerator to keep it
2 cool with little electricity." Got even no lights unless he
3 lights up a candle or something to see how he eats when he
4 gets home. So, maybe he just eats it in the store, but
5 anyway, he comes by the store. Here is the three guys again.
6 "We hear Johnny Bradshaw's looking for you."

7 Now, sometimes, you know, when you get home from work -
8 you worked all day. You come in the house, you just want to
9 relax. You just are tired. You've had a lot of things.
10 You've washed your car for two hours and you take it to the
11 owner and the owner says, "There is a spot of dirt under the
12 center of the car. I want you to crawl under there and clean
13 it." Then you got to do that to keep business. You come -
14 you getting ready to go home. You want to stop and get you a
15 bite, whether it's a couple of beers, a couple of hotdogs,
16 whatever, to eat them and you get in there. You're trying to
17 have a little bit of peace. "Can I have a couple of hotdogs
18 and a couple of beers?" "Hey, man, hear Johnny Bradshaw's
19 looking for you." Here is the two guys that there's no
20 testimony about work from Mr. Anderson and Mr. Greg Tisdale.
21 They sitting over there. Ronald says they pick on people all
22 day long and they said, "Oh, we do that but that's because we
23 like people. That's how - in Andrews, that's how we show you
24 we like you. We cuss you out, say that you gay, a faggot,
25 suck people's pee-wees. Oh, that means we friends of yours.

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1 Yes, sir. So, we over there telling everybody how much we
2 like them and how much friends we are."

3 So, Ronald comes in. He's had a hard day. "Give me a
4 hotdog or a beer, let me eat it in here in peace. Let me go
5 back there and charge my cell phone in the back." "Hear old
6 Johnny Bradshaw's looking for you." "Now, I have asked you
7 all, enough is enough. Enough is enough. I am chicken.
8 There's three of you all and one of me. I'm skinny. I'm
9 taller than you all, but I'm skinny. You, Mr. Chandler, you
10 weighed 186 pounds. I weighed 160 and I'm six feet. You 5-4
11 and weigh 186. You like Lattimore for the Gamecocks, stocky
12 and strong," even though I think Lattimore is 6-2 and 230 or
13 something.

14 "I've had enough. I have begged you. I have pleaded
15 you. I have asked you all to stop and leave me alone. I know
16 the Shaws are not doing anything about it because they own the
17 store. They want you all to come here. They're fine people.
18 They want to sell you all the beer. They want you - sell you
19 the Coco-Colas. They want you to play pool. They want to
20 sell you mixed candies, peanuts, Nabs, Cheetos, Cheez-Its, so
21 they're not going to make you leave, but that's enough. I
22 don't want to hear anymore. If you want to insult and be
23 friendly with them, go cuss out or cuss or insult somebody
24 else, not me. I don't want to hear it anymore, please. Thank
25 you, and if you do it, I'm going to set your ass on fire."

1 Now, a word to the wise is sufficient. "Well, if you set
2 our ass on fire or try to, we'll set your ass on fire.
3 There's three of us and we got guns." "Well, I'll go home and
4 I'll come back and I'll set your ass on fire." "Well, I'll
5 just go get my gun." So, Ronald says Greg Tisdale walks out
6 of the store, walks across to the mobile home park, straight
7 across the highway that you all see, straight across the
8 highway, the mobiles home's over there, straight across from
9 Martin Luther King Street Drive, that's where Greg Tisdale
10 walks, Ronald says to get his gun. That's what Greg said,
11 "I'm going to get my gun."

12 So, Ronald says, "I come out of the store and I could
13 walk down Jones Street which is straight across the road from
14 the store to go to my house about a half a mile away, but I
15 cut through the mobile home park because it's a little closer
16 and when I do Greg is there at his trailer and he shows me his
17 pistol. So, I go on to the trailer. I've had, I've had all
18 I'm going to take. I'm going to take my bush axe, five or so
19 foot long tool with a big blade on it, and I'm going to saw it
20 in half and I'm going to go," as he said on the police report,
21 the video, "I had a bush axe. I was going to chop their necks
22 off," but like he said here today when he got there and he's
23 chopped it and he's cut his bush axe in half with his handsaw,
24 thought to himself, "What am I doing? I don't want to kill
25 those people. I don't want to go to prison for life. I don't

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1 want to do that. I am stupid for doing this. I have removed
2 that intent from my head. I'm just going back to the store to
3 get my cell phone in the back of the store by the pool table
4 where it's charging," and what did Jackie Shaw say when he was
5 on the stand? He said, "When Ronald Gooden came back into the
6 store, he went into the back where the pool table is," and I
7 asked him, "Does people charge their cell phones in there
8 sometimes?" He said, "Yeah, they do it." He said, "They try
9 not to let me see it because they're using my electricity,
10 but they do it," and Ronald's got no electricity to charge his
11 cell phone. So, he - Jackie Shaw says Ronald comes in the
12 store, goes in the back of the store, exactly what Ronald said
13 he did. He didn't walk right in the store with the intent,
14 "Oh, I've got my gas from the lawnmower, I'm going to go back
15 to the store, throw it on Curtis Anderson, and burn him."

16 Jackie saw him. He said he came in and went to the back
17 of the store where the pool table is and the electrical
18 outlets are where people charge their phones and he came back
19 up. Ronald said he came back up and remember how Ronald did
20 his hand. Ronald did his hand like you got a gun, a pistol in
21 your hand, where I'm pointing my finger and I got my thumb on
22 my right hand held up like I'm cocking the pistol, that Curtis
23 just pointed at him like that. In Ronald's mind and in
24 Ronald's intent the guys are never trying to go in a different
25 direction of peace and leaving each other alone and not

1 bothering him and not bothering anybody and just minding the
2 hell out of your own business and keeping your mouth shut. If
3 you can't say something good about somebody, just keep your
4 mouth shut. Mr. Anderson said, "If I had never said one word
5 to Ronald Gooden I would not be burned." Ronald Gooden would
6 not be sitting over there in this table facing the prison for
7 these charges or a charge of the charges but it is more fun to
8 pick on people for some people. Frank Sinatra said some
9 people get their kicks stomping on a dream. I guess some
10 people get their kicks picking on people, being bullies, just
11 will not leave people alone and that is old as time. Remember
12 the old Little Rascals from the thirties, they always had the
13 one, Butch, Butch and his little buddy that was always picking
14 on the little ones, beating them up, ha, ha, ha. Remember the
15 little Christmas Story that comes on every Christmas the
16 little boy that wants the BB gun and they have to go to school
17 and come home and the big, the big dumb one with the Davy
18 Crockett coonskin hat on and his little toad, that's what they
19 call him on the Christmas, his little toad that was always
20 picking on us and beating us up all the time, picking.

21 Well, anyway, Ronald goes in, gets his cell phone because
22 he doesn't have much. He's got no money for electricity. So,
23 to him a little pay phone or TracFone or cell phone is more
24 valuable than to us that live in nice houses and have cars and
25 SUVs and all this stuff. It might be one of the only thing he

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1 had. He said he had no stove, no refrigerator, no furniture,
2 no nothing in his house and a few little clothes to wear. He
3 said, "The people always making fun because I got no clothes,
4 I don't have any food to eat. They invite me to their house
5 to a little barbecue in their yard just so they can make fun
6 of me there like, 'Hey, you never had anything to eat before?
7 What's wrong with your stomach? Boy, you sure you like,'" ,
8 can't even be generous and hospitable to him when they invite
9 him to their little outside cookout.

10 So, he goes in and gets his own little possession, his
11 little cell phone and there's Mr. Anderson. Now, nobody else
12 saw, they saw it, but nobody else said that he did not do
13 that, that Curtis Anderson did not do the hand and you don't
14 have to make a lot of noise to say something like this, and if
15 you've got other people standing there talking to each other,
16 there's no reason for them to see anyway. So, Ronald out of
17 having been beat down to nothing physically and emotionally
18 and mentally and in fear, "I've already got bullet holes in my
19 trailer. I already been beat up the other night by three of
20 them. They've already put the knife to my throat. Greg's
21 already said he was going home, across the road to get his
22 pistol. I know that Curtis that's standing there doing his
23 hands like this has already killed one person." How many of
24 us have ever killed anybody? How many of our husbands and
25 wives or children have ever killed anybody? How many of us of

1 anybody in the church that we go to has killed anybody? How
2 many of the deputies and the police that work carrying a
3 pistol everyday have ever killed anybody in their whole career
4 of being a policeman? How many of them has even shot anybody?
5 You got deputies sitting right there with pistols, yet two of
6 the guys that is there picking on Ronald, two of them have
7 already killed a human being, and one of - I think Mr.
8 Chandler said he was around 30 and Mr. Anderson is around 30
9 or something, young men. They've already killed, both of them
10 killed a human being, a person, been convicted in court,
11 manslaughter, involuntary manslaughter. Ronald knows this.
12 He knows this is not like in church where people in your
13 Sunday school class say, "Hey, boy, you look like you really
14 eating that food in the fellowship hall," or when you come
15 into the courtroom one of the lawyers or the deputy says to
16 you, "Hey, you gay, that looks gay, that looks like a gay tie
17 on you. That's a gay haircut." That's a lot different than
18 being at Shaw's Country Store in the dark with the guys drunk
19 or drinking alcohol, both of them have already killed a human
20 being, getting beat up, the night or two before having bullet
21 holes in your trailer, them showing you knives in the back of
22 the car, putting them to your throat, and yes, there is no
23 other evidence other than Ronald Gooden saying that that the
24 guys put the knives to his throat. He says it happened.
25 Obviously, there was something going on or he would not go

1 there to the store for no reason and throw gas on the man. He
2 doesn't want to go to prison any more than any of you all or
3 me wants to go to prison.

4 So, Anderson does the hand signal. Ronald walks outside.
5 He'd seen the gas on the little lawnmower at the end of the
6 store when he came in, gets the gas, goes back in and throws
7 it on the guy to keep the guys off of him so that they won't
8 bug him. He said he didn't mean to throw it in the guy's
9 face, but he just threw one time and it went on him and he
10 threw the cigarette lighter and it got on him and I suppose
11 when you think about it, if he threw the gas on his shirt and
12 coat which we've got into evidence which did burn and those
13 things lit up I guess the flames from that, even if none of
14 the gas got on your face, could burn, could burn your face,
15 could burn your neck, could burn your chin because a flame is
16 going to rise. A flame rises and I guess if the guy's running
17 around and trying to shake that thing and get it off of him
18 maybe some of the gas got on his face and maybe some of it
19 didn't. Ronald said he didn't intend to throw any on his
20 face. Anyway, the man is burned. Ronald goes out, comes back
21 in and makes his statements to the police.

22 The Judge is going to tell you that there's four elements
23 to self defense, to act and to defend yourself, and if you
24 find that Mr. Gooden acted in self defense because he was
25 afraid of them, he was in fear, he thought they was going to

1 hurt him like they had tried to before and he did this to keep
2 them off of him and to make them leave him alone and to defend
3 himself and there was nothing else he could do because what's
4 the point of going home? They've already shot at his trailer
5 there. He's got no car. They got cars. He's got no gun.
6 They've got a gun. He is no safer there than he is in this
7 public store. The Judge will tell you if you find that Mr.
8 Gooden acted in self defense then to vote not guilty of the
9 charges.

10 The Judge will tell you that the actual charges under the
11 attempted murder, which we've determined is improper and not
12 guilty because he had no intent to kill, the lesser charges
13 under that are assault and battery of a high and aggravated
14 nature, assault and battery in a first degree, second degree
15 and third degree. You all know what the evidence was. Just
16 as soon as the Judge finishes telling you the charges you all
17 will know what the law is and procedure-wise on how to vote.

18 Is the man hurt? Yes, he is. Is it regretful? Yes, he
19 is. Does Mr. Gooden regret it? Yes, he is. Does Mr.
20 Anderson regret he ever opened his mouth to Ronald Gooden?
21 Yes, he does. Any time you insult somebody does that give
22 them a right to kill you or to throw gas on you or to beat you
23 in the head? No, it does not. At the same time you cannot
24 continually do that and add to that beating them up, putting
25 knives at his throat, shooting holes in the trailer,

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1 threatening them, and what we ask you to do is listen to all
2 the evidence and we ask you to vote as you think fair and
3 correct on the charges. You all got 12 brains and you all
4 will know what to do right and we ask you to do that. Thank
5 you.

