

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable John C. Hayes, Circuit Court Judge

RECEIVED
SEP 28 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WILLIAM GUY SHUMPERT,

APPELLANT

APPELLATE CASE NO 2017-001713

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

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

V. HENRY GUNTER, JR.
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-3727

ATTORNEY FOR APPELLANT

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street, Suite 400
Charleston, SC 29401
(843) 958-1900

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED AUGUST 7-8, 2017	1
OPENING STATEMENTS BY THE COURT	4
OPENING STATEMENT BY MR. STEGALL	7
OPENING STATEMENT BY MS. LITTLEJOHN	10
TRIAL TESTIMONY	
THERESA BARNETT	
Direct examination by Mr. Stegall	14
FAYE BOONE	
Direct examination by Mr. Stegall	17
Cross-examination by Ms. Littlejohn	29
Redirect examination by Mr. Stegall	52
Recross examination by Ms. Littlejohn	53
KAREN CLARKSON	
Direct examination by Mr. Dennis	54
Cross-examination by Ms. Shivers	66
Redirect examination by Mr. Dennis	79
RULES 803 & 804, SCRE, PROFFER	81
COURT'S RULING	84
TRIAL TESTIMONY	
KAREN CLARKSON	
Recross examination by Ms. Shivers	84
OMAR BROWN	
Direct examination by Mr. Dennis	85
Cross-examination by Ms. Shivers	95
DENISE NEWMAN	
Direct examination by Mr. Stegall	110
Cross-examination by Ms. Littlejohn	117

JEREMY YOUNGINER	
Direct examination by Mr. Dennis.....	131
Cross-examination by Ms. Littlejohn	149
Redirect examination by Mr. Dennis.....	165
Recross examination by Ms. Littlejohn	166
CHRIS SCARBOROUGH	
Direct examination by Mr. Stegall.....	166
Cross-examination by Ms. Littlejohn	187
TRACY THROWER	
Direct examination by Mr. Dennis.....	189
Cross-examination by Ms. Shivers	201
Redirect examination by Mr. Dennis.....	210
Recross examination by Ms. Shivers.....	210
STATE RESTS	212
DEFENSE MOTION FOR DIRECTED VERDICT	213
COURT'S RULING	216
TRIAL TESTIMONY	
BRADLEY NORVELL	
Direct examination by Ms. Shivers.....	220
WILLIAM SHUMPERT	
Direct examination by Ms. Shivers.....	224
Cross-examination by Mr. Stegall	227
DEFENSE RESTS	228
REQUESTS TO CHARGE.....	229
CLOSING ARGUMENT BY SOLICITOR	233
CLOSING ARGUMENT BY DEFENSE COUNSEL	238
CLOSING ARGUMENT BY SOLICITOR	250
JURY CHARGE OF THE COURT.....	251
VERDICT	269

DEFENSE MOTION FOR NEW TRIAL	274
COURT'S RULING	274
SENTENCING	277
PRE-TRIAL HEARING TRANSCRIPT DATED JULY 21, 2017 (P. 22)	280
INDICTMENTS AND SENTENCING SHEETS	281
CERTIFICATE OF COUNSEL	290

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF BERKELEY CASE NOS.

2016-GS-08-00401
2016-GS-08-00402
2016-GS-08-00403

STATE OF SOUTH)
CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VS.)
WILLIAM GUY SHUMPERT,) AUGUST 7-8, 2017
DEFENDANT.) MONCKS CORNER, SC

B E F O R E:

HONORABLE JOHN C. HAYES, JUDGE, AND A JURY.

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

BENJAMIN DENNIS, ESQUIRE
BART STEGALL, ESQUIRE
Attorneys for the State

DEBRA LITTLEJOHN, ESQUIRE
JULIE SHIVERS, ESQUIRE
Attorneys for the Defendant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

I N D E X

Page

JURY QUALIFICATIONS

5

VOIR DIRE

27

JURY SELECTION

40

OPENING STATEMENT

BY MR. STEGALL

64

BY MS. LITTLEJOHN

67

DXCXRDXRCXWITNESSTHERESA BARNETT

71

FAYE BOONE

74 86 109 110

KAREN CLARKSON

111 123 136 141

OMAR BROWN

142 152

DENISE NEWMAN

167 174

JEREMY YOUNGINER

188 206 222 223

CHRIS SCARBOROUGH

223 204

TRACY THROWER

246 258 267 267

BRADLEY NORVELL

277

WILLIAM SHUMPERT

281 284

STATE RESTS

269

DEFENSE RESTS

285

<u>CLOSING ARGUMENT</u>	Page
BY MR. DENNIS	290
BY MS. SHIVERS	295
BY MR. DENNIS	307
CHARGE OF THE COURT	308
VERDICT	326
SENTENCING	334

E X H I B I T S

<u>STATE'S</u>	<u>MARKED</u>	<u>ADMITTED</u>
3-911 call	4	73
4-gun	4	202
5-10-photos	4	151

1 Formisano, you will be the liaison between the jury
2 and myself, preside over jury deliberations and you
3 will sign the jury's unanimous verdict.

4 Mr. Shumpert has entered pleas of not
5 guilty to these three charges. As I have told you,
6 that places on the State the burden of proving his
7 guilt beyond a reasonable doubt before you could
8 convict him of any one or all of these charges.

9 The fact that he has been charged is not any
10 indication that he committed these offenses.

11 That's just the way the system works. The fact
12 that there are three charges is not of any weight
13 whatsoever, it's just based on the fact the State
14 determined that they could bring three charges.

15 They still have to prove each and every element of
16 each one beyond a reasonable doubt before you can
17 convict Mr. Shumpert of any or all of these. He
18 has entered pleas of not guilty. This places on
19 the State the burden of proving his guilt beyond a
20 reasonable doubt.

21 I have three primary jobs in a trial.
22 One is to do the logistic part of the trial. I am
23 sometimes called the wagon master. I make sure you
24 can see, make sure one person speaks at a time,
25 take breaks, the mechanical part of the trial.

1 I also rule on questions of
2 admissibility of evidence. If one side believes
3 certain evidence should be allowed in the record
4 for your consideration and the other based on some
5 legal case law or rule of evidence believes that
6 that should not be allowed into evidence, it's up
7 to me to make a determination of the rule.

8 The third job is I am the sole judge of
9 the law in this case. You must take, accept and
10 apply the law as I charge it even if you think I
11 charged the law in error or even if you think the
12 law should be different. You are not to infer
13 anything I say at all during this trial or anything
14 I do during this trial as an indication of an
15 opinion of mine on the facts. I'm not allowed to
16 formulate or express to you any opinion on the
17 facts. That is solely your job. It is solely your
18 job to examine the evidence, give the evidence the
19 effect and value you believe it should have, return
20 a verdict based on -- apply the facts and return a
21 verdict.

22 Now, I have told you what not to do as
23 far as discussing the case and those sort of
24 things. I am going to ask you to pay attention.
25 You don't need to take notes. If you can't see,

1 you can't hear, let me know. Give a voice raising
2 gesture or cup your ear or a nudging gesture and I
3 will try to correct whatever is preventing you from
4 seeing or hearing what you need to see and hear.
5 We take breaks about every hour and-a-half. If you
6 need a break at any time let me know and we will
7 take a break no questions asked. Simply raise your
8 right hand and we will take a break. We want to
9 move the case along, but we don't anybody to be in
10 a position where they can't pay attention if you
11 need a break. And I extend that to counsel and Mr.
12 Shumpert. Again we would like to move the case
13 along, but not in such a hurry that we can't take a
14 break if one is needed.

15 When the attorneys come before you in
16 just a moment they are giving you an outline or a
17 blueprint of the trial. The attorneys are not
18 witnesses so what they tell you is not evidence.
19 They are not at this time arguing this case. At
20 the end of the trial they have the right to come
21 before you and present their arguments as to why
22 your verdict should be a certain verdict. That's
23 not what they are doing at this time. They are
24 simply outlining a blueprint of the trial for you.
25 So give the attorneys your attention and again they

1 don't have to make an opening statement, but they
2 can if they wish and after you hear the opening
3 statements we will start in taking of the
4 testimony. Counsel.

5 MR. STEGALL: Thank you, Your Honor.
6 May it please the Court. Ladies and gentlemen of
7 the jury, when I got in my truck to come to work
8 today, put my key in the ignition, turned it on,
9 put it in drive, put my foot on the gas pedal, I
10 intended for my truck to get me where I needed to
11 go based on my actions.

12 November 26, 2015, Billy Shumpert went
13 to his truck, got a gun, came back and pointed it
14 at Karen Clarkson and at Faye Boone's head and
15 pulled the trigger over and over and over. Make no
16 mistake, ladies and gentlemen, Billy Shumpert
17 intended to kill them that night. That's why we
18 are here today. He has been charged with two
19 crimes, two counts of attempted murder, and one
20 count of possession of a weapon during a violent
21 crime.

22 My name is Bart Stegall. My co-counsel
23 is Ben Dennis. We work for the Berkeley County
24 Solicitor's Office. We prosecute cases on behalf
25 of the county. And like I had said, we are here

1 today because Mr. Shumpert has been charged with
2 these crimes.

3 Now, the judge will go over the law at
4 the end of the trial, but I want to touch on it
5 briefly. So the first one, attempted murder. It's
6 when a person who with intent to kill attempts to
7 kill another person with malice aforethought either
8 express or implied. Now, that's kind of a
9 mouthful. I would like to break it down into four
10 elements. So the first thing you need is an
11 attempt. If somebody points a gun at somebody,
12 pulls a trigger, that's an attempt to kill. Next
13 one is fairly straightforward. Needs to be another
14 person. Next two can be a little trickier. There
15 must be an intent to kill. Now, the important
16 thing to remember about intent is that it doesn't
17 have to be pretty much that just words alone. It
18 can be proven through expression or conduct. The
19 person doesn't have to say I intended to kill you.
20 As it says, acts, words or circumstances.

21 And last with malice aforethought.
22 Malice is essentially hatred or ill will towards
23 someone. And aforethought refers to the time when
24 that ill will was conceived, but the thing I want
25 you to remember is it can occur at the very moment

1 the act occurs.

2 Next charge is possession of a weapon
3 during a violent crime. This one is as
4 straightforward as it sounds. A gun is considered
5 a weapon and attempted murder is considered a
6 violent crime.

7 So how we do intend to prove our case
8 to you? This isn't like CSI. We are not going to
9 have all sort of data or anything to show you. We
10 are going to put Faye Boone and Karen Clarkson on
11 that witness stand and they are going to tell you
12 exactly what happened that night. We are going to
13 put the responding officers on the stand and they
14 are going to describe what they saw and what they
15 heard. We have got some physical evidence we will
16 show you as well and based on that we believe that
17 you will find Billy Shumpert guilty.

18 I want to touch on the burden of proof.
19 In criminal cases the State always has the burden
20 of proof. Billy Shumpert walked in the courtroom
21 today an innocent man. It will continue throughout
22 the trial that way. The burden is completely on us
23 to prove his guilt beyond a reasonable doubt. It's
24 a high burden, but it's one that we accept. If you
25 are firmly convinced after hearing all the evidence

1 that Billy Shumpert comitted these crimes then you
2 must find him guilty. Remember, he walked in an
3 innocent man. But you determine whether or not he
4 walks out of here as one. Thank you.

5 MS. LITTLEJOHN: Y'all heard what Mr.
6 Stegall told you. And it's not going to be a
7 complicated trial, it's really not. There are a
8 couple of options that you are going to hear. Was
9 there an attempt to kill, and was there an intent
10 to kill. And attempted murder, the judge will
11 instruct you on this, is different from a lot of
12 things. You must have a specific intent to
13 actually want someone dead. You got to form that
14 intent to want them dead. We are not talking about
15 I want to kill you because you didn't take out the
16 trash for me or something like that. Okay? We are
17 talking about you have to have that specific intent
18 to want them dead.

19 We think what you are going to find is
20 the State is not going to be able to form and
21 present to you the attempt and the intent.

22 One of the things that, I don't know if
23 y'all noticed this, some of you may have, some of
24 you may not have, some of you may have been keeping
25 your heads down going please don't notice me when

1 you were out there. But when we were selecting the
2 jury we kept writing notes down. We were writing
3 notes down about each one of y'all. Because one of
4 the things that we like to have on our jury are
5 people who we believe are going to be paying the
6 most attention. I know you didn't wake up this
7 morning going oh, wow, I want to go to jury duty.
8 That's going to be the thrill of a lifetime, okay?
9 Nobody does. But each of y'all and how you
10 responded, we wanted each one of y'all, each one of
11 y'all gave us a reason to think that you would
12 listen to each detail. Each detail in this whole
13 case is so important. Every single one of these
14 details.

15 Mr. Stegall is correct about another
16 thing. Billy Shumpert came in here an innocent
17 man. He is cloaked in the robe of innocence.
18 That's what is really great about this country we
19 live in. See that flag there? I have the
20 privilege of seeing that every time I walk in this
21 courtroom. The privilege of seeing it on my house.
22 It means a lot to me. It really does. I don't
23 know about y'all, but I have had family in the
24 military. People who fought for our country and
25 freedoms. That's what this is about. We don't

1 want the government to charge somebody with
2 something, I don't know, just because the
3 government charges you there it is and there it
4 should be? We are not that kind of country.
5 That's what we fight against. That's what our men
6 and women in service do. Our men and women at the
7 academies, that's what they fight against.

8 You are going to hear at the end that
9 it must be beyond a reasonable doubt and you hear
10 that on TV all the time. You hear it on TV. But
11 what do we mean beyond a reasonable doubt? The
12 judge is going to talk to you about that. It can't
13 be oh, maybe he did it. Oh, perhaps he did it.
14 Oh, possibly he's guilty. Oh, I think I have a
15 strong belief he's guilty. No, it has to be beyond
16 a reasonable doubt. One of the options you will
17 not have an option of taking on the verdict form,
18 guilty or not guilty, those are the only two
19 options. Period. That's it. We know Mr. Shumpert
20 is innocent. Everyone will tell you he's cloaked
21 in the robe of innocence. You cannot come back
22 with a verdict of innocent. The law doesn't allow
23 that. It flat out doesn't allow it. Think how
24 awful that could be like proving the negative.
25 You're asleep in your house. No alibi. Somebody

1 says you do something. That's proving the
2 negative. So the law doesn't allow you to say
3 someone is innocent. So it's big difference
4 between innocent and not guilty. I submit to you
5 Mr. Shumpert is innocent of attempted murder which
6 is the charge the police officers charged him with,
7 the charge the police officers said was proper. It
8 is the charge, solid piece of paper the judge was
9 reading off of. He told you it was the indictment
10 that the solicitor's office elected to send to the
11 grand jury. That's what the government sent to the
12 grand jury. Was attempted murder. We want you to
13 hold them to that burden of that attempted murder.
14 That's what they chose.

15 In the end I think that you will find
16 that the State will not be able to prove attempted
17 murder, but I'm going to ask you, each and every
18 one of you, to listen very carefully to what the
19 witnesses say as well as what they don't tell you
20 as well. Thank you.

21 THE COURT: Call your first witness.

22 MR. STEGALL: The State calls Theresa
23 Barnett.

24 THERESA BARNETT

25 having been duly sworn, testifies as follows:

1 THE CLERK: State your full name and
2 spell your last name, please.

3 THE WITNESS: Theresa Barnett,
4 B-A-R-N-E-T-T.

5 DIRECT EXAMINATION

6 BY MR. STEGALL:

7 Q. Ms. Barnett, how are you today?

8 A. I'm good. How are you?

9 Q. Doing well. Where are you currently
10 employed?

11 A. Berkeley County 911.

12 Q. How long have you been with Berkeley
13 County 911?

14 A. Almost 30 years.

15 Q. What is your job title there?

16 A. Operations supervisor.

17 Q. Okay. Can you go over your duties and
18 responsibilities?

19 A. I oversee the 911 center and FOIA's.

20 Q. How long have you been in that
21 supervisory role?

22 A. Seven years.

23 Q. Any sort of training goes along with
24 that?

25 A. I am sorry?

1 Q. Any sort of training, on-the-job
2 training that you can discuss that goes along with
3 that, being a supervisor?

4 A. As far as fulfilling the FOIA's or
5 whatever, the calls come in, they are recorded on
6 the recording system, then we fill FOIA's as they
7 come in.

8 Q. Did you take a call on November 26th,
9 2015, related to the case?

10 A. I didn't actually take it, no, sir.

11 Q. Do you know who took that call?

12 A. Yes.

13 Q. Who was that?

14 A. Becky Woodruff.

15 Q. And where she is today?

16 A. She is no longer employed with us.

17 Q. I'm going to -- may I approach, Your
18 Honor?

19 THE COURT: Yes, you may.

20 BY MR. STEGALL:

21 Q. Tell the jury what that is.

22 A. It's a CD with the 911 telephone
23 transmissions and radio transmissions.

24 Q. Have you reviewed it?

25 A. Yes, sir.

1 Q. Is it a fair and accurate
2 representation of the call that went out that
3 night?

4 A. Yes, sir.

5 Q. Now, was this recording made at or near
6 the time of the incident?

7 A. Yes, sir.

8 Q. Okay. Are those kept in the regular
9 course of business at the 911 call center?

10 A. Yes.

11 Q. Okay. Is it a regular practice to keep
12 911 tapes on file?

13 A. Our retention is 60 days.

14 MR. STEGALL: Okay. Your Honor, at
15 this time we move to admit what's been previously
16 marked as State's Exhibit 3 into evidence.

17 MS. SHIVERS: No objection, Your Honor.

18 THE COURT: In without objection.

19 (STATE'S EXH. 3 in evidence.)

20 MR. STEGALL: Permission to publish.

21 THE COURT: Yes.

22 (Thereupon the 911 call was played.)

23 MR. STEGALL: No further questions,
24 Your Honor.

25 MS. SHIVERS: We have no questions for

1 this witness.

2 THE COURT: You can step down and be
3 excused. We appreciate your time. Thank you.

4 Next witness.

5 MR. STEGALL: State calls Faye Boone.

6 FAYE BOONE

7 having been duly sworn, testifies as follows:

8 THE CLERK: Please state your full name
9 and spell your last name for the record.

10 THE WITNESS: My name is Foyde
11 F-O-Y-D-E, Faye Boone, B-O-O-N-E.

12 DIRECT EXAMINATION

13 BY MR. STEGALL:

14 Q. Thank you, Ms. Boone. Where do you
15 currently live?

16 A. Right now I am living with my daughter.

17 Q. Okay. Do you know the address?

18 A. All I know is the house is 
19 Paramount.

20 Q. Okay. Do you remember where you lived
21 in November of 2015?

22 A. Yes, sir.

23 Q. Where was that?

24 A. That was at Berkeley housing. I lived
25 at 249 Gullledge Street.

1 Q. Do you remember the apartment number?

2 A. Yes, sir, apartment [REDACTED].

3 Q. Was anyone else living with you during
4 that time?

5 A. Yes, sir. Billy was. We all called
6 him Billy.

7 Q. Who was Billy?

8 A. Shumpert.

9 Q. Do you see him in the courtroom today?

10 A. Yes, sir.

11 Q. Where is he at?

12 A. Sitting over there between the two
13 ladies.

14 Q. How long had he been living with you?

15 A. They lived next door to me in another
16 apartment, him and his mother. I have been knowing
17 him for quite a while and his momma passed away.
18 She was my best friend and Billy stayed with a
19 couple people before he come to me. And he come to
20 me. I told him he could stay there with me if he
21 wanted to as long as there's no drug and no liquor.

22 Q. So you took him in?

23 A. Yes, sir, I did.

24 Q. Did you charge him any rent?

25 A. No, sir, he just bought some groceries

1 for us.

2 Q. Okay. Where did he sleep?

3 A. He slept on the couch.

4 Q. Okay. Let's back up. How big is your
5 place?

6 A. One bedroom.

7 Q. One bedroom. Where would you sleep?

8 A. In my bedroom.

9 Q. What all did you have in your bedroom
10 as far as --

11 A. I had my TV and I had sewing machine, a
12 cedar chest beside the bed, and I had a chest
13 drawer.

14 Q. Any items to help you get around?

15 A. Yes, sir. I got a walker and a, you
16 know, a walker to walk around with.

17 Q. Okay. Anybody come visit?

18 A. Yes, sir. My children every once in a
19 while.

20 Q. What are their names?

21 A. Start from the oldest?

22 Q. Sounds good.

23 A. Cheryl Ann, David, Clemmon, Tammy,
24 Dutch and Lela. I got three and three, six
25 children.

1 Q. Would any friends come by?

2 A. And Karen.

3 Q. Who is Karen?

4 A. The lady back there with me.

5 Q. What's Karen's last name?

6 A. I don't remember. I never did use it.

7 Q. Who was she?

8 A. She was a neighbor of mine, but she
9 kind of liked adopted me as a momma.

10 Q. What would she do?

11 A. She would come over and see what I was
12 up to, if I wanted her to do anything for me.

13 Q. Okay. About how often was that?

14 A. Me and Karen pretty close. We still
15 are. But she would come just about every day to
16 make sure I was okay.

17 Q. Now, I want to go back to the night
18 that we are here for today.

19 A. Thanksgiving night?

20 Q. Yes, ma'am?

21 A. Last year.

22 Q. Well --

23 A. A year ago.

24 Q. Would it have been November 2015?

25 A. My son called me and asked me would I

1 come and eat dinner with him. I said son, you have
2 to come and get me. He said okay, momma. I will
3 come and get you.

4 Q. Now, when was that? What day was that
5 on?

6 A. That was on Wednesday.

7 Q. Okay.

8 A. On a Wednesday he picked me up, him and
9 his wife picked me up Wednesday night and I went
10 and spent the night with them. I told Billy, I
11 said Billy, don't have nobody in my house while I'm
12 gone.

13 So I spent the night with them and then
14 I ate. After dinner I asked my son was he going to
15 bring me back home. He said no, momma, not until
16 Monday. I said I'm going home tonight which was
17 Thanksgiving night. And he says -- my baby boy, I
18 went to him. I said you got to go right by my
19 house to go home I says so take me home. He said
20 momma, I'm ain't going out of my way. I said I
21 don't care if you are or not. You going to take me
22 home.

23 Anyway he took me home and he brought
24 some food in we had brought back from the dinner.
25 And actually I brought it back so Billy had some

1 dinner and Billy was laying on the couch.