6 THE COURT: All right, Ms. Bailey.

7 MS. BAILEY: May it please the Court?

8 THE COURT: Yes, ma'am.

9 MS. BAILEY: Remember what the first thing I told you
10 was when I stood up here when we started this trial? There is
11 no excuse to light another human being on fire. You have now
12 heard all the evidence. You've heard all the testimony.
13 You've seen the videos, and here's what we know, we know that
14 Ronald Gooden lit Curtis Anderson on fire. We know that it
15 was not an accident. We know that it was deliberate. We know
16 that he put some thought into it. How do we know that he did
17 that? He told us on the video. He said, "I told you to quit
18 picking on me. If you don't quit picking on me, I'm going to
19 come back here and light your ass on fire," and what did he
20 do? He kept his promise. He left, and when he came back, he
21 had gas and a lighter. He walked straight up to Curtis
22 Anderson and he lit him on fire.

23 Mr. Goude talked a lot about the Defendant. The
24 Defendant, Mr. Gooden, took the stand and it's sad. It is a
25 sad story. It's sad how poor he is. It is sad the conditions

1 in Andrews. It's sad that he didn't have any food and it's
2 sad that he is extraordinarily sensitive to words, words. You
3 can feel sorry for him and still find him guilty. That's
4 okay. You can feel empathy for his situation and still find
5 him guilty. Your job here as jurors is not to empathize with
6 one side. It's not to empathize with the victim or empathize
7 with the Defendant. Your job here as jurors is to take the
8 law and apply it to the facts.

9 Mr. Goude talked a lot about was there the intent to
10 kill. He's charged with attempted murder. Mr. Goude wants
11 you to believe that he did not intend to kill somebody when he
12 lit him on fire. He may have walked out of that place, walked
13 away, hid in the bushes, came back, got in the police car and
14 then said, "Well, I didn't mean to kill him." He lit him on
15 fire.

16 When Mr. Gooden took the stand and testified on his own
17 behalf I asked him, "Do you know that fire kills people?" He
18 said yes. So, when after the fact he wants you to believe
19 that he didn't have the intent to kill him, but he does admit
20 that he lit him on fire intentionally and he knows that fire
21 kills people, that just, that just doesn't work.

22 Now, Mr. Goude talked to you a lot about self defense as
23 well and the Judge is going to tell you all about self
24 defense. There's all these elements that the State, that's
25 me, has to disprove for self defense. Here's some facts that

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1 I want you to keep at the front of your mind when you all
2 consider self defense. First of all, every single piece of
3 evidence regarding self defense came from one source and
4 that's Ronald Gooden. The only person who says that there
5 were knives or guns or threats or any physical problems
6 between these parties is Ronald Gooden. All these folks live
7 around Andrews. Mr. Goude told you they see each other
8 walking down the street, they all hang out at the Shaw's
9 Country - the Shaw's Corner Store. They all know everybody
10 else's business and none of these other witnesses who were
11 there in the store, Al Giles, Jackie Shaw, they're not friends
12 with one side or the other, they were just there. None of
13 them knew anything about anybody getting beat up or knives or
14 people showing guns. The only person who's talking about that
15 is Ronald Gooden.

16 Next thing I want you to keep in mind is exactly how this
17 happened. Ronald Gooden was at the Shaw's Country Store. He
18 was getting picked on. He says he felt threatened. So, he
19 left and then he went back. He went back to where those
20 people that he was supposedly so afraid of, he knew exactly
21 where they were and he went back to the scene voluntarily. He
22 went back there. Self defense just doesn't work that way.
23 You go back to the people that you're afraid of, it is not
24 self defense.

25 Next thing I want you to keep in mind is the majority of

1 the testimony that we've heard from Mr. Gooden about this self
2 defense claim has to do with other people, has to do with
3 Gerry. It has to do with Greg. Maybe, I don't know, maybe
4 it's true that Gerry showed him some knives in the car and
5 held a knife to his throat. Maybe it's true that Greg showed
6 him a gun. That has absolutely nothing to do with him
7 lighting Curtis Anderson on fire. He didn't light those other
8 guys on fire.

9 Let's go ahead and cue up, I want you to hear in his own
10 words from the back of the police car, I want you to hear what
11 he says, the only thing that he says on self defense the night
12 of the actual crime.

13 (Whereupon, State's Exhibit Number Nine played in open
14 court.)

15 MS. BAILEY: It was Greg, it was Greg who had the gun.
16 It was Greg that had it coming and Greg slipped off, he crept
17 off. Those aren't my words, those are the Defendant's words.

18 I also want you to remember the other tape, not the one
19 that I played for you, but the one that the Defense played for
20 you. It was right there at the scene. The officer opened the
21 door, said, "Tell me what happened," and Ronald Gooden had a
22 lot to say. He told you all about what happened, and for that
23 entire statement he never said the words self defense. He
24 never said he was threatened. He never said he had been
25 beaten. He never said anything about a knife. He said, "I

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1 can't be laughed at. I can't be called a faggot. I can't
2 have my reputation like that."

3 If you want to know what this is about, just listen to
4 the Defendant's own words, his own words the night that it
5 happened, the night that it happened before he had a whole
6 year to sit in a jail cell and think about how this trial was
7 going to go. The night that it happened, he said this was
8 about his reputation. This was not about self defense.

9 As you consider the various charges in this case, he's
10 indicted for one charge, that one charge is attempted murder.
11 We've discussed that a little bit. Mr. Goude, Mr. Goude has -
12 believes that there is not the intent to kill even though he
13 set him on fire and knows that fire kills people. If you have
14 a reasonable doubt, and the Judge will charge you on what
15 reasonable doubt means, reasonable doubt is not beyond any
16 doubt. Reasonable doubt is beyond a reasonable doubt, a doubt
17 that might cause a person to hesitate to act, a doubt that
18 would leave you firmly convinced. I always give this example,
19 I could probably listen to some scientists that could explain
20 to me why the sun isn't going to come up in the morning. They
21 could have this equations and theories and all kinds of ideas
22 why the sun isn't going to come up in the morning, but I'm
23 still going to set my alarm clock just in case because I've
24 got to go to work. That's not a reasonable doubt. Just
25 because you have an idea in your head that may possibly be

1 true, that's not a reasonable doubt. A reasonable doubt is
2 one that leaves you firmly convinced.

3 If you as a group or if one of you has a reasonable doubt
4 about the intent to kill the next charge that you will
5 consider is assault and battery of a high and aggravated
6 nature, that's one step down from attempted murder. Assault
7 and battery of a high and aggravated nature is one person
8 causing injury to another person that causes great bodily
9 injury. You don't have to guess what great bodily injury
10 means because the legislature has spelled that out for you and
11 one of the things included in their definition of great bodily
12 injury is permanent disfigurement. You all saw the pictures.
13 You all saw Mr. Anderson here live, permanent disfigurement.

14 As you consider all the evidence in this case, as you
15 consider whether there was an intent to kill, as you consider
16 which charge is appropriate and whether self defense is
17 actually what was going through Ronald Gooden's mind, I want
18 you to keep one last thing in mind, but it's not something I'm
19 going to say. It's something I'm going to let Mr. Gooden tell
20 you himself. I'm going to let you hear his words and think
21 about those as you go back to the jury room.

22 (Whereupon, State's Exhibit Number Nine played in open
23 court.)

24 THE COURT: All right, ladies and gentlemen, the
25 parties have concluded their closing arguments and I need to

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1 charge you on the law applicable in this case, but I'm going
2 to give you a little bit of a break because this charge on the
3 law is going to take a little while. So, let's take about a
4 ten minute break and then we'll bring you back and I'll charge
5 you on the law. Do not discuss the case even among yourselves
6 at this point in time. All right, let's take a ten minute
7 break.

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: All right, before we break, let's make
11 sure we've got all the exhibits up here, we've got everything,
12 then I just wanted to give them a little stretch because that
13 went on for about an hour. They needed a little break and
14 I'll charge them on the law and then we'll go ahead. All
15 right?

16 (Exhibits reviewed by counsel for State and Defense and
17 approved.)

18 OFF THE RECORD

19 (On the record.)

20 (Whereupon, the following takes place outside the
21 presence of the jury.)

22 THE COURT: All right, anything from the State before
23 we bring the jury in?

24 MS. BAILEY: No, Your Honor.

25 THE COURT: Anything from the Defense?

1 MR. GOUDE: No, sir.

2 THE COURT: All right, let's bring the jury in.

3 (Whereupon, the following takes place in the presence of
4 the jury.)

5 THE COURT: All right, welcome back, ladies and
6 gentlemen. We're now ready to resume the trial with the
7 charge of the law. All of the evidence in this case has been
8 presented to you, the attorneys have made their closing
9 arguments and now is the time of the trial with me - for me to
10 charge you with the law to be applied in this case. I'll give
11 you a copy of these instructions in written form, and during
12 your deliberations you may refer to the instructions to guide
13 your decision-making. However, you must consider the
14 instructions as a whole and not follow some instructions and
15 ignore others. Please return the instructions to the Court at
16 the time you render your verdict.

17 Now, the indictment charges the Defendant with attempted
18 murder. I remind you that the fact that the Defendant was
19 arrested, charged and indicted in this case is not evidence in
20 this case and cannot be considered by you as evidence of guilt
21 in this case, nor does the Defendant's arrest, charge or
22 indictment create any presumption or inference of guilt. This
23 document is simply the formal written instrument which contains
24 the charge made against the Defendant. It is the formal
25 document by which this case is brought into this court.

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1 The Defendant has pled not guilty to this indictment and
2 that plea puts the burden on the State to prove the Defendant
3 guilty. A person charged with committing a criminal offense
4 in South Carolina is never required to prove his innocence. I
5 charge you that an important rule of the law is that the
6 Defendant in a criminal trial no matter what the seriousness
7 of the charge may be will always be presumed to be innocent of
8 the crime for which the indictment was issued unless guilt has
9 been proven by evidence satisfying you of that guilt beyond a
10 reasonable doubt. This presumption of innocence does not end
11 when you begin your deliberations, but it accompanies the
12 Defendant throughout the trial until you reach a verdict of
13 guilt based on evidence satisfying you of that guilt beyond a
14 reasonable doubt.

15 The presumption of innocence is like a robe of
16 righteousness placed about the shoulders of the Defendant
17 which remains with the Defendant until it has been stripped
18 from the Defendant by evidence satisfying you of the
19 Defendant's guilt beyond a reasonable doubt.

20 The presumption of innocence is not a mere legal theory.
21 It is not just a legal phrase. It is a substantial right to
22 which every Defendant is entitled unless you, the jury, are
23 satisfied from the evidence of the Defendant's guilt beyond a
24 reasonable doubt.

25 Now, what is reasonable doubt in the law? A reasonable

1 doubt is the kind of doubt that would cause a reasonable
2 person to hesitate to act. Proof beyond a reasonable doubt is
3 proof that leaves you firmly convinced of the Defendant's
4 guilt. We know very few things in this world with absolute
5 certainty, and in criminal cases the law does not require
6 proof that overcomes every possible doubt. If, based on your
7 consideration of the evidence, you are firmly convinced that
8 the Defendant is guilty of the crime charged you must find the
9 Defendant guilty. If on the other hand, you think a real
10 possibility exists that the Defendant is not guilty, you must
11 give the Defendant the benefit of that doubt and find him not
12 guilty.

13 I remind you that during this trial, you and I have
14 certain duties to perform. As the trial judge my
15 responsibility is to preside over the trial of this case. I
16 also have the duty to rule on the admissibility of the
17 evidence offered during this trial. You are to consider only
18 the competent evidence before you. If any testimony was
19 ordered stricken from the record in this case during this
20 trial, you must disregard that testimony. You are to consider
21 only the testimony which has been presented from this witness
22 stand, any exhibits which have been made a part of the record
23 in this case and any stipulations of counsel.

24 I have the additional duty to charge you the law
25 applicable to this case. As the presiding judge, I am the

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1 sole judge of the law in this case. Your duty as jurors is to
2 accept and apply the law as I now state it to you. If you
3 already have any idea as to what the law is or what the law
4 ought to be and your idea does not agree with what I now tell
5 you the law is, you must abandon your idea of what the law is
6 or ought to be because you are sworn to accept the law and
7 apply the law exactly as I state it to you.