2 Q. Back up. About what time of day was
3 that?

4 A. Just before dark.

5 Q. Okay.

6 A. Just a little bit before dark.

7 Q. What kind of food?

8 A. I brought ham, dressing, macaroni and
9 cheese, turkey, rice and gravy. I had two big old
10 plates full.

11 Q. Now, when you got home was he there?

12 A. Yes, sir, he was. He was laying on the
13 couch.

14 Q. Okay.

15 A. And I walked in and there was about
16 four or five liquor bottles on the floor. Jack
17 Daniels. And I asked him, I said Billy, what is
18 this? What are you doing?

19 Q. Were they there when you left on
20 Wednesday?

21 A. Billy was, yeah.

22 Q. Were the bottles?

23 A. No, huh-uh. He wouldn't bring nothing
24 in the house if I was home. As far as I know. And
25 anyway, I said look at this, Billy. I told you no

1 drinking in the house. No drugs in my house. And
2 he laid there. He said you lied. I said what did
3 I lie about? This is my house. I can go and come
4 as I please.

5 Anyway, my son put the food up. He
6 said momma, there is bottles of liquor --

7 MS. LITTLEJOHN: Objection, Your Honor,
8 hearsay.

9 THE COURT: Don't go into what your son
10 said. He has to testify.

11 THE WITNESS: Leave that out?

12 THE COURT: Yes, ma'am.

13 THE WITNESS: Anyway there was a bottle
14 of liquor in the refrigerator. Anyway he left so
15 me and Karen went in my bedroom and we was
16 watching --

17 BY MR. STEGALL:

18 Q. Let me back up. When did Karen get
19 there?

20 A. Karen come up because one of our
21 neighbors was sick and she come over there to me to
22 let me know about it.

23 Q. Okay.

24 A. Right after we pulled up in the yard.

25 Q. So continue. What did you and Karen do

1 next?

2 A. Oh, we went in my bedroom. I said
3 let's go in my bedroom. We will watch TV and she
4 said okay, momma. So we sit there for a little
5 while and not much later. And a little bit later I
6 told Karen, I said Karen, why don't you go in there
7 and fix me and you a snack out of some of that
8 stuff. I said Billy would never eat it all. And
9 she said okay, momma. So she went in there and got
10 the plate, paper plate and fixed me and hers
11 sandwiches and brought it into the bedroom. And we
12 was sitting there and we was eating.

13 When she was coming back to put it up
14 Billy jumped up and hollered you lied, you lied,
15 you lied. I said Billy, what did I lie about? He
16 never did tell me. And he knocked the plate out of
17 Karen's hand.

18 Q. Okay.

19 A. So Karen come back in the bedroom where
20 I was at and Billy come in behind her and grabbed
21 her. But first he shoved her up against the wall
22 which I had a double door closet that opened like
23 this. He shoved her up against there first and
24 started cussing at her. I said Billy, why don't
25 you go back to sleep and leave her alone. Because

1 I never had no trouble with him, you know, but
2 anyway --

3 Q. Did this surprise you, his behavior?

4 A. It sure did, about knocked me out. I
5 said Billy, leave her alone. And then he got her
6 down in between my cheshire and my bed like that in
7 between. Which weren't much wider than this space
8 here down there and started biting her. She
9 started hollering. I said Billy, leave her alone.
10 If you don't I'm going to call the law. I'm going
11 to have you locked up. Didn't phase him none. So
12 I picked up the phone. I dialed 911 and you know
13 what it said on 911.

14 Q. Was that you on the 911 call?

15 A. Yes, sir, it was.

16 Q. Okay. All right. You called 911.

17 What --

18 A. He let her up. He got up. He walked
19 down my hallway out the front to his truck. He got
20 the bullets, and he got the gun which I didn't know
21 that's why he went for. He come back in and Karen
22 was kind of in between the hallway and my bedroom.
23 And he stuck the gun to her stomach like that and
24 kept pulling the trigger. I said Billy, have you
25 lost your mind, son? You want to go to jail?

1 Q. Did he say anything?

2 A. He said he didn't care. He said I'm
3 going to kill her. I'm going to kill her. I said
4 Billy no. And that's when the operator came on. I
5 told her, I said he's got a gun. He is trying to
6 kill us. Well, I told him, I said, don't you point
7 that gun at me and he did. Right there.

8 Q. Where were you?

9 A. Sitting on my bed at the time and he
10 pulled the trigger three times. I said Billy, put
11 the gun down. But then Karen made her way out and
12 opened the door for the cops to come in. And then
13 he told one of the officers, he said hey, brother,
14 let me tell you something. Let me tell you
15 something. The officer said I'm sorry, but I'm not
16 your brother. And they told me to stay on the bed
17 until they got him handcuffed and everything and
18 put in the car.

19 Q. Where were you on your bed?

20 A. Well, my bed is -- was like here and I
21 sleep kind of catty-corner on the bed and I was
22 sitting kind of in the middle of the bed. I
23 weren't leaning up against nothing.

24 Q. Are there any windows in your room?

25 A. Two. Um-hmm, I had one on the front

1 here and one on the side over here.

2 Q. Okay. Did Billy say anything to you
3 when he pointed the gun at you?

4 A. Yes, sir, he said I'll kill you.
5 That's what he said.

6 Q. What was going through your head?

7 A. Just like that, right between my eyes.

8 Q. What was going through your head?

9 A. I thought for a minute that there
10 weren't no bullets in it. Because he had pulled it
11 on Karen, you know. I said to myself, he's trying
12 to scare us. Really what scared us was when the
13 officer come he finally dropped the gun in my
14 bedroom on the floor right in front of my door.
15 And the officer asked me where was the gun. I said
16 right there on the floor. Beside my bed.

17 Karen started to pick it up in the
18 front and I told her don't touch it. Because it's
19 his handprint on the gun and he can say that you
20 brought the gun in. But you didn't. And he went.
21 He got him and I told the officer, I said officer,
22 I don't even know if the gun is loaded or not. And
23 he went outside and he come back in. He said Ms.
24 Boone --

25 MS. LITTLEJOHN: Your Honor --

1 THE COURT: Same objection. You can't
2 testify what he said. He will have to testify.

3 THE WITNESS: I don't.

4 THE COURT: That's right.

5 THE WITNESS: Thank you. Anyway, he
6 brought the thing back in.

7 BY MR. STEGALL:

8 Q. Were you able to see whether or not
9 there were bullets in the gun?

10 A. No, sir. They was out in his hand.

11 Q. In whose hand?

12 A. He just told me I couldn't testify to
13 that, in the officer hand.

14 Q. You saw bullets in the officer's hand?

15 THE COURT: Answer yes or no, please.

16 A. Yes, sir.

17 Q. Did you provide a statement to law
18 enforcement?

19 A. Yes, sir, I did.

20 Q. Did you tell them two years ago what
21 you told this court today?

22 A. Yes, sir, I did.

23 MR. STEGALL: Court's indulgence, Your
24 Honor.

25 (Off-the-record conference.)

1 MR. STEGALL: No further questions.

2 THE COURT: Cross.

3 CROSS-EXAMINATION

4 BY MS. LITTLEJOHN:

5 Q. Hey, Ms. Boone. I'm Debbie Littlejohn.
6 We have never met before today, have we?

7 A. Yes, ma'am.

8 Q. We have?

9 A. Yes, ma'am.

10 Q. Oh, okay. Well, I'm getting older
11 because I don't remember. I apologize. You met
12 with our investigator. But you called William
13 Shumpert Billy. That's what we have all known him
14 as?

15 A. That's what everybody called him.

16 Q. You have known him a long time, pretty
17 good time?

18 A. I knew his daddy longer.

19 Q. You knew what?

20 A. His father.

21 Q. You knew his father. And his mother I
22 think was your best friend, wasn't she?

23 A. Yes, ma'am, she was and she was a good
24 one.

25 Q. And I think Billy said you were sort of

1 like a mother to him after that because it tore him
2 all up when his mother passed, is that about right?
3 Sums it up?

4 A. Yes, ma'am.

5 Q. And you know his father Guy Tindel?

6 A. Yes, ma'am, I do.

7 Q. Okay. So you're aware that just four
8 or five months before this he did the same thing to
9 his father?

10 MR. STEGALL: Objection, Your Honor.

11 THE COURT: Let me hear the question.

12 BY MS. LITTLEJOHN:

13 Q. That you were aware he did the same
14 thing to his father, pulled a gun on his father and
15 tried to scare him?

16 A. I heard that, but that's hearsay.

17 THE COURT: You object?

18 MR. STEGALL: Yes, sir, Your Honor.

19 THE COURT: I will sustain the
20 objection. She wasn't present and she doesn't have
21 any independent knowledge. Just disregard any
22 testimony about that.

23 BY MS. LITTLEJOHN:

24 Q. Just briefly, Karen -- you said you
25 didn't know her last name, correct?

1 A. No, ma'am. I don't remember it.

2 Q. So she is not really your biological
3 daughter, right?

4 A. No, ma'am, she is not, but she is just
5 as close.

6 Q. That's the others that you would name
7 off, correct?

8 A. The ones I named off is my personal
9 children.

10 Q. Let's talk about where you lived at the
11 time, okay?

12 A. Okay.

13 Q. Where you lived was sort of a square,
14 look at it sort of as a square, you lived -- there
15 were four apartments, correct?

16 A. Two on the front, two on the back, yes,
17 ma'am.

18 Q. And so if you think about a square like
19 this, that puts you living down on the bottom left
20 side, correct? So you had a neighbor?

21 A. No, I live on the right side. It was a
22 square like this. Behind me was two apartments. I
23 was here and a friend of mine lived next door to
24 me.

25 Q. Ms. Evans, Levonia Evans?

1 A.. I recognize her name. We called her
2 Kay, Ms. Kay.

3 Q. Right. Okay. And as a matter of fact,
4 I actually went over there and saw the places and
5 they are pretty small, aren't they?

6 A. Yes, ma'am.

7 Q. And correct me if I'm wrong, but when I
8 was over there I thought I heard a neighbor's dog
9 bark. You can actually kind of hear through the
10 walls there, can't you, it's so small, right?

11 A. Yes, ma'am.

12 Q. They are so close together, they are
13 all stuck, all four of them are all together,
14 right?

15 A. Um-hmm, one and two, one and two.

16 Q. Right.

17 A. I was [REDACTED]. She was [REDACTED] 2. 1

18 Q. I think you and Ms. Kay actually shared
19 a porch together, didn't you?

20 A. No. She had her porch and I had mine.
21 Because they had a divider in between them.

22 Q. Had a little rail in between y'all?

23 A. Right.

24 Q. Where y'all could both sit out on your
25 front porch and talk to each other?

1 A. Oh, sure.

2 Q. And Ms. Clarkson even knows who Ms.
3 Evans is, Kay Evans, right?

4 THE COURT: Wait a minute. You got to
5 answer.

6 Q. She said sure.

7 A. Yes.

8 THE COURT: I didn't hear her. I am
9 sorry. I apologize.

10 BY MS. LITTLEJOHN:

11 Q. And on this particular night none of
12 the neighbors came out, did they, that you were
13 aware of?

14 A. No, ma'am, not that I'm aware of.

15 Q. Now, let me take you back to 2011. You
16 were living in your apartment and Billy's mother,
17 Amy, that's her name. I believe she was still
18 living? Do you remember that?