8 In every case tried in this court before a jury, the jury
9 is the sole and exclusive judge of the facts in a case. A
10 trial judge cannot intimate, state, comment on or make any
11 statement to a trial jury about the facts in a case. Since
12 you, the jury, are the sole judge of the facts in this case,
13 you are not to infer from what I have said during the progress
14 of this trial in ruling upon the admissibility of evidence or
15 otherwise or anything that I say now during the course of this
16 instruction to you that I have any opinion about the facts in
17 this case. The law does not allow me to have an opinion about
18 the facts in this case. This is a matter solely for you, the
19 jury, to determine. As jurors your duty is to determine the
20 effect, the value, weight and truth of the evidence presented
21 during this trial.

22 Necessarily, you must determine the credibility of
23 witnesses who have testified in this case. Credibility simply
24 means believability. Your duty as jurors is to analyze and to
25 evaluate the evidence and determine which evidence convinces

1 you of its truth. In determining the believability of
2 witnesses who have testified in this case you may believe one
3 witness over several witnesses or several witnesses over one
4 witness. You may believe a part of the testimony of a witness
5 and reject the remaining part of the testimony of that same
6 witness. You may believe the testimony of a witness in its
7 entirety or reject the testimony of a witness in its entirety.
8 You may consider whether any witness has exhibited to you any
9 interest, bias, prejudice or other motive in this case. You
10 may also consider the appearance and manner of the witness
11 while on the witness stand.

12 Some of the witnesses who have testified in this case
13 have prior criminal records. A person who has a past criminal
14 record is competent to testify during a trial. A past record
15 does not affect the ability of that witness to testify. The
16 past record may only be considered by you, if at all, in
17 determining the witness' believability. Remember, you are the
18 sole judge of the facts in the case and the believability of
19 any and all of the witnesses.

20 You have heard evidence that the Defendant was convicted
21 of a crime or crimes other than the one for which the
22 Defendant is now on trial. This evidence may be considered by
23 you, if you conclude it is true, only in deciding whether the
24 Defendant's testimony is believable and for no other purpose.
25 You must not consider the Defendant's prior record as any

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1 evidence of the Defendant's guilt of the charge against him in
2 this case.

3 You have heard testimony concerning the penalty a person
4 can serve for certain crimes. In determining the guilt or
5 innocence of the Defendant, you cannot consider any possible
6 penalty for any particular crime. The punishment for the
7 crime is a matter for me to determine and you should never be
8 considered - and should never be considered by you in any way
9 whatsoever in arriving at a fair and impartial verdict as to
10 the guilt or innocence of the Defendant.

11 The Defendant is charged with attempted murder. In order
12 to convict the Defendant of this crime the State must prove
13 beyond a reasonable doubt that the Defendant with intent to
14 kill attempted to kill another person with malice
15 aforethought, either express or implied.

16 Malice is hatred, ill-will or hostility towards another
17 person. It is the intentional doing of a wrongful act without
18 just cause or excuse and with an intent to inflict an injury
19 or under circumstances that the law will infer an evil intent.
20 Malice aforethought does not require that malice exists for
21 any particular time before the act is committed but malice
22 must exist in the mind of the Defendant just before and at the
23 time of the act is committed. Therefore, there must be a
24 combination of the previous evil intent and the act.

25 Malice aforethought may be express or inferred. These

1 terms express and inferred do not mean different kinds of
2 malice but merely the manner in which the malice may be shown
3 to exist, that is either by direct evidence or by inference
4 from the facts and circumstances which are proved. Express
5 malice is shown when a person speaks words which express
6 hatred or ill will for another or when the person prepared
7 beforehand to do the act which was later accomplished. For
8 example, lying in wait for a person or any other acts of
9 preparation going to show that the deed was within the
10 Defendant's mind would be express malice.

11 Malice may be inferred from conduct showing a total
12 disregard for human life. If facts are proved beyond a
13 reasonable doubt sufficient to raise an inference of malice to
14 your satisfaction this inference would be, would be simply an
15 evidentiary fact to be considered by you, the jury, along with
16 the other evidence in the case and you may give it the weight
17 you decide that it should receive.

18 If you find that the State has not proven that the
19 Defendant is guilty of attempted murder you must determine
20 whether the State has proven that the Defendant is guilty of
21 assault and battery of a high and aggravated nature. By
22 statute assault and battery of a high and aggravated nature is
23 a lesser included offense of attempted murder. A person
24 commits the offense of assault and battery of a high and
25 aggravated nature if the person unlawfully injures another

Charge

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1 person and - excuse me, if - a person commits the offense of
2 assault and battery of a high and aggravated nature if the
3 person unlawfully injures another person and great bodily
4 injury to another person results or the act is accomplished by
5 means likely to produce death or great bodily injury. Great
6 bodily injury means bodily injury which causes a substantial
7 risk of death or which causes serious permanent disfigurement
8 or protracted loss or impairment of the function of a body
9 member or organ.

10 If you find that the State has not proven that the
11 Defendant is guilty of attempted murder or assault and battery
12 of a high and aggravated nature you must then determine
13 whether the State has proved that the Defendant is guilty of
14 assault and battery in the first degree. By statute assault
15 and battery in the first degree is a lesser included offense
16 of attempted murder. A person commits the offense of assault
17 and battery in the first degree if the person unlawfully
18 offers or attempts to injure another person with the present
19 ability to do so and the act either is accomplished by means
20 likely to produce death or great bodily injury or occurred
21 during the commission of a robbery, burglary, kidnapping or
22 theft. Great bodily injury, as I have stated, means bodily
23 injury which causes a substantial risk of death or which
24 causes serious permanent disfigurement or protracted loss or
25 impairment of the function of a body member or organ.

1 If you find that the State has not proven that the
2 Defendant is guilty of attempted murder, assault and battery
3 of a high and aggravated nature or assault and battery in the
4 first degree you must then determine whether the State has
5 proved that the Defendant is guilty of assault and battery in
6 the second degree. By statute assault and battery in the
7 second degree is a lesser included offense of attempted
8 murder. A person commits the offense of assault and battery
9 in the second degree if the person unlawfully injures another
10 person or offers or attempts to injure another person with the
11 present ability to do so, moderate injury to another person
12 results or moderate bodily injury to another person could have
13 resulted. Moderate bodily injury means physical injury
14 requiring treatment to an organ system of the body other than
15 the skin, muscles and connective tissues of the body, except
16 when there is penetration of the skin, muscles and connective
17 tissues that require surgical repair of a complex nature or
18 when treatment of the injuries requires the use of regional or
19 general anesthesia.

20 If you find that the State has not proven that the
21 Defendant is guilty of attempted murder, assault and battery
22 of a high and aggravated nature, assault and battery in the
23 first degree or assault and battery in the second degree you
24 must then determine whether the State has proved that the
25 Defendant is guilty of assault and battery in the third

Charge

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1 degree.

2 By statute, assault and battery in the third degree is a
3 lesser included offense of attempted murder. A person commits
4 the offense of assault and battery in the third degree if the
5 person unlawfully injures another person or offers or attempts
6 to injure another person with the present ability to do so.

7 In order to establish criminal liability, criminal intent
8 is required. For example, the mental state required to be
9 proven by the State for a particular crime might be purpose,
10 intent, knowledge, recklessness or criminal negligence.
11 Criminal intent must be proven by the State beyond a
12 reasonable doubt. Criminal intent is always a matter that
13 must be determined by the jury from the circumstances
14 surrounding the situation. Intent cannot be proven to a
15 mathematical certainty. Medical science cannot dissect a
16 person's brain and determine what the person had in mind. So,
17 the law says that criminal intent may be inferred from the
18 circumstances shown to have existed. This is how you make a
19 determination of whether or not the element requiring intent
20 was present. Intent need not be established by direct and
21 positive evidence, but intent may be established by inference
22 in the same way as any other fact by taking into consideration
23 the acts of the parties and all the facts and circumstances of
24 the case.

25 Criminal intent is a mental state, a conscious

1 wrongdoing. You are to determine what the Defendant intended
2 to do based on the circumstances shown to have existed.

3 Criminal intent can arise from an action or a failure to
4 act. It may arise from negligence, recklessness or an
5 indifference to duty or to consequences that is considered by
6 law to be the equivalent of criminal intent.

7 The Defendant has raised the defense of self-defense.
8 Self-defense is a complete defense and, if it is established,
9 you must find the Defendant not guilty. The State has the
10 burden of disproving self-defense by proof beyond a reasonable
11 doubt. If you have a reasonable doubt of the Defendant's
12 guilt after considering all of the evidence, including the
13 evidence of self-defense, then you must find the Defendant not
14 guilty. On the other hand, if you have no reasonable doubt of
15 the Defendant's guilt after considering all of the evidence,
16 including the evidence of self-defense, then you must find the
17 Defendant guilty.

18 The following elements are required to establish self-
19 defense: first, the Defendant must be without fault in
20 bringing on the difficulty. If the Defendant's conduct was
21 the type which was reasonably calculated to, and did, provoke
22 a deadly assault, the Defendant would be at fault in bringing
23 on the difficulty and would not be entitled to an acquittal
24 based on self-defense.

25 The second element of self-defense is that the Defendant

Charge

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1 was actually in imminent danger of death or serious bodily
2 injury or that the Defendant actually believed he was in
3 imminent danger of death or serious bodily injury.

4 If the Defendant was actually in imminent danger, it must
5 be shown that the circumstances would have warranted a person
6 of ordinary firmness and courage to strike the fatal blow to
7 prevent death or serious bodily injury. If the Defendant
8 believed he was in imminent danger of death or serious bodily
9 injury, it must be shown that a reasonably prudent person of
10 ordinary firmness and courage would have had the same belief.

11 In deciding whether the Defendant actually was, or
12 believed he was, in imminent danger of death or serious bodily
13 injury, you should consider all of the facts and circumstances
14 surrounding the crime, including the physical condition and
15 characteristics of the Defendant and the victim.

16 The Defendant does not have to show that he was actually
17 in danger. Imminent danger is established if the Defendant
18 believed he was in imminent danger and a reasonably prudent
19 person of ordinary firmness and courage would have had the
20 same belief. The Defendant has the right to act on
21 appearances even though the Defendant's beliefs may have been
22 mistaken. It is for you to decide whether the Defendant's
23 fear of imminent danger of death or serious bodily injury was
24 reasonable and would have been felt by an ordinary person in
25 the same situation.

1 Words accompanied by hostile acts may, depending on the
2 circumstances, establish self-defense. Evidence of prior
3 difficulties between the Defendant and the victim may be
4 considered in deciding whether a threat existed, whether the
5 Defendant had a reason to believe a threat existed and how
6 serious that threat was. The relative sizes, ages and
7 weights of the Defendant and the victim may be considered in
8 deciding the apparent or actual need for force in self-defense
9 and the amount of force needed. The reputation of the victim
10 as a violent person may be considered in deciding whether
11 there was a need for force, whether the Defendant had reason
12 to believe there was a need for force and whether deadly force
13 was reasonably necessary. Prior instances of violence by the
14 victim may be considered in deciding whether the Defendant
15 actually believed he was in imminent danger of death or
16 serious bodily injury or was actually in imminent danger.
17 Threats made by the victim may be considered in determining
18 whether the Defendant actually was, or believed he was, in
19 imminent danger.

20 The final element of self-defense is that the Defendant
21 had no other probable way to avoid the danger of death or
22 serious bodily injury than to act as the Defendant did in this
23 particular instance. A person cannot be required to make an
24 exact calculation as to the degree or amount of force which
25 may be needed to avoid death or serious bodily harm.

Charge

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1 Therefore, in self-defense, the Defendant has the right to use
2 the force needed to avoid death or serious bodily harm. The
3 force used in self-defense does not have to be limited to the
4 degree or amount of force used by the victim. The Defendant
5 has the right to use so much force as appeared to be necessary
6 for complete self-protection and which a person of ordinary
7 reason and firmness would have believed to be needed to
8 prevent death or serious bodily harm.

9 Now, there are six possible verdicts which you may find
10 in this case. No significance should be given to the order in
11 which I state these verdicts to you. I simply must state one
12 first, one second and so forth. The possible verdicts in this
13 case are, one, we, the jury, find the Defendant guilty of
14 attempted murder, or two, we, the jury, find the Defendant
15 guilty of assault and battery of a high and aggravated nature,
16 or three, we, the jury, find the Defendant guilty of assault
17 and battery in the first degree or four, we, the jury, find
18 the Defendant guilty of assault and battery in the second
19 degree. The fifth possible verdict is we, the jury, find the
20 Defendant guilty of assault and battery in the third degree or
21 the sixth possible verdict is we, the jury, find the Defendant
22 not guilty.