19 A. Yeah.

20 Q. Okay. And she lived in one of those
21 blocks of four with you, didn't she?

22 A. Well, her apartment -- my apartment was
23 here and her apartment was right next to me.

24 Q. Right. And do you remember that you
25 had to leave your apartment one night because Billy

1 had locked himself in the bathroom threatening
2 suicide, the police had you leave?

3 A. Yes, ma'am, I remember.

4 Q. Do you remember that? And everybody
5 was real close together out there, right?

6 A. Yes, ma'am.

7 Q. And he was threatening, everybody heard
8 what was going on?

9 A. Yes, ma'am.

10 Q. Kind of couldn't help but hear, right?

11 A. That's right.

12 Q. And so you heard he was threatening to
13 kill himself with his gun?

14 A. Yes, ma'am.

15 Q. Do you remember hearing his brother say
16 that the gun would not fire?

17 A. No, ma'am.

18 Q. Okay.

19 THE COURT: Same objection?

20 MR. STEGALL: Yes, sir, Your Honor.

21 THE COURT: I sustain the objection.

22 What the brother said, that's hearsay. She can't
23 testify as to what other people said.

24 BY MS. LITTLEJOHN:

25 Q. You said that -- what you testified

1 here today, you placed all of it in your report,
2 your statement to the police, correct?

3 A. Yes, ma'am, I told them exactly what
4 happened just like I told you.

5 Q. In your report you don't say anything
6 about liquor, did you?

7 A. Yes, I did, yes, ma'am. I told the
8 officer that came out that there was liquor bottles
9 all over my floor and we picked them up and put
10 them in the trash.

11 Q. Your Honor, permission to approach Ms.
12 Boone. I will show you. It is called voluntary
13 statement and the date on it is 11-26-2015. Do you
14 recognize that as your statement that night? That
15 is your signature? (Handing.)

16 MR. DENNIS: Your Honor, may the State
17 see that statement just to make sure it's the same
18 one that we have?

19 THE WITNESS: Yes, that's my signature.
20 Right here. But not here.

21 MS. LITTLEJOHN: Right, that's a
22 witness signature I believe. (Handing.)

23 BY MS. LITTLEJOHN:

24 Q. Ms. Boone, let me just let you hold
25 this for a minute, okay? On this you signed it

1 saying that you place your initials there and you
2 affirm that all facts and statements contained
3 herein are true and accurate?

4 A. Um-hmm.

5 Q. Doesn't it say, "Tonight my daughter
6 was over visiting me at my house."

7 A. Exactly.

8 Q. "William Shumpert has been staying with
9 me since his mother passed away."

10 A. Pretty close to it.

11 Q. That's what you said in there that you
12 have?

13 A. Yes.

14 Q. "While my daughter was here William was
15 passed out on the couch drunk." That's your
16 belief? No one gave him a blood test or anything
17 that you know of?

18 A. He was drunk. I was married to a
19 drunk. I know a drunk when I see it.

20 Q. "All of a sudden William came in the
21 bedroom with a handgun and kept pulling the trigger
22 while it was pointed at my daughter's head."
23 That's what your next statement said, right?

24 A. Um-hmm.

25 Q. "William said he was quote doing the

1 Lord's work."

2 A. Exactly, that's what he said.

3 Q. That's what you wrote down there.

4 "William then pushed my daughter on the floor and
5 was punching her in the face." Isn't that what you
6 wrote down next?

7 "I called 911 for help." You put that
8 down in your statement, right?

9 A. Yes.

10 Q. "William then started biting my
11 daughter's arms and hands biting and then stood up
12 and pointed the gun at my daughter's head and
13 started pulling the trigger again. William then
14 pointed the gun at my head and pulled the trigger
15 twice before police arrived."

16 A. It was three times. It wasn't twice.

17 Q. Well, on here it says twice though,
18 right, but could have been three, right?

19 A. It was three.

20 Q. Okay. And you know the trigger was
21 firing, you know the gun fired because you could
22 hear that click, click, click?

23 A. Yes, ma'am.

24 Q. In here you said he kept pulling it at
25 Karen, correct?

1 A. Yes, ma'am.

2 Q. So wouldn't you guess maybe five or six
3 or seven times at Karen, click, click, once she was
4 down and once up?

5 A. I didn't count them all.

6 Q. Pretty good many?

7 A. It was a good I know at least five or
8 six times at her.

9 Q. That's just the click, clicks that you
10 heard, right?

11 A. Right.

12 Q. Okay. You called 911 and you told them
13 Billy was pulling the trigger a lot of times I
14 believe is what you said or kept pulling it,
15 something to that effect?

16 A. Billy was trying to kill us is what I
17 told the operator on the phone at that time.

18 Q. You didn't have to open your eyes, your
19 eyes if they were closed, you wouldn't have had to
20 open it, you would know the click, click of the
21 gun, right, pulling?

22 A. Sure.

23 Q. Pretty scary, right?

24 A. I have been around guns all my life.

25 Q. You been around guns all your life?

1 A. Um-hmm. I don't own none, but I have
2 been around them.

3 Q. That was pretty scary, wasn't it?

4 A. Sure was.

5 Q. I think that's actually what you said
6 even, it was pretty scary? And you said that it
7 scared you, didn't you?

8 A. Yes, ma'am.

9 Q. And nowhere in your police report did
10 you say anything about going to a truck, did you?

11 A. Oh, yes, ma'am, I told them everything
12 I told you. Everything I told you is the truth so
13 help me God.

14 Q. But that's not in your police report,
15 though, is it?

16 A. Well, if they didn't put it in it's not
17 my fault. I told them.

18 Q. So the police officer would have messed
19 up if he didn't put that in there?

20 A. That's his fault.

21 Q. That's his fault? Okay. Fair enough.
22 You don't know, I mean you didn't walk out the
23 truck behind him, did you?

24 A. No, ma'am, I did not.

25 Q. And Karen didn't run and lock the door

1 behind him, did she?

2 A. No, ma'am. We didn't know he went to
3 the truck until he went out there and got the gun
4 and come back in.

5 Q. But y'all knew he went outside?

6 A. No. The door was open.

7 Q. The door to the outside was open?

8 A. Both doors.

9 Q. To your bedroom and going outside were
10 both open, correct?

11 A. When I said both doors, I mean my
12 screen door was open and the front door was open.

13 Q. Right. So she could have closed that
14 door when he went out?

15 A. She was in the bedroom with me at the
16 time.

17 Q. And --

18 A. She went and opened the door whenever
19 the police got there.

20 Q. She was probably scared too, right?

21 A. They tapped on my bedroom window and I
22 told them to do like this, to go to the door.

23 Q. As you said, you thought he was trying
24 to -- you just told us you thought he was trying to
25 scare us, right?

1 A. No, I said he was trying to kill us and
2 that's what I told the dispatcher when they called
3 and he was trying to kill us.

4 Q. So that is on there? Okay. You don't
5 know why he would want to do that, do you?

6 A. No, ma'am, I don't because I was good
7 to Billy.

8 Q. Y'all were kind of like a mother and
9 son kind of thing, weren't you?

10 A. Yes, ma'am, until that night.

11 Q. I mean you even knew about all his
12 health problems, didn't you?

13 A. Huh?

14 Q. Like you knew about I think he said
15 something about his heart attack in the 911 tape,
16 you knew about that, right?

17 A. Who had a heart attack?

18 Q. Billy. I think you were hearing that
19 in the background?

20 A. Huh-uh.

21 Q. He didn't take that gun -- let me -- in
22 your kitchen you have knives, don't you?

23 A. Sure.

24 Q. And most people either have one of
25 those blocks that have the knives sticking in them?

1 A. No, ma'am, I had the drawer.

2 Q. Or we have a drawer that has knives in
3 them?

4 A. I got a drawer.

5 Q. That's what I do. Billy didn't go get
6 a knife, did he?

7 A. No, ma'am, he didn't.

8 Q. And he didn't beat y'all with a
9 crowbar, did he?

10 A. No, ma'am. What you getting at?

11 Q. I am just asking some questions. On
12 the 911 tape we just now listened to it, you were
13 in here? Sounded like Billy and Karen were
14 struggling.

15 A. Um-hmm. She was trying to get away
16 from him.

17 Q. They were tussling I guess lack of a
18 better word?

19 A. She was trying to get away from him.

20 Q. I think he said get off me, I guess she
21 was probably sitting on him?

22 A. No, he was on her.

23 Q. And then she -- they were tussling, she
24 got -- they were just back and forth?

25 A. She never did get up on top. He

1 wouldn't let her. He keep biting her.

2 Q. You called 911 --

3 A. She had bruises up here on her arms
4 which the cop took pictures of it.

5 Q. You called 911 because you were scared
6 that night, right?

7 A. Can I ask you a question?

8 THE COURT: No. You have to answer.
9 Were you scared that night?

10 THE WITNESS: Yeah, I was. That's when
11 I called them.

12 BY MS. LITTLEJOHN:

13 Q. That's what I was going to say.
14 Because Billy's behavior was kind of twisted,
15 right?

16 A. Twisted wasn't the word for it.

17 Q. Right.

18 A. That's being nice. And I'm not in no
19 nice mood.

20 Q. And in the written statement here that
21 you wrote you signed, nowhere in it did you say
22 that he said he was going to kill you? That's not
23 written in this written statement of yours, is it?

24 A. Like I said, if they didn't put it in
25 there, that's not my fault. Between me and God, me

1 and my God, he knows what went on and as long as he
2 knows it, I ain't worried about it.

3 Q. If you can answer the question. You
4 didn't put that in your written statement, did you?

5 A. I just told you.

6 Q. So it is not in here, correct?

7 A. I told him about it.

8 MR. STEGALL: Your Honor, asked and
9 answered. I object.

10 Q. When the gun wouldn't fire, he didn't
11 go get a knife. Did he go get a rope?

12 A. No, ma'am.

13 Q. Did he go get a hammer?

14 MR. STEGALL: Your Honor, I'm going to
15 object.

16 THE COURT: It is cross. I will allow
17 it.

18 THE WITNESS: No.

19 BY MS. LITTLEJOHN:

20 Q. Did he try to put a plastic bag over
21 your head?

22 A. Are you trying to be serious? Or are
23 you going to ask me the questions that you need to
24 ask me?

25 Q. I am very serious.

1 A. I don't know why because you know good
2 and well he didn't.

3 Q. That's right. And he didn't even beat
4 you with that inoperable gun, did he?

5 A. He didn't hit me ne'er a time, but he
6 did put the gun to my head and pull the trigger.
7 I'm not up here to lie on Billy. Because Billy was
8 precious to me and I wouldn't hurt him in no way,
9 shape or form. And I didn't think he would me, but
10 when he done that that ended. I can't forgive him,
11 I hope God forgives him.

12 Q. Ms. Boone, there's a lot of things that
13 you said today that weren't in your statement,
14 correct?

15 A. Yeah.

16 Q. Okay. And if we listen carefully we
17 ought to be able to hear on that 911 tape or in the
18 background, right?

19 A. Hear what?

20 Q. Hear the commotion between Billy and
21 Karen?

22 A. Yeah. He had her on the floor.

23 Q. Right, when we listen real carefully
24 there.

25 A. She kept asking Billy to let her up.

1 He wouldn't do it.

2 Q. Ms. Boone, you can't testify to what
3 somebody else said, okay? It's kind of one of the
4 rules. Court's indulgence.