23 Ladies and gentlemen, your verdict must be a unanimous
24 one. Mr. Simon, as foreperson, when the jury agrees on the
25 verdict, you will check the appropriate verdict here on the

1 verdict form, date the verdict form, sign your name, then
2 knock on the door and advise the bailiff that you have
3 reached a verdict and at that time we'll bring you back into
4 the courtroom and receive your verdict.

5 I'm going to excuse you now to the jury room but do not
6 begin your deliberations at this point in time. I have to
7 check with the attorneys to see if they have any challenges to
8 the charge on the law. If they do and I deem that those are
9 appropriate I'll bring you back in and make whatever
10 corrections or additional charges are needed. If there are no
11 more additional charges we'll send the exhibits back to the
12 jury room with a copy of the instructions, the indictment, the
13 verdict form and the bailiff will tell you you can begin your
14 deliberations at that time. All right, so, I'll excuse you to
15 the jury room but please do not begin your deliberations just
16 yet.

17 (Whereupon, the following takes place outside the presence
18 of the jury.)

19 THE COURT: All right, any exceptions or additions to
20 the charge by the State?

21 MS. BAILEY: None from the State, Your Honor.

22 THE COURT: Any from the Defense?

23 MR. GOUDE: Judge, we renew the same requests we had
24 earlier about if there was a doubt between the greater and the
25 lesser charge to give the benefit of the doubt to the

Charge

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1 Defendant and find not guilty of the greater and guilty of the
2 lesser charge.

3 THE COURT: All right, your motion is noted. I'm
4 going to deny that. Anything else?

5 MR. GOUDE: No, sir.

6 THE COURT: All right.

7 MS. BAILEY: Your Honor, I suppose for the record I
8 just need to renew my previous objection about the State's
9 proposed charges that have been put in as a Court's Exhibit
10 ---

11 THE COURT: All right.

12 MS. BAILEY: --- that they should have been included.

13 THE COURT: That's so noted and I'll deny it.

14 All right, let's go ahead here, I'm going to mark, I
15 guess let's mark this charge of law, that'll be Court's
16 Exhibit Four and we'll send it back with the indictment. I
17 think I've got the indictment here, yeah.

18 (Court's Exhibit Number Four [Charge] appropriately
19 marked.)

20 THE COURT: All right, here's - put that indictment
21 with that. All right, let's take all of the exhibits back to
22 the jury. I'll need you to bring Ms. Victoria Jones out.
23 Bring the alternate juror, Ms. Victoria Jones, Juror Number
24 67, bring her out and you can tell them they can go ahead and
25 begin their deliberations.

1 (Alternate dismissed and deliberations begin at 3:48
2 p.m.)

3 OFF THE RECORD

4 (On the record, question from jury at 5:03 p.m.)

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

7 THE COURT: All right, we've had a question and I
8 apologize for taking so long but I'm not so sure I've got the
9 right answer. The question is, "What is the difference
10 between high and aggravated versus first degree?" All I know
11 is high and aggravated, a person commits the offense of
12 assault and battery of a high and aggravated nature if the
13 person unlawfully injures another person and either great
14 bodily injury to another person results or the act is
15 accomplished by means likely to produce death or great bodily
16 injury; whereas, a person commits the offense of assault and
17 battery in the first degree if the person unlawfully offers or
18 attempts to injure another person with the present ability to
19 do so and the act is accomplished by means likely to produce
20 death or great bodily injury and then it has or occurred
21 during the commission of a robbery, burglary, kidnapping or
22 theft, which we don't have in this. So, as I understand even
23 though they're very similar the way I read it you can almost
24 have assault and battery in the first degree without an
25 injury.

Question from Jury

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1 MS. BAILEY: Yes, Your Honor, that's my reading of the
2 statute.

3 THE COURT: If the person unlawfully offers or
4 attempts to injure another person with the present ability to
5 do so and the act, in other words, the attempt to injure is
6 accomplished by means likely to produce death or great bodily
7 injury; whereas, assault and battery of a high and aggravated
8 nature requires an injury. First the person unlawfully
9 injures another person and then that injury is either a great
10 bodily injury or the act is likely to produce a great bodily
11 injury. What's the State's position on that?

12 MS. BAILEY: That's my understanding of the statute,
13 Your Honor.

14 THE COURT: All right, what's the Defense's position?

15 MR. GOUDE: Could I have just one second, Judge?

16 THE COURT: Yeah.

17 MR. GOUDE: Would the Court say its position one more
18 time, Judge?

19 THE COURT: My understanding is the difference between
20 assault and battery of a high and aggravated nature and
21 assault and battery in the first degree is that assault and
22 battery of a high and aggravated nature requires an injury and
23 that injury must either be a great bodily injury or the act of
24 the Defendant must be by a means likely to produce death or
25 great bodily injury; whereas, assault and battery in the first

1 degree only requires an attempt or an offer to injure another
2 person with the present ability to do so and that act, that
3 offer or that attempt is accomplished by means likely to
4 produce death or great bodily injury. So, assault and battery
5 in the first degree does not require an actual injury;
6 whereas, assault and battery of a high and aggravated nature
7 does.

8 MR. GOUDE: That works for me.

9 THE COURT: All right, all right, let's go ahead and
10 bring the jury back in.

11 (Whereupon, the following takes place in the presence of
12 the jury. Jury enters courtroom at 5:24 p.m.)

13 THE COURT: All right, ladies and gentlemen, welcome
14 back. Mr. Simon, I understand that the jury had a question.
15 The question is what is the difference between high and
16 aggravated versus first degree? I'm assuming by this the jury
17 wants to know what is the difference between assault and
18 battery of a high and aggravated nature and assault and
19 battery in the first degree; is that correct?

20 FOREPERSON: Correct.

21 THE COURT: All right, all right, assault and battery
22 of a high and aggravated nature is the unlawful injury of
23 another person and that injury is either a great bodily injury
24 as that is defined, as I define to you or the act that the
25 Defendant committed is accomplished by a means likely to

Question from Jury

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1 produce a death or great bodily injury. Assault and battery
2 in the first degree is committed when a person attempts or
3 offers to injure another person with the present ability to do
4 so and that act, that offer or that attempt is accomplished by
5 a means likely to produce death or great bodily injury. So,
6 the major distinction is you have to have an actual injury for
7 assault and battery of a high and aggravated nature and that
8 actual injury has to be either a great bodily injury or it has
9 to have occurred by acts that are likely to produce death or
10 great bodily injury, whereas assault and battery in the first
11 degree does not require an injury. It just requires an
12 attempt or an offer to injure someone and the acts implemented
13 have to be accomplished by means likely to produce death or
14 great bodily injury. All right.

15 FOREPERSON: Can I ask a question?

16 THE COURT: All right, sir.

17 FOREPERSON: Can the second one, the first degree,
18 still have, include the act of doing that, of having great
19 injury?

20 THE COURT: Well, I can tell you that the - assault
21 and battery of the first degree is a lesser included offense
22 of assault and battery of a high and aggravated nature. In
23 other words, all of the elements of assault and battery in the
24 first degree are required to prove assault and battery of a
25 high and aggravated nature. However, assault and battery of a

1 high and aggravated nature has additional elements, that being
2 the injury that is not needed to prove assault and battery in
3 the first degree. Does that answer your question?

4 FOREPERSON: It does.

5 THE COURT: All right, thank you very much. I'll
6 excuse you back to the jury room for you to continue your
7 deliberations.

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: All right, I'm going to mark their
11 question, that'd be Court's Exhibit Five.

12 (Whereupon, Court's Exhibit Number Five [Question from
13 Jury] appropriately marked.)

14 THE COURT: And we'll stand in recess unless and until
15 we hear from them.

16 MS. BAILEY: Thank you, Your Honor.

17 THE COURT: All right.

18 OFF THE RECORD

19 (On the record. Verdict reached at 5:32 p.m.)

20 (Whereupon, the following takes place outside the
21 presence of the jury.)

22 THE COURT: I understand the jury has reached a
23 verdict; is that correct? All right, anything from the State
24 before we bring the jury in?

25 MS. BAILEY: No, Your Honor.

Verdict

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1 THE COURT: Anything from the Defense?

2 MR. GOUDE: No, Your Honor.

3 THE COURT: All right, let's bring the jury in.

4 (Whereupon, the following takes place in the presence of
5 the jury.)

6 THE COURT: All right, ladies and gentlemen, welcome
7 back. Mr. Simon, I understand the jury has reached a verdict;
8 is that correct?

9 FOREPERSON: Yes, Your Honor.

10 THE COURT: Have you completed the verdict form?

11 FOREPERSON: I have.

12 THE COURT: All right, if you'd please give it to the
13 bailiff.

14 (Complies with request. Court reviews verdict form.)

15 THE COURT: All right, I'm going to ask the Clerk to
16 please publish the verdict.

17 CLERK: Indictment number 2011-GS-22-00054, the
18 State of South Carolina versus Ronald Edward Gooden, we, the
19 jury, find the Defendant guilty of assault and battery of a
20 high and aggravated nature.

21 THE COURT: All right, ladies and gentlemen, if this
22 is your verdict please signify by raising your right hand.

23 (All jurors raise right hand.)

24 THE COURT: All right, please let the record reflect
25 that all jurors raised their right hand. Any polling of the

1 jury by the Defendant?

2 MR. GOUDE: No, Your Honor.

3 THE COURT: Okay, all right, ladies and gentlemen,
4 that will conclude your services not only in this particular
5 case but for the remainder of the week and I want to thank you
6 for your service as jurors this week. I know it's not an easy
7 thing to serve as a juror but I do want to thank you for your
8 services in this case. I'm going to excuse you back to the
9 jury room for just a brief moment and then I'll be in. I want
10 to come in and thank you personally. I know some of you have
11 been on a couple of juries this week. So, you kind of pulled
12 double duty but all of you have done an excellent job and I
13 want to thank you for your services. So, I'm going to excuse
14 you back to the jury room for just a brief moment and I'll be
15 back in just one second, okay? Thank you very much.

16 (Whereupon, the following takes place outside the
17 presence of the jury.)

18 THE COURT: All right, does the Defense wish to make
19 any post-trial motions at this time?

20 MR. GOUDE: Judge, one for the insufficiency of the
21 evidence, a motion for a new trial.

22 THE COURT: All right, I'm going to deny your motion.

23 MR. GOUDE: And secondly, particularly since the jury
24 had the question about the assault and battery of a high and
25 aggravated nature versus assault and battery in the first

Sentencing

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1 degree and brought back the guilty verdict for the greater
2 charge, we'd request a new charge for the failure of the Court
3 to charge our requested jury instruction number one which was
4 that if the jury had a doubt between the greater and the
5 lesser charge to vote not guilty of the greater and guilty of
6 the lesser charge.

7 THE COURT: All right, your motion is noted but I'm
8 going to deny that as well. I think the charges were
9 sufficient. All right, anything else?

10 MR. GOUDE: No, sir.

11 THE COURT: All right, any reason as to why we can't
12 go forward with sentencing?

13 MR. GOUDE: No, Your Honor.

14 THE COURT: All right, have you got a sentence sheet?

15 MS. BAILEY: I do, Your Honor.

16 THE COURT: All right, Mr. Goude, anything in
17 mitigation?

18 MR. GOUDE: Judge, the Court has heard the testimony
19 through the last several days of what the people did and the
20 Court has heard their records. We would ask you to take all
21 that into consideration. Mr. Gooden has been in jail since
22 the incident, October the 22nd, 2010, a little over a year. We
23 would ask you to give him credit for that. We understand the
24 man who was burned has suffered a lot. We know that the
25 taxpayers of the State, Mr. Gooden has been in jail for a

1 year, we've fed him for a year. That's 20 or \$30,000, know
2 Mr. Anderson has been to the hospitals in Augusta and his
3 doctors in - as I understand it he has no job. So, probably
4 all that is being paid by the taxpayer, which might be
5 100,000, a half a million or a million dollars in wasted
6 money. Mr. Gooden threw the gas on him. He's always admitted
7 he did that. He's always admitted that he regretted doing it.
8 He's always admitted that he wished to throw the gas on him
9 because of the treatment he had been receiving. I know the
10 man that received the burns has suffered terribly beyond our
11 understanding because fire is a terrible thing. Mr. Gooden,
12 if he could have avoided that, would have. As the witness Mr.
13 Anderson said if Mr. Anderson had never said a word to him,
14 Mr. Gooden in his life, none of this would have ever happened.
15 Mr. Anderson would not be burned. Mr. Gooden would not have
16 been in jail the last year. The taxpayers of the state and
17 the federal government would not be out a million dollars or
18 whatever we're out of plus what we're going to be out while
19 we're feeding Ronald Gooden for however many years the judge
20 sentences him. Having said all that, we would ask you to do
21 what you think is fair in deciding what sentence to give
22 Ronald, Judge.