5 (Off-the-record conference.)

6 BY MS. LITTLEJOHN:

7 Q. Ms. Boone, I don't remember hearing on
8 that 911 tape where you said he is trying to kill
9 us.

10 A. I did say it.

11 Q. What I would like to do --

12 A. Is replay the tape?

13 Q. Replay that tape.

14 A. Be my guest.

15 Q. Where it says he is trying to kill us
16 if you will just say stop, that will be great. Can
17 we do that?

18 A. I don't care.

19 Q. Okay.

20 A. I got nothing to lose.

21 THE CLERK: Did you need some water?

22 THE WITNESS: Huh-uh, not right now.

23 MR. STEGALL: Your Honor, can we take a
24 -- the lightening might have knocked something out.

25 THE COURT: We will take a short break

1 while we get that queued up. Probably getting
2 close to a break. We will take about a 10 or
3 15-minute break.

4 (Thereupon, the jury exited the
5 courtroom at 3:08 p.m.)

6 THE COURT: Ms. Boone, you can walk
7 around if you wish.

8 THE WITNESS: Okay. Thank you very
9 much.

10 (A recess transpired.)

11 THE COURT: Have you resolved the
12 lightening issue?

13 MR. STEGALL: We have, Your Honor. We
14 believe we have.

15 THE COURT: Bring in the jury.

16 (Whereupon the jury entered the
17 courtroom at 3:25 p.m.)

18 THE COURT: Please be seated. Members
19 of the jury, from time to time I will just remind
20 you of things that I mentioned earlier. So I'm
21 going to remind you not to -- I'm not, I know you
22 haven't, discussed the case among yourselves. I am
23 just reminding you of that.

24 But also while you are in the courtroom
25 don't make any kind of under your breath comments

1 or any kind of gestures that indicate your
2 thoughts. You are not supposed to have thoughts on
3 the facts yet as I told you. Just refrain from any
4 gestures or comments in the courtroom. Thank you.
5 We are going to listen to the tape now.

6 (Thereupon, the 911 tape was played.)

7 BY MS. LITTLEJOHN:

8 Q. I didn't hear it say he is trying to
9 kill us, did you?

10 A. Yes, I did. Yes, ma'am, I sure did.

11 Q. Because you would have stopped and let
12 know us when you said that. You didn't let us
13 know, did you?

14 A. Was I supposed to?

15 Q. Yes, ma'am.

16 A. I told the dispatcher that he had a gun
17 and he is trying to kill me and Karen, both of us.
18 Now, I ain't going to say nothing bad about it.
19 But I tell the truth. That's one thing I was
20 learned to do is tell the truth --

21 Q. Ms. Boone --

22 A. -- about things.

23 Q. You said earlier that you and I had met
24 before?

25 A. Yes, ma'am.

1 Q. And you actually talked to the folks at
2 the government about this case, haven't you?

3 A. No, ma'am.

4 Q. You had never talked to any of these
5 people here?

6 A. Oh, yeah, I have talked to him.

7 Q. Right.

8 A. Yes.

9 Q. You talked to the folks from the
10 government about this case, haven't you?

11 A. Yeah.

12 Q. About how many times you figure you
13 have talked to the government folks about it?

14 A. I got to think on that now. I think
15 twice.

16 Q. Twice?

17 A. About twice is all.

18 Q. Okay.

19 A. And they didn't tell me to say nothing.

20 Q. Okay.

21 A. Which --

22 Q. Do you recall any time you and I met?
23 Do you know when you and I met?

24 A. Yes, ma'am.

25 Q. Where did we meet?

1 A. We met down there in the office, in the
2 office. You come in when we was there to see the
3 solicitor.

4 Q. You and I did?

5 A. You did. Not me, you.

6 Q. Do you remember February 5th, 2016, you
7 met with our investigator Ms. Christy Page, the
8 skinny blond over here. She had long blond hair.
9 Do you remember that she came to your house?

10 A. Yeah.

11 Q. Okay. And y'all talked and she was
12 asking about what happened? She was basically
13 asking you to tell her what happened, right?

14 A. Yes, ma'am.

15 Q. And at no point did you tell her that
16 he said I'm going to kill you, do you? You never
17 used those words with her, do you?

18 A. She wasn't supposed to be at my house
19 to start with because she is with Billy and not on
20 our side. She didn't need to know all everything
21 that happened to start with.

22 Q. She told you who she was, gave you a
23 business card and asked you what happened, if you
24 wouldn't mind telling her what happened?

25 A. I told her.

1 Q. And at no time did you tell her that he
2 said I want to kill you, did you?

3 A. No, he said I'm going to kill you.

4 Q. At no time --

5 A. Not I want to.

6 Q. At no time --

7 A. I'm going to.

8 Q. -- did you tell our investigator that
9 Billy said I'm going to kill you, did you? As a
10 matter of fact, all you said he said was I'm doing
11 the Lord's work; isn't that what you said?

12 A. That's what he said.

13 Q. And at no time --

14 A. I said Billy, you are not doing the
15 Lord's work. You doing the devil's work.

16 Q. Right. And at no time when you spoke
17 with our investigator do you say to her that he
18 said I'm going to kill you; isn't that correct?
19 You never said that when you spoke to our
20 investigator, did you?

21 A. Well, if a person had a gun to your
22 head wouldn't you think he's going to kill you?

23 Q. I am asking you a question.

24 MR. STEGALL: Objection, Your Honor.

25 THE COURT: I will let you ask it one

1 more time. I think it's been asked and answered.

2 MS. LITTLEJOHN: I asked her to answer
3 that for me, Your Honor.

4 BY MS. LITTLEJOHN:

5 Q. That he never said that to you, did he?

6 A. Yes, he did.

7 Q. You never said that to our
8 investigator, did you?

9 A. I don't remember that.

10 MS. LITTLEJOHN: Court's indulgence.

11 (Off-the-record conference.)

12 MS. LITTLEJOHN: Nothing further on
13 cross, Your Honor.

14 THE COURT: Redirect?

15 MR. STEGALL: Very briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. STEGALL:

18 Q. Ms. Boone, just a couple questions.

19 A. Okay, hon.

20 Q. Do you remember giving this statement
21 to Officer Younginer?

22 THE COURT: Got to answer yes or no.

23 THE WITNESS: Yes, sir.

24 BY MR. STEGALL:

25 Q. Did you write it or did he write it?

1 A. He wrote it.

2 Q. Everything that you told him that night
3 and everything you told me when we met?

4 A. Yes, sir.

5 Q. Is that everything you told us today?

6 MS. LITTLEJOHN: Your Honor, asked and
7 answered previously.

8 THE WITNESS: Yes, sir.

9 THE COURT: Overruled.

10 BY MR. STEGALL:

11 Q. You can answer.

12 A. Yes, sir.

13 MR. STEGALL: Okay. No further
14 questions.

15 THE COURT: Recross?

16 RECROSS-EXAMINATION

17 BY MS. LITTLEJOHN:

18 Q. Ms. Boone?

19 A. Yes, ma'am.

20 Q. Earlier you said it's your signature,
21 correct, on this statement?

22 A. Yeah.

23 Q. You read the statement?

24 A. No, ma'am. Because I can't see it that
25 good.

1 Q. You read it that night, correct? When
2 you swore on the statement you read it, didn't you?

3 A. Huh-uh. He read it to me.

4 Q. So he read it out loud what was
5 written?

6 A. Yes, ma'am.

7 Q. And that was the complete statement of
8 the events that evening, correct?

9 A. The best of my knowledge, yes, ma'am.

10 Q. That one page. Thank you.

11 THE COURT: You can step down and have
12 a seat back in the audience.

13 THE WITNESS: Thank you, sir. Obligated.

14 THE COURT: Call your next witness.

15 MR. DENNIS: Your Honor, the State
16 calls Karen Clarkson.

17 KAREN CLARKSON

18 having been duly sworn, testifies as follows:

19 THE CLERK: Please state your full name
20 and spell your last name for the record.

21 THE WITNESS: My name is Karen
22 Clarkson, C-L-A-R-K-S-O-N.

23 DIRECT EXAMINATION

24 BY MR. DENNIS:

25 Q. Good afternoon, Ms. Clarkson. Where do

1 you currently live?

2 A. In Bonneau.

3 Q. Where did you live during November of
4 2015?

5 A. [REDACTED] Gulledge Street apartments.

6 Q. During that time did you ever have a
7 chance to know Ms. Boone who we just heard from?

8 A. Yes, sir.

9 Q. How do you know her?

10 A. I met her when I moved in there.

11 Q. Where were you living in relationship
12 to where her apartment was? We heard where she was
13 staying.

14 A. Right across the road from her.

15 Q. And through knowing her how -- what was
16 your relationship like?

17 A. Like mother and daughter.

18 Q. What types of things did that mean?

19 A. I took care of her, took her to her
20 doctor's appointments.

21 Q. What would you do to take care of her?

22 A. Help her get her medicine and help her
23 get to her appointments and grocery shopping, get
24 her bills paid.

25 Q. How long have you known Ms. Boone?

1 A. Total of four years now.

2 Q. And was anyone else living with Ms.
3 Boone during November of 2015?

4 A. Yes, sir.

5 Q. Who was that?

6 A. Billy.

7 Q. And is he here in the courtroom?

8 A. Sitting right there.

9 Q. And how long do you think that he had
10 been living with Faye?

11 A. Probably a couple of years.

12 Q. Was he there that night on November
13 the 26th of 2015?

14 A. Yes, sir.

15 Q. So let's go back to that day. What
16 happened -- what were you doing that day during
17 that November 26, 2015?

18 A. I had -- mom had come home. I walked
19 over to help carry her luggage in.

20 Q. When you say mom, who do you mean?

21 A. Ms. Faye.

22 Q. What time was that?

23 A. Probably 5:30 or 6:30.

24 Q. So in the afternoon?

25 A. Yes, in the afternoon.

1 Q. Who was in that apartment when you got
2 there with Faye?

3 A. Billy was.

4 Q. What was he doing?

5 A. He was passed out on the couch.

6 Q. When you say passed out, what did it
7 appear like?

8 A. He didn't move when we come in. He did
9 not answer the door or nothing. He was just
10 laying.

11 Q. What did Ms. Faye's house look like?

12 A. A ransack, had liquor bottles all
13 through it.

14 Q. When you say ransack, what does that
15 look like to you?

16 A. Just trash everywhere and cigarette
17 butts in the ashtrays and liquor bottles all
18 through the apartment.

19 Q. Was it common to have cigarettes in
20 that apartment?

21 A. Yeah.

22 Q. What happened after you helped Ms. Faye
23 bring all of the groceries -- I guess it was dinner
24 into the house?

25 A. We went to her room and sat.

1 Q. What were you doing in the room?

2 A. Trying to stay away from Billy.

3 Q. Why were you trying to stay away from
4 Billy?

5 A. Because he was drunk.

6 Q. What was he doing while y'all were
7 still in that room?

8 A. He was on the couch.

9 Q. Okay. What caused you to come out of
10 that room?

11 A. To fix a plate of food to bring back
12 into the bedroom.

13 Q. Where was that plate of food?

14 A. In the dining room and some in the
15 kitchen.

16 Q. Did you successfully make that plate of
17 food?

18 A. Yeah, I made it, but that's as far as
19 it got.

20 Q. What happened after you heated up that
21 food?

22 A. Billy knocked it out of my hand and
23 then he choked me and threw me up against the wall.

24 Q. Where did this happen?

25 A. In the hall, little hall.

1 Q. Where was Faye during all of this?

2 A. She was sitting on the end of her bed.

3 Q. What did Billy say while he was
4 attacking you basically?

5 A. He just screaming that we were liars,
6 you're liars, you're liars. That's all he said.

7 Q. Any idea what you would have been lying
8 about?

9 A. No.

10 Q. What happened after he started
11 attacking you?

12 A. He threw me up against the wall and
13 momma was screaming and it went from the hall into
14 the bedroom. Momma was -- I am sorry, I am
15 nervous.

16 Q. That's okay. Take your time.

17 A. And just got worse in the bedroom,
18 started punching me and beating me and he threw me
19 into the TV and the glass broke everywhere.

20 Q. What did you do while this was all
21 happening?

22 A. I couldn't do nothing. He was on top
23 of me.

24 Q. What happened? Did he stop attacking
25 you?

1 A. He was beating me down. He beat me
2 into the TV and I fell down. He was on top of me
3 and just punching me. Then he got up and we
4 thought he went to the living room. He walked
5 outside to his truck and got the gun and came back.
6 He pointed the gun to my head and started pulling
7 the trigger. Then I fell back and he put the gun
8 to my stomach and started pulling the trigger
9 again. Then when it didn't go he got mad so he
10 started punching me. He punched me back down on
11 the ground again.

12 Q. Let's go back just a little bit. How
13 did you know Billy in the first place?

14 A. I met him through momma.

15 Q. What type of relationship did y'all
16 have?

17 A. We had a good friendship. We were
18 getting to know each other.

19 Q. Was it at any point more than a
20 friendship?

21 A. I ended up sleeping with Billy one
22 time.

23 Q. When was that in relationship to this
24 November 9th?

25 A. September.

1 Q. So you and Billy had a relationship
2 even before --

3 A. Just friends.

4 Q. -- this. So let's go back to that
5 night and so he once's done hitting you the first
6 time he goes out to the truck. Why do you think he
7 goes out to the truck?

8 A. We heard --

9 MS. SHIVERS: Objection, speculation.

10 THE COURT: I will sustain the
11 objection.

12 BY MR. DENNIS:

13 Q. Did he go out to the truck?

14 MS. SHIVERS: Objection.

15 THE COURT: I will sustain the
16 objection. She doesn't know.

17 BY MR. DENNIS:

18 Q. So when he returned from outside of the
19 apartment what did he have?

20 A. He had the gun.

21 Q. What was he doing with the gun?

22 A. He put it to my stomach and started
23 pulling the trigger. I mean he pulled it, just
24 kept pulling it. It was like click, click, click,
25 click.

1 Q. What did he say while he was pulling
2 the trigger?

3 A. Just calling us liars and then just
4 cussing. He was cussing a lot.

5 Q. What was he saying? What was he saying
6 when he was cussing?

7 A. "F" this, "F" that, damn.

8 Q. When would he say that?

9 A. While he was beating me.

10 Q. What were you thinking the whole time
11 that was happening?

12 A. I thought he was going to kill me.

13 Q. Why did you think that he was going to
14 kill you?

15 A. Because he put the gun to my stomach
16 and started pulling the trigger and he put it to my
17 head and started pulling the trigger. I don't know
18 how the gun didn't go off. I don't know.

19 Q. And when the gun didn't fire what
20 happened after that?

21 A. He beat me.

22 Q. Now, while he was in this bedroom where
23 was Faye?

24 A. Momma was on her bed. She was trying
25 to get him off me and talk to 911 at the same time.

1 Q. When did you finally get away from Mr.
2 Shumpert?

3 A. He beat me down to the ground on the
4 floor and then he just got up and he took the gun
5 and just put it to momma's face and head and
6 clicked it three times. Then he left. He walked
7 out the room and then I believe that's when the cop
8 was at the door.

9 Q. What did he say when he pointed the gun
10 at momma Faye's head?

11 A. Just "F" you and I will F'ing kill you.

12 Q. When did the police arrive?

13 A. After he had me on the ground and he
14 bit me all up my arm and my back and then I finally
15 got away from him and then I think the cop was
16 blocking the window then. I believe that's when
17 they were there.

18 Q. Who let the police into the apartment?

19 A. I did.

20 Q. What happened once you opened that door
21 and the police saw you?

22 A. They just came in and got Billy.

23 Q. What happened when they got ahold of
24 Billy?

25 A. Billy at first he was saying bro, I'm

1 on your side, bro, I'm with y'all, and the cop said
2 I'm not your bro. And then he was just cussing
3 with them and then when they handcuffed him Billy
4 kind of went crazy.

5 Q. What does that mean?

6 A. He started wrestling with the cops.

7 MS. SHIVERS: Objection, Your Honor,
8 relevance.

9 THE COURT: I will overrule the
10 objection.

11 BY MR. DENNIS:

12 Q. Now, once Billy was outside what
13 happened?

14 A. We stayed in the apartment.

15 Q. Why did you stay in the apartment?

16 A. To stay away from him.

17 Q. What did you do while you were in the
18 apartment?

19 A. We talked to the officer.

20 Q. Do you remember the name of the
21 officer?

22 A. I sure don't.

23 Q. Did you give a statement?

24 A. Yes, I did.

25 Q. Did you write the statement?

1 A. No.

2 Q. Why didn't you write the statement?

3 A. I couldn't write it at that moment. I
4 was shaking and my arms were all bit up.

5 Q. Now, Karen, may I call you Karen?

6 A. Yeah.

7 Q. Ms. Faye has been calling you Karen the
8 whole time. I just felt like I needed to. Have
9 you ever been in trouble with law enforcement?

10 A. Yes, I have.

11 Q. What have you been in trouble for?

12 A. Shoplifting.

13 Q. Anything else?

14 A. Fights like when I was younger.

15 Q. How long ago were the fights?

16 A. Years and years ago.

17 Q. When was the shoplifting conviction?

18 A. About two years ago or three years ago.

19 Q. Okay. What happened with that?

20 A. I just went to court.

21 Q. What did you do that caused you to be
22 charged with that?

23 A. I stole.

24 Q. Where did you steal from?

25 A. From Wal-Mart.

1 Q. Where, in Moncks Corner?

2 A. Yes.

3 Q. Why did you steal something?

4 A. I honestly don't know.

5 Q. Were you stealing for someone?

6 A. For my granddaughter.

7 Q. What did you steal?

8 MS. SHIVERS: Objection, Your Honor.

9 THE COURT: I sustain the objection.

10 BY MR. DENNIS:

11 Q. Any other convictions other than those?

12 A. Years back for fighting.

13 MR. DENNIS: No further questions at
14 this time. Karen, please answer any questions that
15 the defense may have for you.

16 CROSS-EXAMINATION

17 BY MS. SHIVERS:

18 Q. Ms. Clark, how are you today?

19 A. I'm fine.

20 Q. On the night of this incident do you
21 remember talking to the police?

22 A. Yes.

23 Q. You spoke to Officer Younginer?

24 A. I don't know.

25 Q. And you provided a written statement?

1 A. Yes, ma'am.

2 Q. And you told Younginer exactly what
3 happened?

4 A. Yes, ma'am.

5 Q. At the time the incident was fresh in
6 your mind?

7 A. Yes, ma'am.

8 Q. Because it just occurred?

9 A. Yes, ma'am.

10 Q. And you wanted to give him as much
11 information as possible?

12 A. I was pretty like out of it really. I
13 did what I could.

14 Q. Did you provide truthful information?

15 A. Yes, ma'am.

16 Q. Because you know that people rely on
17 the information that you give them when they're
18 prosecuting the case?

19 A. Yes, ma'am.

20 Q. Police rely on what you say?

21 A. Um-hmm.

22 Q. The solicitors rely on what you say?

23 A. Yes, ma'am.

24 Q. The defense attorneys rely on what you
25 say?

1 A. Yes, ma'am. I wasn't thinking that at
2 the time.

3 Q. So when you gave your written statement
4 you were as thorough as you could be?

5 A. As I could be, yeah.

6 Q. And you were truthful as you could be?

7 A. Yes, ma'am.

8 Q. As a matter of fact, when you signed
9 the statement where you signed your name underneath
10 a little section that states that you affirm that
11 all the facts and statements contained herein are
12 true and accurate?

13 A. Yes, ma'am.

14 Q. And you signed that indicating that
15 everything that you wrote was truthful?

16 A. Yes, ma'am.

17 Q. You have known Ms. Faye for some time?

18 A. About five years now.

19 Q. You were at her apartment on the night
20 of the incident?

21 A. Yes, ma'am. When she got home I walked
22 over.

23 Q. The two of you are friends?

24 A. Yes, ma'am. We are very close.

25 Q. You are not biologically related?

1 A. No, ma'am.

2 Q. She is not your mother?

3 A. No, ma'am.

4 Q. She did not give birth to you?

5 A. No, ma'am.

6 Q. And she did not legally adopt you?

7 A. No, ma'am.

8 Q. Yet in your statement to police you
9 indicated that she was your mother?

10 A. Yes, ma'am.

11 Q. And that's not true?

12 A. Yes, ma'am.

13 Q. Additionally, in your statement you
14 don't say anything about being pushed up against a
15 wall?

16 A. I don't remember.

17 Q. Would it help you if you saw a copy of
18 your statement?

19 A. Yeah.

20 Q. May I approach, Your Honor?

21 THE COURT: You may.

22 BY MS. SHIVERS:

23 Q. (Handing.) In there you don't mention
24 anything about going and getting food?

25 A. No, ma'am.

1 Q. Or being punched at that time?

2 A. No, ma'am. I don't remember like
3 exactly what I said.

4 Q. Or being choked?

5 A. I don't remember if I told them that or
6 not.

7 Q. You can review the statement.

8 A. Yes. It is not in here.

9 Q. It's not in there. You don't say
10 anything about being pushed up against a wall?

11 A. No.

12 Q. You don't say anything about being
13 beaten into a glass?

14 A. I told them.

15 Q. Into glass? I am sorry?

16 A. Into the TV, yeah, and glass broke.

17 Q. You don't say anything about that in
18 your statement?

19 A. I guess I didn't. Not in here.

20 Q. You don't say anything about Mr.
21 Shumpert telling Ms. Faye that he was going to kill
22 her?

23 A. He told her that, both of us.

24 Q. That's not in your statement?

25 A. No. He told us both. We were both

1 pretty shocked when we wrote these statements.

2 Q. You would agree with me that none of
3 that information is in your statement?

4 A. Yes, ma'am.

5 Q. You gave this statement on the night of
6 the incident?

7 A. Yes, ma'am.

8 Q. When your memory was fresh?

9 A. Yes, ma'am.

10 Q. You know Billy?

11 A. Yes, I do.

12 Q. He was living with Ms. Faye?

13 A. That's right.

14 Q. After his mom died?

15 A. Yes.

16 Q. He was your boyfriend?

17 A. No, we weren't boyfriend and
18 girlfriend.

19 Q. You had a relationship that went beyond
20 friendship?

21 A. Yeah, once I did.

22 Q. You're not the type of person to get
23 bullied, are you?

24 A. I don't know what you mean.

25 Q. You don't want people pushing you

1 around?