23 THE COURT: Thank you. All right, Mr. Gooden,
24 anything you'd like to say?

25 MR. GOODEN: Yes.

Sentencing

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1 THE COURT: All right.

2 MR. GOODEN: I'd still like to say that I'm sorry for
3 what I did. I know that probably don't count for nothing, but
4 I'm sorry that it happened. That's it.

5 THE COURT: All right, sir. Thank you. Do the
6 victims wish to speak or say anything?

7 MS. BAILEY: No, Your Honor.

8 THE COURT: All right.

9 MS. BAILEY: I would just note for the record that he
10 does have a history of crime, larceny of a firearm and the
11 strong arm robbery. This is escalating behavior and that on
12 the scale of things that qualify as assault and battery of a
13 high and aggravated nature it's the State's argument this
14 would be on the high end of it, and in addition to that just
15 for the Court's information Your Honor arraigned Mr. Gooden on
16 a 15 year offer. He said on the tape 15 was what he wanted.
17 Now that we've been to the expense and trouble of a trial the
18 State's contention is that given the severity of the injuries
19 that he deserves more than that.

20 THE COURT: All right, in addition to the charges,
21 prior convictions offered at trial is there any other prior
22 convictions?

23 MS. BAILEY: No, Your Honor.

24 THE COURT: All right, all right, Mr. Gooden, you have
25 been found guilty by a jury of your peers for assault and

1 battery of a high and aggravated nature. The sentence of the
2 Court is that you be confined to the State Department of
3 Corrections for 20 years. You'll be given credit for any time
4 served thus far. All right, thank you, sir.

5 (Adjourned.)
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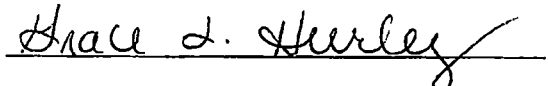
Sentencing

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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of The State versus Ronald Edward Gooden, held in the Court of General Sessions for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on October 26 and 27, 2011.

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



Grace L. Hurley, CVR-CM

Official Reporter

March 10, 2012.

FORM 5

2013-CP-22-01007

STATE OF SOUTH CAROLINA

COUNTY OF GeorgetownRonald Edward Gordon 191688
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

Fifteenth Judicial Circuit

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - 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 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 General Sessions, Georgetown Court
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011 GS-22-00045 Assault and Battery (H.A.N.)
 - (b) ~~2011 GS-22-00045~~ 10-27-11
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 10-27-11 20 years
 - (b) _____

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
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 the Conviction the issue wasn't preserved _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. * MAY 15 2018 _____
- 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) Ineffective of Trial Counsel on Several Fronts
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Failed to make Continuous Objection of Prior Conv
- (b) Failed to request Blair Hearing
- (c) Failed to request to be evaluated for Criminal Respons
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? _____
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. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. _____
- ii. _____
- iii. _____

- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - 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) The issue has not been preserved for appellate review
- (b) 11 12 11 11
- (c) 11 12 11

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (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? N/A

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. Reuben Goude, Esquire
- ii. *LANELLE CANTEY DURANT
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Trial, Sentencing and Arraignment
- ii. Direct appeal
- iii. _____

19. State clearly the relief you seek in filing this application:

New Trial Granted after Competency hearing

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

County of)

2013-CP-22-0100
VERIFICATION

I, , 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.

X Ronald Woodson

SWORN to and subscribed before me this 20th
day of August, 2013

Ludheen Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

FILED
GEORGETOWN COUNTY, S.C.
2013 OCT -1 PM 3:04
ALMA Y. WHITE
CLERK OF COURT

- (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.

+ Ronald Doolen
Applicant

SWORN or affirmed to and subscribed before me this
20th day of August, 2013.

Quedra Bryant
Notary Public

My Commission Expires: May 26, 2020

FILED
ALBANY COUNTY, N.Y.
2013 OCT - 1 PM 3:04
ALMA Y. WHITE
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTEENTH JUDICIAL CIRCUIT

Ronald E. Gooden, #191688,

) Case No. 2013-CP-22-1007
)

Applicant,

)

v.

)

RETURN

State of South Carolina,

)

Respondent.

)

)

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed October 1, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Georgetown County Clerk of Court. In March 2011, the Georgetown County Grand Jury indicted Applicant for attempted murder (2011-GS-22-54). C. Reuben Goude, Esquire, represented Applicant. On October 26, 2011, Applicant proceeded to trial before the Honorable Benjamin H. Culbertson and a jury. On October 27, 2011, the jury found Applicant guilty of the lesser included offense of assault and battery of a high and aggravated nature. Judge Culbertson sentenced Applicant to twenty (20) years imprisonment.

Applicant filed a timely notice of appeal, and LaNelle C. DuRant, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on April 24, 2013. State v. Gooden, Op. No. 2013-UP-167 (S.C. Ct. App. filed April 24, 2013). The remittitur was returned to the circuit court on June 3, 2013.

II.

In his Application, Applicant alleges he is being held in custody unlawfully for the following reasons:

- I. "Ineffective of Trial Counsel on several fronts"
 - a. "Failed to make continuous objection of prior conviction"
 - b. "Failed to request Blair Hearing"
 - c. "failed to request to be evaluated for criminal responsibility"

Any claims not specifically enumerated in the Application or amendments thereto will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRCP.

Attached to this Return and incorporated herein are the records of the Georgetown County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of trial counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, the applicant must prove "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." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial 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." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, 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.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified, or explained.

V.

WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held.

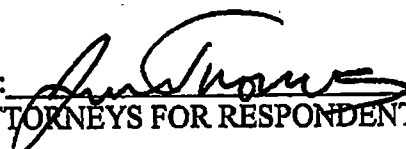
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

JOSHUA L. THOMAS
Assistant Attorney General
S.C. Bar No. 100777

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

May 14, 2014

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS

2013-CP-22-1007

RONALD E. GOODEN, #191688

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 in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tristan M. Shaffer, Esquire
1928 Barnwell St.
Columbia, SC 29201

DATED this 14TH day May, 2014.


Norma Bigbee, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	2013-CP-22-01007
RONALD EDWARD GOODEN,	)	
Applicant,	)	Transcript of Record
vs.	)	Post-Conviction Relief
STATE OF SOUTH CAROLINA,	)	September 21, 2017
Respondent.	)	

B E F O R E:

Honorable William H. Seals
Georgetown County Courthouse
Georgetown, South Carolina

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

Tristan M. Shaffer, Esquire
Attorney for Applicant

Johnny Ellis James, Jr., Esquire
Attorney for Respondent

Kay H. Richardson
Circuit Court Reporter

Gooden v. State - 2013-CP-22-01007
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13			
14	<u>No.</u>	<u>ID</u>	<u>EV</u>

(No exhibits were marked or admitted.)

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BY THE COURT

3

1 **(SEPTEMBER 21, 2017- 10:20 A.M.)**

2 BY THE COURT:

3 THE COURT: All right. I'm ready when you are.

4 MR. JAMES: If it may please the Court, my name is Johnny
5 Ellis James, Jr., and I have the honor and privilege to
6 represent the State of South Carolina as Respondent in all of
7 the post-conviction relief actions before the Court today.

8 I would call to the Court's attention the matter of
9 Ronald E. Gooden versus State of South Carolina, that is
10 docket number 2013-CP-22-1007. Mr. Gooden is present here
11 today in the courtroom and is represented by Mr. Tristan M.
12 Shaffer.

13 Mr. Gooden was convicted on October 27th, 2011 of assault
14 and battery of a high and aggravated nature. Your Honor, that
15 was the lesser included offense of the originally charged of
16 attempted murder. After that conviction, Judge Culbertson
17 sentenced Mr. Gooden to 20 years imprisonment. Your Honor,
18 this is a rather aged case and the reason for that is that it
19 was previously continued pending a M'Naghten test and, other
20 than that, I believe we're ready to proceed here today. So, I
21 will give the floor to Mr. Shaffer.

22 THE COURT: Mr. Shaffer?

23 MR. SHAFFER: Thank you, Your Honor. I have spoken to my
24 client and after talking to him, I don't believe that we're
25 gonna proceed forward on the grounds related to the

Gooden v. State - 2013-CP-22-01007
REUBEN GOUDE - DIRECT BY SHAFFER

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1 evaluations for criminal responsibility or competency. I
2 think -- I basically said, hey, the choice is up to you, this
3 is my personal thought on it, but he's decided that I don't
4 think he really wants to proceed forward on those grounds.

5 However, we are proceeding forward with the ground
6 related to failure to properly object, properly preserve the
7 issue related to the strong-armed robbery conviction.

8 THE COURT: All right. Thank you very much. If you'll
9 call your first witness.

10 MR. SHAFFER: I'd call Reuben Goude.

11 REUBEN GOUDE, HAVING BEEN DULY
12 SWORN, TESTIFIED AS FOLLOWS:

13 CLERK: Please state your name.

14 MR. GOUDE: Reuben Goude.

15 THE COURT: All right. Mr. Shaffer?

16 DIRECT EXAMINATION OF REUBEN GOUDE BY MR. SHAFFER:

17 Q: Mr. Goude, how did you come to represent Mr. Gooden?

18 A: For about 30 years there, I was the part-time public
19 defender in Georgetown County, a regular private lawyer and a
20 part-time public defender, and did about 6,000 cases, and so I
21 was appointed to represent Ronald in his case.

22 Q: Okay. Now, if you can, tell the Court just a little bit
23 about the allegation -- do you recall this case?

24 A: I recall the case. However, used to I kept all of my
25 files. I kept them in a -- I live in the country between

Gooden v. State - 2013-CP-22-01007
REUBEN GOUDE - DIRECT BY SHAFFER

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1 Conway and Georgetown and I kept all my files, thousands of
2 them, in a tobacco barn that I'd redone with plastic on the
3 bottom and all this kind of stuff in cardboard boxes, legal
4 cardboard boxes, but there was getting so many of them that I
5 have shredded files two times. I used to try to keep them all
6 because everything we do in a criminal case, if we talk with
7 the client on the phone or he calls us from the jail, we go
8 see him in the jail, or we send a letter to the solicitor, or
9 his family calls, or we ride to the scene or whatever, we
10 write that down. Like I got a legal pad right now as a
11 witness sitting up here on the stand, you write everything
12 down. I keep one in the truck, in the car, by the nightstand
13 at the house, every room in the office, both bathrooms at the
14 house, on the dryer, on the kitchen counter, every -- in the
15 workshop, everywhere, so when you make a note or you do
16 something on the case, you can write it down. Then, before we
17 come to the PCR hearings, I go back and if that legal sheet
18 was not on the timesheet -- we keep timesheets and every file,
19 just like I've got in this one where I'm just a witness,
20 timesheets -- then we can write all that stuff down so we know
21 everything from the day we got appointed to the discovery, to
22 the motions, to the bonds, to the visits to the jail, all of
23 that stuff. We know the exact day we did it, how long it took
24 us and all that.

25 This one, I don't have Ronald's file because of the

Gooden v. State - 2013-CP-22-01007
REUBEN GOUDE - DIRECT BY SHAFFER

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1 times, and we must've shredded them. I went back into the
2 barn and looked but I don't have all of those. But when I got
3 the transcript from Mr. James and I saw it was about the fire,
4 that was an unusual case and I remembered Ronald, and I went
5 on my computer and we still had some things, not a lot, but
6 some things on my little computer in the office. We had
7 pictures of where Ronald had told me where he lived. Ronald
8 was arrested and stayed in jail a year, couldn't post bond, he
9 had no money, no family to do anything for him. Lived in a
10 little trailer in Andrews. So, he had told me where he lived
11 and that people had shot holes in his trailer. So, I still
12 had these pictures on my computer that we'd put on my
13 computers and I've printed those out, so I still had that, and
14 I still have a letter that we had sent to the solicitor, Erin
15 Bailey, who was the prosecutor in that case that was on my
16 computer where he had told her -- this happened in 2010 and we
17 went to trial about October of '11, about a year later.
18 Ronald stayed in jail the whole year. So, in August of 11,
19 about three months before trial, I sent the solicitor a letter
20 saying Mr. Goodman agrees to plead guilty, he agrees to plead
21 guilty to assault and battery first degree, which is the 0 to
22 10 years. I realize although, I guess, assault and battery
23 used to be the old common law 0 to 10 and then they changed it by
24 the time of this trial to the statute which carried assault
25 and battery high and aggravated nature carried 0 to 20 years.