2 A. I don't see where you're -- what do you
3 mean?

4 Q. You can handle your own self in a
5 situation?

6 A. I guess so.

7 Q. You can protect yourself?

8 A. I guess so. I haven't had to.

9 Q. You don't typically let people push you
10 around?

11 A. No.

12 Q. You don't let people assault you
13 without fighting back?

14 MR. DENNIS: Objection, Your Honor.

15 THE COURT: I will overrule the
16 objection. It's cross. Go ahead.

17 THE WITNESS: No.

18 BY MS. SHIVERS:

19 Q. Like when Ms. Kay, Ms. Faye's next door
20 neighbor assaulted you, you fought back?

21 A. Yes, I did.

22 Q. And that was just this past year in
23 March?

24 A. Yes, it was.

25 Q. Same with your daughter Jennifer Hutto?

1 A. What about her?

2 Q. You fought back?

3 A. I never fought my daughter.

4 Q. On the night of the incident you fought
5 back too, didn't you?

6 A. I tried.

7 Q. To protect yourself?

8 A. I tried.

9 Q. Because you weren't just going to
10 let -- you weren't just going to sit there and let
11 Billy scare you without fighting back?

12 A. I just tried to get him off of me.

13 Q. And that's why in the 911 call that we
14 heard you can hear him yelling for you to get off
15 of him?

16 A. No, it was me telling him get off of
17 me.

18 Q. You were fighting back that night?

19 A. I was trying.

20 Q. That's how got the injuries to your
21 arms?

22 A. He bit me.

23 Q. You testified that Billy pointed a gun
24 at you?

25 A. Yes, ma'am.

1 Q. For no reason whatsoever?

2 A. Yes, ma'am.

3 Q. Pulled the trigger?

4 A. Yes, ma'am.

5 Q. Multiple times?

6 A. Yes, ma'am.

7 Q. You were never shot?

8 A. The gun didn't go off.

9 Q. Gun never fired?

10 A. Gun never fired. We didn't think it
11 was loaded until the officer showed us.

12 Q. And he never told you he was going to
13 kill you?

14 A. Yes, he did.

15 Q. That's not what you testified to on
16 direct?

17 A. He was going to kill us. He meant to
18 kill us that night.

19 Q. So is it that you felt like he was
20 going to kill you or he actually told you he was
21 going to kill you?

22 A. He told us he was going to kill us.

23 Q. So when you testified on direct when
24 the solicitor questioned you and you didn't say
25 that?

1 MR. DENNIS: Objection, Your Honor.
2 This witness testified that she said that he was
3 going to kill her.

4 THE COURT: Well --

5 MS. SHIVERS: She didn't.

6 THE COURT: You recall what the witness
7 testified. I am not going to let the lawyers
8 debate it. You recall what she testified to.

9 BY MS. SHIVERS:

10 Q. You have no idea why he did what he
11 did?

12 A. Well, he was drunk.

13 Q. But you don't know what made him do
14 what he did to you?

15 A. I don't.

16 Q. All you knew is that he pulled the
17 trigger and it didn't fire?

18 A. Correct.

19 Q. It scared you?

20 A. Yes, ma'am.

21 Q. When the gun didn't fire he did not go
22 and get a knife?

23 A. No, he didn't.

24 Q. He didn't go and grab a rope?

25 A. No, he didn't.

1 Q. Get a crowbar?

2 A. No.

3 Q. Hammer?

4 A. No.

5 Q. Machete?

6 A. No.

7 Q. Razor blade?

8 A. No.

9 Q. Brick?

10 MR. DENNIS: Objection, Your Honor.

11 THE COURT: This is cross.. Let's not
12 go through every article that exists.

13 BY MS. SHIVERS:

14 Q. He did not, in fact, strangle you to
15 death?

16 A. He choked me.

17 Q. He did not strangle you with a rope?

18 A. I didn't hear that.

19 Q. He didn't strangle you with a rope?

20 A. He had his hand around my bone right
21 here.

22 Q. You are still here?

23 A. Yes, I am.

24 Q. Alive?

25 A. Thanks to God.

1 Q. He didn't kill you with a knife?

2 A. No.

3 Q. He didn't go get another gun?

4 A. He didn't have to. He had the gun.

5 Q. He didn't beat you to death with the
6 gun that he had in his hand?

7 A. He beat me pretty bad.

8 Q. He did not beat you to death with the
9 gun that he had in his hand?

10 A. He beat me with a gun. When the gun
11 wouldn't go off he hit me with the gun and he
12 punched me.

13 Q. Do you recall again in your statement
14 you never once indicated that he hit with you a
15 gun?

16 A. He hit me with a gun, he beat me down.
17 When the gun wouldn't go off he started punching
18 me.

19 Q. But you don't say that in your
20 statement?

21 A. I guess not.

22 Q. That you gave on the night of the
23 incident?

24 A. No.

25 Q. And this day you have absolutely no

1 idea why Billy wanted to scare you that night?

2 A. I don't. He wasn't going to scare us.
3 He tried to kill us that night.

4 Q. Do you remember speaking with my
5 investigator Christy Page, she's the young blond?

6 A. Huh-uh.

7 Q. Did you ever speak to her on the phone?

8 A. I'm not sure. I don't think so.

9 Q. If I may have just one second.

10 (Off-the-record conference.)

11 BY MS. SHIVERS:

12 Q. When you gave your original statement
13 the officer told you that you would be able to
14 supplement that statement should you remember
15 anything else from that night?

16 A. I don't recall.

17 Q. You have never supplemented your
18 statement with any other additional information?

19 A. I don't recall. I don't think I
20 understand what you're saying.

21 Q. I am sorry. You never wrote another
22 statement at a later time?

23 A. No, ma'am.

24 Q. Adding any information that you didn't
25 give on the original night?

1 A. No, ma'am.

2 Q. And you met with the solicitor's office
3 in preparation for this case?

4 A. Yes.

5 Q. You talked about what your testimony
6 was going to be?

7 A. Yes, ma'am.

8 Q. And you talked to them about the facts
9 that you just testified to?

10 A. Yes, ma'am.

11 Q. And those facts weren't included in
12 your original statement, were they?

13 A. No.

14 MS. SHIVERS: No further questions.

15 THE COURT: Redirect?

16 MR. DENNIS: Just briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. DENNIS:

19 Q. Who wrote that statement for you that
20 night?

21 A. I can't read the handwriting.

22 Q. But you didn't write that statement?

23 A. No, I didn't.

24 Q. Why did you not write that statement?

25 A. I was too shaken up. I did sign it

1 though. That's my signature.

2 Q. Your Honor, may I approach the witness?

3 THE COURT: Yes, sir.

4 BY MR. DENNIS:

5 Q. Karen, would you look at what I have
6 just handed you?

7 A. (Witness complies with request.)

8 Q. What is that piece of paper that I just
9 handed you?

10 A. Saying what happened.

11 THE COURT: Speak into the microphone.

12 A. Saying what happened.

13 Q. Where is that -- does that statement
14 come from? Look right there, it will tell you.

15 A. From Berkeley County EMS.

16 Q. Would you please read it for me?

17 MS. SHIVERS: Objection, Your Honor.

18 THE COURT: I sustain the objection.

19 MR. DENNIS: Your Honor, even if it's
20 804 for a statement given toward medical treatment?

21 THE COURT: Let me let the jury go to
22 the jury room just a minute while we take up a
23 matter of law.

24 (Thereupon, the jury exited the
25 courtroom at 4:04 p.m.)

1 THE COURT: All right.

2 MS. SHIVERS: Your Honor, we will
3 certainly object. We think that any statement
4 under 804 would come from the EMS provider, not
5 this witness. That's not a document that she
6 drafted, not a document that she reviews or signs,
7 so we would object to any information being read
8 off that document through the witness.

9 THE COURT: I would like to see the
10 document.

11 MR. DENNIS: (Handing.) May I
12 approach?

13 THE COURT: Yes. Do you want to make a
14 proffer to see what we are dealing with?

15 MR. DENNIS: Proffer? It's under
16 rule --

17 THE COURT: No, I mean --

18 MR. DENNIS: Sure.

19 THE COURT: You can have it back.

20 MR. DENNIS: Thank you.

21 BY MR. DENNIS:

22 Q. Karen, if you would just read right
23 here where it starts?

24 A. "He grabbed me by my neck and slammed
25 me on the floor and began waving the gun around."

1 Q. And when would you have explained to
2 this EMS worker what was happening?

3 A. After they got there.

4 Q. That would have been on the night of
5 the incident?

6 A. The night it happened.

7 Q. Were you examined by EMS?

8 A. They physically looked at me, but I
9 didn't feel that I needed them.

10 Q. And you told them -- and what did you
11 tell them?

12 A. That he bit me and they looked at the
13 bite marks and all. I didn't go nowhere with them.

14 Q. Okay.

15 THE COURT: Cross?

16 CROSS-EXAMINATION

17 BY MS. SHIVERS:

18 Q. Did you recite the whole night's events
19 to the EMS worker?

20 A. Excuse me?

21 Q. Did you recite the whole night's events
22 to the EMS worker?

23 A. Best I could.

24 Q. And did you tell the EMS worker the
25 order in which things occurred?

1 A. I don't remember how in order what I
2 told them.

3 Q. And you didn't draft that document that
4 you just reviewed?

5 A. What do you mean?

6 Q. You didn't write it?

7 A. No.

8 Q. And you didn't review it?

9 A. No, I didn't.

10 Q. You didn't sign off on it?

11 A. I did sign it. That's my signature.

12 Q. On the EMS report?

13 A. No.

14 Q. So you never signed off on the EMS
15 report?

16 A. I don't think so.

17 Q. You never reviewed it for truthfulness?

18 A. No.

19 Q. That's all the questions I have.

20 THE COURT: I will hear from the State
21 again.

22 MR. DENNIS: Your Honor, the argument
23 here is that this --

24 THE COURT: What rule number?

25 MR. DENNIS: It's 803 (A)(4). Should

1 be under medical diagnosis and treatment.

2 THE COURT: You are asking the wrong
3 person. That applies to the EMS person, not the
4 person that made the statement.

5 MR. DENNIS: At the very least, Your
6 Honor, I think that the State's position is that we
7 should be able to use that report to help Ms.
8 Clarkson refresh her memory.

9 THE COURT: I sustain the objection.
10 Let's bring the jury back in. Do you want to make
11 that a court exhibit?

12 MR. DENNIS: I don't know if we can
13 authenticate it through Ms. Clarkson. We have the
14 EMS personnel we can.

15 THE COURT: Come get it then so I won't
16 get it mixed up.

17 MR. DENNIS: Yes, Your Honor.

18 THE COURT: Bring the jury back in.

19 (Whereupon the jury entered the
20 courtroom at 4:10 p.m.)

21 THE COURT: Please be seated.

22 MR. DENNIS: No further questions at
23 this time, Your Honor.

24 MS. SHIVERS: I have one question.

25 RECROSS-EXAMINATION

1 BY MS. SHIVERS:

2 Q. You indicated to the solicitor that you
3 did not write your statement?

4 A. Correct.

5 Q. But you did sign on the statement
6 indicating that you read it and that all of the
7 information in it is truthful and correct?