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REUBEN GOUDE - DIRECT BY SHAFFER

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1 And he was charged with attempted murder which carried 0 to
2 30. So, we sent the solicitor a letter that we agreed to
3 plead to assault and battery first degree, which would've been
4 the 0 to 10-year charge. And I said to -- Mr. Gooden asked me
5 to tell you the following regarding the alleged victim Curtis
6 Anderson. He has a past record of inflicting child abuse and
7 has been charged with assault and battery with intent to kill,
8 he has a drug record, he's a hoodlum, he picks on people in
9 the neighborhood, he sells drugs today, and he still picks on
10 people even after this incident where he got burned. Would
11 you please send me the rap sheet criminal record of the
12 alleged victim?

13 So, essentially, that's what I was able to find in my
14 office or in my records that I had.

15 Q: Okay. But, and they basically alleged that he set him on
16 fire, right?

17 A: Say what?

18 Q: The state is saying that Mr. Gooden set the man on fire?

19 A: Yes. I talked with Ronald in jail, he was right there in
20 Georgetown where my little office is. And after talking with
21 Ronald, I drove over to the -- I remember this because it's
22 not like -- you do 500 shopliftings and you do 500 things
23 where people are charged with throwing gas on people. So, I
24 remember Ronald's case, not every little detail like what day
25 I saw him in jail and was it one hour, or a half-hour, or an

Gooden v. State - 2013-CP-22-01007
REUBEN GOUDE - DIRECT BY SHAFFER

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1 hour-and-a-half, but the main points. After talking with
2 Ronald, I drove over to the little place and the little store
3 in Andrews on the west or south side of Andrews, a little
4 convenience store on the corner, where this happened. And I
5 went there and then Ronald lived right across the road, I
6 can't remember if it was a dirt road or a gravel road or a
7 paved street, right across the road about a half a mile or a
8 third of a mile in front of the store. And that's where I
9 went to take the pictures of Ronald's trailer because he said
10 somebody had shot holes in it a few nights before this thing
11 happened and I went there to trailer, I can still see the
12 bullet holes in the picture on the wall of the trailer. We
13 put this into evidence in court. So, I went there to the
14 store and I think I talked with some of the store people that
15 was later witnesses at the case. And it was kind of a pitiful
16 case to me. I always felt sorry for Ronald and I liked
17 Ronald. He had a bad -- he had had a bad break. He had no
18 money, no good job. He was living in this little trailer, he
19 had no electricity on it, no running water, no sewer, no stove
20 or refrigerator. And he would work day jobs like cutting
21 grass or washing cars or something and come by this little
22 store where they served, like a lot of country stores do, the
23 little hotdogs, peanuts, nabs, co-colas, and stuff like that,
24 and get him a little bite to eat, walking, and then walk
25 across the road to his house. And, these two or three cats --

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REUBEN GOUDE - DIRECT BY SHAFFER

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1 you always got people -- I remember back in first grade. When
2 I went to first grade myself, I had a brand new Roy Rogers
3 wallet and three guys, who later became my friends, beat me up
4 and stole my wallet. That's in the first grade. So, that's
5 life; that's the way life is. You always got people picking
6 on you. So, anyway, we had these people in the store that was
7 friends of themselves, they was always picking on Ronald
8 because he didn't have money, he didn't have a car, all this
9 stuff, so they could make fun of him and figure he couldn't do
10 anything about it and they could just make fun of him. So,
11 eventually, he got a guy to try to go stay with him in the
12 trailer -- I think it was Bradshaw after looking back over the
13 transcript this week -- to help him pay some rent so he'd have
14 money and maybe he could turn his lights on or get water, have
15 a -- take a bath in his own house. And so naturally, as soon
16 as he did that, since he's a grown adult man and the other
17 fellow was a grown adult man, now the three guys are saying
18 he's a gay or a faggot or a queer or a homosexual or something
19 like that, and they say how you having sex in your butt and
20 sucking his peewee and all this mess. So, he's got to stop at
21 the little store, you know, he can't walk to the grocery store
22 and carry groceries in the bags miles down the highway. So,
23 they take advantage of him and keep picking on him and he gets
24 tired of it. And I think he's got a little kid or son that
25 lives in Andrews, too, and he doesn't want the rumors getting

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REUBEN GOUDE - DIRECT BY SHAFFER

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1 around like that they do in little towns that his daddy is gay
2 or his daddy is a faggot, not that there's anything wrong with
3 that but this is what Ronald said in his transcript. You
4 know, he doesn't want his people insulting his little kid,
5 too. So, he would tell the guys to leave him alone or quit
6 picking on him, please quit picking on me, trying to be nice.
7 And I think they even admitted on the transcript that he'd ask
8 them to leave him alone and they just wouldn't do it. It was
9 too much fun, like a little fly that they'd pulled the wings
10 off of, he couldn't do anything about it. So, eventually, on
11 this particular day, I think it was -- and they'd shot holes
12 in his trailer, they'd beat him up a day or two before this,
13 and Ronald said they showed him pistols and stuff this day.
14 And he had just -- he had just had it. So, he said if y'all
15 don't leave me alone, I'm gonna burn your ass or set your ass
16 on fire or something like that. And he went home, and seems
17 like I saw the bush axe or something that he said he sawed off
18 with a saw to go back and find them but he said, hell, I'm not
19 that crazy, I'm not doing that. So, he left that home. But,
20 he'd left his cellphone charging in the little store, that's
21 why he went back. And the store owner said, yeah, people
22 charge their cell phones in my store. So, he went back and as
23 the devil would have it or God have it or whoever would have
24 it, there was a lawnmower sitting there by the store -- he
25 didn't go home and buy a gas can and run to the gas station

Gooden v. State - 2013-CP-22-01007
REUBEN GOUDE - DIRECT BY SHAFFER

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1 and plan it out, write down his stuff, and say I'm gonna buy
2 gas. There just happened to be a gas can sitting on the
3 lawnmower there by the store, a push lawnmower. So, when he
4 went in there, he got the gas can, they still saying he's
5 nothing and nobody is scared of you, you can't do nothing,
6 there's three of us and we'll treat you any way we want to and
7 you just gonna take it cause there's nothing to you and you're
8 a nobody and you're a nothing and we'll do whatever we want
9 to. We'll pee in your mouth and you'll just laugh -- and
10 laugh at it because you're nothing. So, he took the gas and,
11 you know, in a fit of anger or uncontrollability or whatever
12 it was and threw it on the guy and lit it, and the guy got
13 burned. And that's what happened. And you had half-a-dozen
14 witnesses there. The police came, EMS. Ronald came to the --
15 back to the store -- he went away from the store to start with
16 but then where am I gonna go, I'm gonna go to Bel Air,
17 California, I'm gonna go to the mountains, I'm gonna fly to
18 Africa; I got no money, no friends, no nothing. So, he just
19 went back to the store and told the police I did it and they
20 put him in the car. He said I did it, and it's on tape. The
21 witnesses in the store saw it. The guy that got burned, he
22 came to court. And as I recall, he looked real bad. He had
23 burns all over his face and his hands and he was where -- I
24 didn't remember all these details, but looking through the
25 transcript I remember now it seemed like had black Velcro

Gooden v. State - 2013-CP-22-01007
REUBEN GOUDE - DIRECT BY SHAFFER

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1 gloves or wraps or something on his hands to do something with
2 his skin and stuff. He was in bad shape. I felt sorry for
3 the guy, too, but I said to myself, one day you'll just learn
4 to keep your mouth shut and not pick on people and drive them
5 to this kind of stuff. So, I felt sorry for Ronald because I
6 knew that the guys drove him to it, and now that they get
7 hurt, now they sad. Now, they the sad victims. They drive
8 him to do something like that and now he's charged with the
9 crime, and now they very sad. We just can't believe you'd
10 break the law. How could any human being in this little
11 country break the law. We were so nice and peaceful. So,
12 that's the attitude it was. That's the way it always works
13 out. So, anyway, we went to court but we tried to work out a
14 deal. Ronald knew he did it and he didn't want to go to jail
15 the rest of his life, but he knew he'd committed the crime.
16 No matter what they did, we still should've not poured the gas
17 on him. But, we did pour the gas on him and we had all these
18 witnesses and we'd confessed to it, so we had no defense. We
19 tried to make a deal and the solicitor wouldn't do it, they
20 wouldn't reduce it. So, we went to court and had the trial.
21 Q: And at the trial, the defense was self-defense,
22 basically?

23 A: Essentially. See, we wanted -- if we could've got that
24 guilty plea deal of the 10 years, assault and battery in the
25 first degree, then we would've done that because we knew we

Gooden v. State - 2013-CP-22-01007
REUBEN GOUDE - DIRECT BY SHAFFER

13

1 was not gonna win in the trial. We poured the gas on him.
2 And, if they cuss you out for everything they can think of in
3 front of your face, we still can't pour gas on them and set
4 them on fire and give them these third-degree burns. That's
5 just illegal. It is a crime. And we did that. Ronald did
6 it, I did it -- I knew it. But, we had no choice since they
7 wouldn't let us plead to something lesser, so we had to go to
8 trial, and maybe the jury would sympathize with Ronald, maybe
9 the jurors had been picked on before, maybe they don't like
10 people picking on them. Well, anyways, so that's what we did.
11 We went to court and had the trial, and that's the way it
12 turned out. They found us guilty of a lesser offense, more
13 than I wanted him to get convicted. We got the assault and
14 battery of a high and aggravated nature 0 to 20-year charge
15 instead of what we was charged with, the attempted murder,
16 which is 0 to 30 years. And the Judge, due to the severity of
17 the guy's injuries, he gave -- Judge Culbertson, and he's a
18 good judge, he gave us the 20-year maximum.
19 Q: Okay. And, but the defense itself was based off of
20 Ronald's testimony, basically, right?
21 A: Ronald's testimony and we got some of it out, I reviewed
22 that thing yesterday, from the store owner and two of the guys
23 that was picking on him that they had been picking on him.
24 They called it making fun or having fun or joking or
25 something, but we was able to bring that out, too, that the

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1 people had been hell hacking him for weeks or months before
2 this happened.

3 Q: Okay. And I guess viewing the facts of the case, self-
4 defense was the best option you had for a defense?

5 A: And I didn't read my jury charge requests, I didn't have
6 those because I didn't have my trial checklist that I prepare
7 where I list all my jury charges and all that stuff. So, I
8 don't know if we requested self-defense charge, I didn't read
9 the Judge's charges, I just read the testimony in the
10 transcript and the pre-trial motions and stuff. So, I don't
11 know if I requested the self-defense charge, whether the Judge
12 charged it or not. I don't remember that.

13 Q: Do you have a copy of the transcript?

14 A: I have a copy of the transcript.

15 Q: What I'm gonna do, I'm gonna ask you a couple of
16 questions, but before I do, just for the sake of time, I think
17 maybe the best thing to do is look over Pages 32 through 37
18 and then 168.

19 A: Okay. I'm on 32.

20 Q: I'll give you some time there.

21 MR. JAMES: Just one clarification. Did you mean 168 or
22 186?

23 Q: 186, yes.

24 A: I'll look at one at the time. You can tell me one at a
25 time. I'm on Page 32.

1 Q: Okay. Yes, sir. 32 through 37.

2 A: You just tell me -- ask me the question and I'll -- cause
3 I looked over this stuff yesterday.

4 Q: Okay. And from looking at that, it seems to appear that
5 you were asking what kind of prior bad acts were gonna come
6 in, correct?

7 A: Right.

8 Q: Okay. And the state had said that they were gonna try to
9 introduce a fairly recent 2007 theft of a handgun charge and
10 then a 1992 strong-arm robbery. Does that sound fair?

11 A: Yep. I read that and I remembered that after looking
12 over it.

13 Q: And you were -- you argued against that, right?

14 A: That's right.

15 Q: Okay. And you argued that it wouldn't be fair to
16 introduce, especially the 1992 conviction because even though
17 he had been released within 10 years for that offense that it
18 was a crime of violence and it was still too remote and overly
19 prejudicial, right?

20 A: Right.

21 Q: Okay. And the Court agreed with you initially, right?

22 A: Yeah, that's like -- the Judge where he says I only like
23 to hear one side of the case because if I listen to both sides
24 of it gets complicated, so I just like to listen to one side.
25 But yes, the Judge, if he'd have just listened to me, he

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1 would've kept that out.

2 Q: Okay. And then Ms. Bailey, she ended up arguing that the
3 Judge was using the wrong standard because of the case called
4 *Al-Amin*. Do you recall that?

5 A: Yep.

6 Q: Okay. And the Judge said ---

7 A: The Judge said something like you mean even if it's a
8 billion percent prejudicial to the defendant, I still got to
9 let it in if it's dishonest? And the solicitor said, yeah.
10 And so the Judge said let me have some time and research that
11 because the Judge didn't know that. And I didn't know that
12 case or if I did know it, I sort of figured it was not helpful
13 to my side to say anything about it. So, I didn't say
14 anything about it if I knew anything about it. The rules --
15 and I looked at the rules a while ago, and they still have
16 that same little section which says if it's dishonesty, they
17 can still put it in. It doesn't say anything about weighing
18 it or anything else. So, you've got that three little prongs
19 on that rule about putting it in. One, if it's carried up to
20 year or so, then you got to weigh the prejudice or probative
21 value. And then the second one, if it's dishonesty, they
22 don't say anything about weighing prejudice or probative
23 value, and then the 10-year deal. So, yes, I made that motion
24 in limine. You always -- I try to make that motion in limine
25 because if you wait till the trial and you make a motion and

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17

1 the prosecutor gets up and says, did you cut the old lady's
2 head off with an axe 22 years ago. I'd say, well, durn, let
3 me -- Your Honor, ladies and gentlemen of the jury, don't
4 listen to that about he cut the lady's head off with the axe
5 because that happened 22 years ago, so I wish to object to
6 that as too remote. And the Judge says, well, y'all disregard
7 that. Don't think that he cut the lady's head off with an
8 axe. You can't consider that in this case. So, what I try to
9 do is do a motion in limine to get all that mess out to start
10 with so that we don't have to say anything in front of the
11 jury. So, the Judge eventually ruled against us and I knew,
12 and I wrote these notes down again yesterday that that
13 conviction under the little second part of the rule since that
14 case did say that robbery and stuff, and I highlighted the
15 little rule, which was -- this is the same book I would've had
16 -- I would've had then during the trial, which is Rule 609.
17 So, the court ruled that that, (a)(2), robbery or armed
18 robbery was dishonesty based on the Court of Appeal saying it
19 was, that's pretty good reason. And that little Section (2)
20 does not have a balancing test probative or prejudicial, so
21 the Judge let it into evidence. And also, another reason I
22 did not object in front of the jury after the Judge had said
23 what he said was, under 609(b) on the time limit, if they've
24 released from prison within 10 years the crimes -- the
25 criminal conviction could come in to evidence. And what I saw

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18

1 from looking back over the transcript was that the strong-
2 armed robbery was in '92 but we had violated parole in '99 and
3 was released from prison in 2002. So, he was released from
4 prison on 2002, which was nine years before our trial in 2011.
5 So, the conviction was admissible under 609(b). And then
6 additionally, the law in effect at that time was it was
7 admissible under 609(2) which it was dishonesty, because the
8 Court of Appeals had said robbery was dishonesty. So, to me,
9 after the Judge had ruled in limine and told me he was gonna
10 let it into evidence. I did not see, when the prosecutor was
11 gonna ask the client were you convicted of strong-armed
12 robbery, I was not gonna get up and -- most of the time you
13 want your record to be clean, but the main aim you're aiming
14 for is you want the jury to find you not guilty of the
15 charges. And to me, it's not usually good to stand up and
16 make a big objection over something that the solicitor has
17 asked and has already asked, was you convicted of strong-armed
18 robbery because the Judge has already said yes that's
19 admissible. And, yes, Mr. Gooden is gonna answer that
20 question and Mr. Gooden is gonna answer it yes. So, my trial
21 strategy was if I get up and make a big deal on it and object,
22 it just highlights it more to the jury as it being a bigger
23 deal than it was, because the reason it was a bigger deal than
24 it was, we was not charged with strong-armed robbery. There
25 wasn't a case of mistaken identity and somebody robbed these

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19

1 guys and if we had a conviction for robbery in the past, that
2 would show maybe we the ones that robbed him, that would help
3 identify him. It wasn't anything like that. We threw the gas
4 on the guy, we set it afire, there was all kind of witnesses
5 saying that. Ronald said that. They guy that got burnt said
6 that. We told the police that. It was on videotape or
7 audiotape that we did it. So, the strong-armed robbery -- the
8 jury is gonna decide whether we guilty or not guilty. They're
9 not gonna impose the penalty. The Judge is gonna do that he
10 and he's gonna have these records later. So, to me, whether
11 the thing came into evidence or not made zero difference on
12 whether the -- how the jury is gonna vote in their verdict of
13 whether we threw the gas on the man and set it afire, because
14 we did set it on fire. Remember we wanted to plead guilty to
15 the charge but this to lessor charge and not get 30 years in
16 prison like the prosecutor is trying to get. So, that's why I
17 did all that and I did not object to it again when the
18 prosecutor asked the question in front of the jury for the
19 reason I just got through saying.

20 Q: Then you weren't worried enough about it to object
21 pretrial?

22 A: Oh, yeah. I was trying to keep it out because I know
23 that -- I want to know what the prosecutor is gonna offer and
24 if I can keep them out or a conviction out, I will.

25 Q: At no point did you make an objection under Rule 403?

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20

1 A: I don't think I did.

2 Q: Okay. No further questions.

3 THE COURT: All right.

4 State?

5 CROSS EXAMINATION OF REUBEN GOUDE BY MR. JAMES:

6 Q: Mr. Goude, you just said that you did not make an
7 objection under 403 but the Judge initially said that he felt
8 he had to consider it under 403, correct?

9 A: I don't remember if he said that or not. I don't
10 remember that in the transcript. He may have. I don't
11 remember seeing it.

12 Q: All right. Do you have a copy of that transcript up
13 there with you?

14 A: I do.

15 Q: I would direct your attention to Page 34 of that
16 transcript, Lines 15 through 17. And he doesn't specifically
17 cite the 403 but he does indicate his belief that he still had
18 to balance the probative value versus the prejudicial effect.

19 A: That's true.

20 Q: And so y'all did talk about that in that preliminary
21 hearing, correct?

22 A: I don't know if he's talking about probative and
23 prejudicial under 403 or whether he's talking about
24 prejudicial and probative under Section (a)(1) of 609. And I
25 think Section (b) or Section (2), the one about 10 years,

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21

1 that's got something about probative and prejudicial. Anyway,
2 you know, I think that's the reverse that you -- even if it's
3 over time if it's probative, the Judge can put it in. So, I
4 don't know which of those he's talking about but since he was
5 talking about probative versus prejudicial, that's how we got
6 into that *Al-Amin* case and stuff.

7 Q: To your recollection, was *Al-Amin* good law at the time of
8 this trial?

9 A: As far as I know it was.

10 Q: All right. Do you know if it's good law today?

11 A: I think you've told me that the Court of Appeals and the
12 Supreme Court have changed that a couple of years later and
13 said that robbery is not a crime of dishonesty, just like the
14 exact opposite of what the Court of Appeals had said in the
15 *Al-Amin* case and we were trying to see if that was because
16 something big had happened or just individual members of the
17 Court of Appeals who voted in the two different cases were two
18 different sets of judges.

19 Q: But that didn't occur until after this trial, correct?

20 A: That did not occur till, like you showed me, 2013 and
21 this trial was 2011.

22 MR. JAMES: I have no further questions, Your Honor.

23 THE COURT: All right.

24 Anything further Mr. Shaffer?

25 MR. SHAFFER: Yes.

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REUBEN GOUDE - REDIRECT BY SHAFFER

22

1 REDIRECT EXAMINATION OF REUBEN GOUDE BY MR. SHAFFER:

2 Q: After he talked about the weighing the prejudicial and
3 probative value, Page 35, he actually said he wasn't gonna
4 allow the state to use it, correct?

5 A: He did.

6 Q: So, if he weighed the prejudicial and probative value, he
7 wasn't planning on allowing the state to actually use it?

8 A: That's the way I understood it.

9 Q: Okay. Thank you very much. No further questions.

10 THE COURT: All right. Anything further?

11 MR. SHAFFER: Applicant rests, Your Honor.

12 THE COURT: All right.

13 As to the State, any follow-up to that?

14 RE CROSS EXAMINATION OF REUBEN GOUDE BY MR. JAMES:

15 Q: But your understanding of Al-Amin was that he was not
16 required to undergo that probative/prejudicial analysis?

17 A: No. That's the way I understood the case and the Judge's
18 ruling, that's what the Judge did, because he was trying to
19 weigh probative versus prejudicial on this thing that -- this
20 conviction of common law robbery which, my God, was before
21 maybe some of the jurors was even born because it was 20-some
22 -- 20 years before the case. And so the Judge thought that
23 the prejudicial effect of that outweighed the probative value,
24 because like we said, a while ago, it had nothing to do with
25 whether we threw the gas or the fire or how the jury was gonna

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REUBEN GOUDE - RECROSS BY JAMES

23

1 vote. But, once the Judge read that case, the case says -- it
2 came under Section (2) where it deals with dishonesty and the
3 robbery is dishonesty and you don't have to weigh prejudice
4 and probative under the dishonesty clause because it doesn't
5 have it in the rule book. You still got to have it in the
6 rule book even after *Al-Amin* and it doesn't have it after the
7 case you showed me from 2013, they still have not changed the
8 rule.

9 Q: Just to be clear on the record, you and I briefly had a
10 conversation before this hearing about *State vs. Broadnax*,
11 correct?

12 A: That's right, yes.

13 MR. JAMES: No further questions, Your Honor.

14 THE COURT: All right. You may step down. Thank you.

15 MR. GOUDE: Thank you, Judge.

16 THE COURT: You can call your next witness?

17 MR. SHAFFER: Applicant rests, Your Honor.

18 THE COURT: All right. Recognize the state.

19 MR. JAMES: State calls no witnesses, Your Honor.

20 THE COURT: All right.

21 ARGUMENT BY SHAFFER:

22 MR. SHAFFER: Your Honor, briefly related to argument, I
23 think that Mr. Goude certainly rendered deficient performance
24 under the first prong of the test for failing to renew his
25 objection, which there is indication that he did not. I also

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ARGUMENT BY SHAFFER

24

1 think that, you know, failing to raise the 403 objection to it
2 as well would be a problem because even if you're under 609,
3 you're still bound to -- there's still a 403 analysis if you
4 make the objection under 403. Had he made that objection
5 clearly the Judge would have not allowed it in. It already --
6 the Judge -- the 403 analysis is essentially the same thing
7 he'd made under his -- you know, Judge Culbertson made under
8 his first analysis which he said was unduly prejudicial,
9 therefore he was not gonna allow it into evidence. So, I
10 think that the -- you know, the Judge made an error there.
11 The Court of Appeals later found, and I'm not sure if you have
12 the Court of Appeal opinion, but it certainly -- I mean, you
13 could look it up, it said it was not preserved, that he raised
14 that issue and that it was not preserved. It's not preserved
15 because of the fact it was not raised the second time. So, I
16 think that we've met the deficiency prong. As for the
17 prejudice prong of it, I would say that the only defense
18 presented in this case was self-defense. That's the only
19 thing that could've prevented a guilty verdict in this case is
20 this self-defense claim. Therefore, his testimony was
21 essential to the defense of this case. What they did, yes,
22 they allowed a conviction for a theft charge, but they -- he
23 also allowed, which we're not really talking about the theft
24 charge but they also allowed a prior violent act into
25 evidence. And I think that that would've been -- that

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ARGUMENT BY JAMES

25

1 would've -- (A) negatively impacted his credibility, but more
2 importantly it also was evidence basically of my client doing
3 something violent in the past and it's hard to say, hey, I'm
4 not a violent person whenever, you know, whenever you have a
5 previous strong-armed robbery. I think it would've made his
6 case a whole lot better had they not had any violent crimes in
7 their -- and therefore, I don't think it would've been
8 harmless because of that.

9 THE COURT: All right.

10 What does the state say?

11 ARGUMENT BY JAMES:

12 MR. JAMES: Your Honor, respectfully, I believe that the
13 prior conviction came in validly under the rules at the time
14 of trial under Al-Amin. Mr. Goude testified that he believed
15 that it came in validly under the law even though he argued
16 effectively against it in the preliminary hearing. He
17 similarly offered a strict valid strategic reason for not,
18 again, objecting to it at the time of trial and indicated his
19 belief that it was not particularly prejudicial to the client
20 given the facts of the case. And furthermore, Your Honor, the
21 state would submit that the facts of the case are
22 overwhelming. There was a store full of witnesses who watched
23 the applicant light a man on fire, and the applicant himself
24 returned to the scene, threw up his hands and said, it was me,
25 I did it. And under those facts, I don't believe that the

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ARGUMENT BY JAMES

26

1 failure to object to the strong-armed robbery of 1992 was
2 prejudicial such that we can't have faith in this conviction,
3 Your Honor. And so I would respectfully request that the
4 application for relief be denied.

5 THE COURT: All right. I'll take it under advisement.

6 MR. SHAFFER: Thank you, Your Honor, and just so you
7 know, we are making a -- it's two prongs that we think that he
8 should've objected under.

9 THE COURT: I understand.

10 MR. SHAFFER: Thank you.

11 THE COURT: All right. Thank you.

12

13 (ADJOURNED - 10:50 A.M.)

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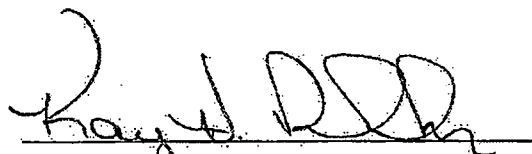
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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Ronald Edward Gooden versus State of South Carolina, held in the Court of Common Pleas for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on September 21, 2017.

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



Kay H. Richardson

Official Court Reporter

April 15, 2018.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN) FOR THE FIFTEENTH JUDICIAL CIRCUIT

Ronald Edward Gooden,) Case No.: 2013-CP-22-01007
S.C.D.C. No. 191688,)

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)

FILED
2018 JAN 16 AM 10:56
CLERK OF COURT
ALPHA Y. WILKINS
SECRETARY

This matter comes before the Court by way of an application for post-conviction relief filed by Ronald Edward Gooden ("Applicant") on October 1, 2013. Respondent made its return on or about May 14, 2014. The Court convened an evidentiary hearing into the matter on Thursday, September 21, 2017, at the Horry County Courthouse in Conway, South Carolina. Applicant was present at the hearing and represented by Tristan M. Shaffer, Esq. Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent.

Only Applicant's trial counsel, C. Reuben Goude, Esq. ("Counsel") testified at the evidentiary hearing. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the Georgetown County Clerk of Court regarding the subject convictions, Applicant's direct appeal records, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Georgetown County Clerk of Court. Applicant was indicted at the March 2011 term of the Georgetown County Grand Jury for attempted murder (2011-GS-22-00054). C.

Reuben Goude, Esq. represented Applicant, and Erin Bailey, of the Fifteenth Circuit Solicitor's Office, prosecuted the case. On October 26, 2011, Applicant proceeded to trial before the Honorable Benjamin H. Culbertson and a jury. The jury found Applicant guilty of the lesser-included offense of assault and battery of a high and aggravated nature on October 27, 2011. Judge Culbertson sentenced Applicant to imprisonment for a term of 20 years.

Applicant filed a timely notice of appeal and a direct appeal was perfected by LaNelle Cantey Durant, Esq., who raised the following issue on appeal:

The trial court erred in admitting Gooden's 1992 conviction for strong armed robbery for impeachment purposes. This was subject to a Rule 403 analysis for prejudice since it was distinguished from State v. Al-Amin, 353 S.C. 405, 578 S.E.2d 32 (Ct. App. 2003).

The parties proceeded to oral arguments on April 10, 2013. By unpublished opinion decided April 24, 2013, the South Carolina Court of Appeals affirmed Applicant's convictions, finding the issue raised on appeal was not preserved for appellate review. State v. Gooden, Op. No. 2013-UP-167 (S.C. Ct. App. filed April 24, 2013). The Remittitur was issued on June 3, 2013.

Present Application

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. "Ineffective [Assistance] of Trial Counsel on several fronts"
 - a. "Failed to make [continuous] objection of prior conviction"
 - b. "Failed to request Blair Hearing"
 - c. "failed to request to be evaluated for criminal responsibility"

At the evidentiary hearing, Applicant withdrew the second and third allegations and proceeded only on the first allegation that Counsel was ineffective for failing to make a continuous objection regarding Applicant's prior conviction.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove "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." Butler at 442, 334 S.E.2d 441 (quoting Strickland v. Washington, 466 U.S. 668, 686 (1984)). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Id.

"[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler at 442, 334 S.E.2d 441 (quoting Strickland at 690). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989). "Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an 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." Strickland, 466 U.S. at

689; Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011). “[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Cherry at 117, 386 S.E.2d at 625 (citing Strickland at 688). 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 at 117-18, 386 S.E.2d at 625 (citing Strickland at 694).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Strickland at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. at 696-97.

IAC Allegation #1 – Failure to Continuously Renew Objection

Applicant alleges Counsel was ineffective for failing to continuously object to the admission of Applicant’s 1992 conviction for strong-arm robbery. The South Carolina Rules of Evidence provide that evidence that an accused has been convicted of a crime may be introduced for the purpose of attacking his credibility if, among other grounds, the crime involved dishonesty or false statement, regardless of punishment. Rule 609(a)(2), SCRE.

Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of conviction *or of the release of the witness from the confinement imposed for that conviction*, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect.

Rule 609(b), SCRE (emphasis added). At the time of Applicant's 2011 trial, robbery was a crime of dishonesty such that the admission of prior robbery convictions did not require analysis of its probative value versus its prejudicial effect. State v. Al-Amin, 353 S.C. 405, 424-25, 578 S.E.2d 32, 42-43 (Ct. App. 2003) (overturned by State v. Broadnax, 414 S.C. 468, 779 S.E.2d 789 (2015)).

At trial, the admissibility of Applicant's 1992 conviction for strong-arm robbery was raised to the trial court *in limine*. Tr. 32-38. Applicant was released from confinement on January 18, 2002, within the 10 year window at the time of trial. Tr. 32, ll. 8-15. Regardless, Counsel argued that the conviction itself occurred some 20 years prior and was "too remote and not relevant and the prejudicial effect since it happened 20 years ago outweighs any credibility issues in this case[.]" Tr. 33, ll. 3-8. The trial court weighed the probative value against the prejudicial effect of admitting impeachment with the prior conviction and initially held that he would not permit its use. Tr. 33-35. The State alerted Judge Culbertson to State v. Al-Amin and, after a brief recess, the trial court reversed its holding and permitted the use of the robbery for impeachment purposes. Tr. 36-37.

Applicant testified at trial in his own defense. Tr. 143-91. Among other extensive details, Applicant testified that he previously threatened the victim and his associates that he would set them on fire if they did not cease harassing him. Tr. 162, ll. 4-6. Applicant testified to finding a gas can next to a lawnmower on the way to the store, dousing the victim with the fuel, and to igniting him. Tr. 171-73. Applicant denied that he wished to kill the victim, only that he

wished for the victim to leave him alone. Tr. 174, ll. 3-11. Applicant turned himself in very shortly after the attack, declaring "It's me. I did it." Tr. 82-83, 103-04 (quoted admission), 173. On cross-examination of Applicant at trial, the State impeached Applicant with the conviction without further objection from Counsel. Tr. 186, ll. 7-17.

At the evidentiary hearing, Counsel indicated he no longer had Applicant's file, as he had shredded it upon retirement. Nonetheless, Counsel launched into an exhaustive recollection of the facts of the case, from which Counsel recalled concluding that Applicant had no defenses available to him. Counsel testified he could not get a deal from the solicitor and that Applicant would not win at trial. Counsel recalled getting good testimony from some of the State's witnesses and that Applicant was ultimately convicted only of the lesser-included ABHAN.

As to the prior conviction, Counsel testified that he lost the preliminary hearing due to Al-Amin. Counsel argued that he did not wish to object in front of the jury and draw any further attention to Applicant's prior conviction for strong-arm robbery. Counsel took the position that, absent the objection, the prior record would make no difference to the jury.

The Court finds no deficiency on the part of counsel or prejudice therefrom. Counsel clearly articulated multiple valid strategic reasons to not object to the reference to Applicant's prior robbery conviction and, as such, this Court will not deem his counsel ineffective. See Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992). Furthermore, any conceivable error by Counsel in this case was harmless in light of the uncontroverted and overwhelming testimony from numerous witnesses, including Applicant's own admissions at the time of the crime *and* at the time of trial, that he lit the victim on fire. This Court finds that given the facts of the case, Applicant received the best possible outcome from the impressive efforts of extremely competent counsel. Accordingly, Applicant's request for relief is **DENIED**.

III. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 5 day of Jan, 2018.


 WILLIAM H. SEALS, JR.
 Presiding Judge
 Fifteenth Judicial Circuit

 _____, South Carolina

WITNESSES

Andrews Police Department

DOCKET NO. 2011-GS22-00054*✓

The State of South Carolina

County of Georgetown

Erin Bailey

10G01104

COURT OF GENERAL SESSIONS

MARCH, 2011 TERM

ARREST WARRANT NUMBER

J530664

CDR: 3410 §16-03-0029

DOI: October 22, 2010

THE STATE

VS.

RONALD EDWARD GOODEN

DOB:

SSN:

B/M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: Goude, C. Reuben

Indictment for

Richard C. Goude
Foreperson of Grand Jury

Date: 3.23.11

ATTEMPTED MURDER

VERDICT

J. Gregory Hembree, Solicitor

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

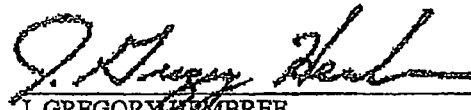
At a Court of General Sessions, convened on March 23, 2011, the Grand Jurors of Georgetown County present upon their oath:

ATTEMPTED MURDER

CDR: 3410 16-03-0029

That Ronald Edward Gooden did in Georgetown County on or about October 22, 2010 with intent to kill Curtis Anderson, attempt to kill the victim with malice aforethought, either expressed or implied, to wit: the defendant squirted gasoline on the victim and set him afire, in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

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


J. GREGORY PEMBREE
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATEGeorgetown
VS.

Ronald Edward Gooden

AKA:

Race: BLACK Sex: M Age: 42

DOB: SS#

Address:

City, State, Zip:

DL#: SID#: SC00863947

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: ~~Murder / Attempted Murder~~ Assault and Battery of a High and Aggravated Naturein violation of § 16-03-602(1)(B)(2) of the S.C. Code of Laws, bearing CDR Code # ~~3411~~ 3411☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEY: SCB76016

Bailey, Erin

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 X yearsand/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or paymentof \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

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 ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

Susananna Wilson
Grace Hurley

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS22-00054

A/W#: J530664

Date of Offense: 10/22/2010

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-602(1)(B)(2) of the S.C. Code of Laws, bearing CDR Code # ~~3411~~ 3411☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEY: SCB76016

Bailey, Erin

SC Bar#

Defendant

Attorney for Defendant

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Total: \$ _____ plus 20% fee: \$ _____

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Clerk of Court/ Deputy Clerk

Court Reporter:

Susananna Wilson
Grace Hurley

Presiding Judge

Judge Code:

Sentence Date:

Benjamin Culberson
2148
OCT. 26, 27, 2011

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Ronald Edward Gooden, Appellant.

Appellate Case No. 2011-202546

Appeal From Georgetown County
Benjamin H. Culbertson, Circuit Court Judge

Unpublished Opinion No. 2013-UP-167
Heard April 10, 2013 – Filed April 24, 2013

AFFIRMED

Appellate Defender LaNelle Cantey DuRant, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General John Benjamin Aplin, both of
Columbia, for Respondent.

PER CURIAM: Ronald Gooden appeals his conviction for assault and battery of a high and aggravated nature, arguing the trial court erred in admitting his prior strong arm robbery conviction for impeachment purposes. We affirm pursuant to Rule 220(b), SCACR, and the following authority: *State v. McEachern*, 399 S.C.

125, 147-48, 731 S.E.2d 604, 615 (Ct. App. 2012) (holding an argument advanced on appeal and not raised and ruled on below is not preserved for appellate review).

AFFIRMED.

FEW, C.J., and GEATHERS and LOCKEMY, JJ., concur.