8 A. Correct.

9 MS. SHIVERS: Thank you.

10 THE COURT: You can step down and have
11 a seat back in the audience. Call your next
12 witness.

13 MR. DENNIS: The State calls Officer
14 Omar Brown.

15 OMAR BROWN

16 having been duly sworn, testifies as follows:

17 THE CLERK: Please state your full name
18 and spell your last name for the record.

19 THE WITNESS: Omar Brown, B-R-O-W-N.

20 DIRECT EXAMINATION

21 BY MR. DENNIS:

22 Q. Good afternoon, Officer Brown.

23 A. Good afternoon.

24 Q. Where are you currently employed?

25 A. I work for the State of South Carolina.

1 Q. In what capacity?

2 A. I work under the Ports Division as a
3 state police officer.

4 Q. Where did you work before working at
5 the Ports Division?

6 A. Moncks Corner Police Department.

7 Q. And what dates did you work at the
8 Moncks Corner Police Department?

9 A. Good question.

10 Q. Just spanning years?

11 A. Year, maybe right around a year, year
12 and-a-half, something like that.

13 Q. When did you start working there?

14 A. I left in May of last year. So
15 whatever would be around a year before that.

16 Q. So probably beginning of 2015, sound
17 about right?

18 A. '15 or '16, somewhere in there. Never
19 thought of that.

20 Q. Sure. What were your responsibilities
21 -- what are your current responsibilities with the
22 Ports Authority?

23 A. I do everything as far as law
24 enforcement, accidents, investigation, domestics,
25 whatever.

1 Q. What were your responsibilities while
2 you were at the Moncks Corner Police Department?

3 A. Responding to calls, accidents,
4 domestics, whatever a person's need was.

5 Q. How long have you been in law
6 enforcement?

7 A. I came in early 90's, mid 90's.

8 Q. So it would be fair to say you have
9 been involved with law enforcement for over
10 20 years?

11 A. About 18, 17, 18.

12 Q. And when you were working for the
13 Moncks Corner Police Department during 2015 they
14 were the same duties the entire time that you were
15 at Moncks Corner?

16 A. Yes.

17 Q. And those were your duties on November
18 the 26th of 2015?

19 A. Yes, sir.

20 Q. Were you dispatched to 249 Gulledge
21 Street Apartment [REDACTED] during that evening?

22 A. Yes.

23 Q. Is that in Berkeley County?

24 A. Yes.

25 Q. What town?

1 A. Moncks Corner.

2 Q. Please explain to the jury the reason
3 why you were dispatched that evening?

4 A. It was in reference to a domestic
5 dispute.

6 Q. And when you first got that call where
7 were you?

8 A. At the station, standing outside the
9 station in Moncks Corner.

10 Q. Who else was with you at that time?

11 A. Myself, Officer Younginer, Officer
12 Scarborough and a little short fella, another
13 officer was there.

14 Q. What were y'all doing at the station?

15 A. Just talking, going over things that
16 had happened, a briefing.

17 Q. When you received the call what did you
18 do?

19 A. We all immediately ran to the patrol
20 cars and started out in that direction.

21 Q. What time, approximately, was that call
22 picked up?

23 A. I haven't seen a report since that
24 time.

25 Q. Was it --

1 A. It was nightttime.

2 Q. Who left with you from the police
3 station?

4 A. All four of us left, Officer Younginer,
5 Officer Scarborough was ahead in the lead just by
6 positioning of their cars. And I think was myself
7 and then the other officer. I can't recall his
8 name.

9 Q. Who was with you in your car?

10 A. Just by myself. We were all in our own
11 cars.

12 Q. So where did you go? When you got into
13 that apartment complex where were you?

14 A. The apartment complex, the unit we were
15 going to was towards the entranceway. So two
16 officers were blocking that area. I pulled up
17 along the roadside by the ditch, went across the
18 ditch and ran to the back side of the complex of
19 the apartment.

20 Q. And how did you approach that corner of
21 the apartment building?

22 A. I ran around to the back side. Two
23 other officers went to the front door.

24 Q. Could you see the other two officers
25 going to the front from where you were approaching?

1 A. Yes, yes, sir.

2 Q. Was it light out? You said it was in
3 the dark, but --

4 A. I mean they have the regular street
5 light or complex lights.

6 Q. So what window when you approached that
7 house would you have gone to?

8 A. I went to a bedroom window on the back
9 side of the complex.

10 Q. When you got to that window what did
11 you see?

12 A. I could see a white male holding a
13 pistol, two white females, one was sitting what
14 looked like in a wheelchair, one of those like a
15 chair thing, was sitting in that looking up. The
16 white male had the gun to her head at that time.

17 Q. When you say had a gun to her head,
18 could you see specifically where that gun was
19 pointed?

20 A. She was facing him so I was behind her.
21 She was looking up and he was standing there.
22 There was a white female in the doorway area almost
23 somewhat behind him so he kept trying to keep his
24 attention on both of them.

25 Q. Why would you go to that window when

1 you had other officers that were on the scene going
2 to another window?

3 A. In any domestic situation we want to
4 hear what we can hear and try to gain intelligence
5 as to what we are getting ready to get into.

6 Q. What did you hear that evening?

7 A. I could hear the yelling at the back
8 window. I could see him, you know, talking and
9 stuff like that, and like I said, looking back and
10 forth between the two persons.

11 Q. How long were you at that window to
12 view that scene?

13 A. It didn't take more than I'd say 15, 30
14 seconds before the female crawled or scurried
15 towards the front because I could no longer see her
16 any more. And before I could take target
17 acquisition to respond to him with the gun I saw
18 the sleeve of another officer as they got into the
19 front door.

20 Q. When you were observing through that
21 window did you notice any other window in that
22 room?

23 A. I didn't pay attention to any other
24 window. I was just focusing on him and the
25 situation right there that was unfolded.

1 Q. When you saw the other two officers go
2 to the front of that house what did you do once you
3 saw all of that commotion?

4 A. The guy dropped the gun. I holstered
5 and ran around to the door that was then open.

6 Q. What happened next?

7 A. They were in the physical altercation
8 at that point with the guy. It was a lot of
9 yelling and stuff. The female who opened the door
10 was distraught and she was yelling so it was just
11 pretty much a chaotic scene. Took some doing to
12 get him in handcuffs. They managed to do that.
13 Walking him out of the house Officer Scarborough
14 was the supervisor that yelled and I went out of
15 the house because by that time he had went up the
16 side of the cruiser and flipped around and they
17 were fighting again and in the roadway area.

18 Q. How did you help get Mr. Shumpert into
19 that car?

20 A. Once we got him on the ground and tried
21 to get him calmed down, I had a set of leg irons
22 that I sent for, told them to grab the leg irons
23 off my front, put them on him and just pretty much
24 said listen, it's over, go to the jail, deal with
25 everything from there.

1 Q. Why did you use the leg irons?

2 A. To keep him from kicking because he
3 managed to run his way up the side of the patrol
4 car from trying to keep from being placed in it.

5 Q. What did you do once the Defendant was
6 securely in that car?

7 A. Followed the instructions of the
8 supervisor to go back and took photographs of the
9 female of her injuries.

10 Q. And what did you use to take those
11 photographs?

12 A. A Nikon camera about yea big.

13 Q. Your Honor, may I approach this
14 witness?

15 THE COURT: Yes.

16 BY MR. DENNIS:

17 Q. Officer Brown, please take a look at
18 those pictures.

19 A. (Witness complies with request.)

20 Q. What do those pictures show?

21 A. The female that crawled towards the
22 front door with bite marks and red marks on her
23 neck and her arm.

24 Q. And are they substantially -- do they
25 substantially represent the pictures or the scene

1 that you saw that night?

2 A. Yes, sir.

3 Q. Are they in the same condition as when
4 you originally took them?

5 A. As I remember, yes, sir.

6 Q. Have they been altered at all?

7 A. No, sir.

8 MR. DENNIS: Your Honor, at this time
9 the State would move what has been premarked as
10 State's Exhibit 5 through 10 into evidence.

11 MS. SHIVERS: No objection.

12 THE COURT: In without objection.

13 (STATE'S EXH. 5-10 in evidence.)

14 MR. DENNIS: May we publish them as
15 well?

16 THE COURT: You may.

17 MR. DENNIS: You, Your Honor.

18 BY MR. DENNIS:

19 Q. Officer Brown, when you got done with
20 that scene what type of report did you provide?

21 A. None. I was instructed by the
22 supervisor at that point to follow to the jail, go
23 in and then stay available for any calls and they
24 will take care of everything else.

25 Q. Is it normal when you viewed something

1 like that during this type of incident for you to
2 not do a report?

3 A. It's normal if you talk to the
4 supervisor and they say we will write the report.
5 One person will handle the report writing to follow
6 their instructions, yes, sir.

7 MR. DENNIS: No further questions at
8 this time. One moment, Your Honor. Court's
9 indulgence.

10 (Off-the-record conference.)

11 MR. DENNIS: Nothing further, Your
12 Honor.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MS. SHIVERS:

16 Q. Hello, Officer Brown.

17 A. How are you today?

18 Q. I'm doing well. So to become a police
19 officer you had to be trained?

20 A. Yes, ma'am.

21 Q. And once hired onto an agency you get
22 further training by attending the South Carolina
23 Criminal Justice Academy?

24 A. That is a training, yes, ma'am. After
25 you get hired you then go through that field

1 training period.

2 Q. And you went to the Criminal Justice
3 Academy?

4 A. Yes, ma'am.

5 Q. It is not easy?

6 A. No, ma'am.

7 Q. Not everyone makes it through?

8 A. No, ma'am.

9 Q. And you have to know what you're doing?

10 A. Yes, ma'am.

11 Q. You have to adhere to rigid standards?

12 A. Yes, ma'am, pass or fail.

13 Q. Take a lot of different classes?

14 A. Yes, ma'am.

15 Q. You appear comfortable testifying?

16 A. Yes, ma'am.

17 Q. You learned about that at the academy
18 how you would have to testify in court?

19 A. Somewhat, yes, ma'am.

20 Q. And how you would have to appear in
21 front of a jury?

22 A. They don't go that in depth on the
23 testifying part, but yes, ma'am.

24 Q. At the academy you were taught about
25 writing reports?

1 A. Yes, ma'am.

2 Q. Taught the importance of writing a good
3 police report?

4 A. Yes, ma'am, you are.

5 Q. You are taught how to do quality work?

6 A. Yes, ma'am.

7 Q. And taught how not to do sloppy police
8 work?

9 A. Yes, ma'am.

10 Q. And you don't do sloppy police work, do
11 you?

12 A. No, ma'am.

13 Q. You don't do your job part way? You
14 give it all you got?

15 A. Yes, ma'am.

16 Q. And you do quality work that is
17 complete?

18 A. Yes, ma'am.

19 Q. Your work paints an entire picture of
20 whatever situation you respond to?

21 A. It's an outline.

22 Q. And at the academy they stress doing
23 quality police work?

24 A. Yes, ma'am, be as accurate as possible.

25 Q. They stress about writing good reports?

1 A. Yes, ma'am.

2 Q. There's even a whole class dedicated to
3 that purpose?

4 A. Yes, ma'am, four-hour block.

5 Q. And early on you learned how to do just
6 that, write good reports?

7 A. Yes, ma'am.

8 Q. And you were taught that they needed to
9 contain all the facts?

10 A. Who, what, when, where and why.

11 Q. You learned that if you thought
12 something was not important -- I am sorry, if you
13 thought it was important you need to write it down?

14 A. Write it down or tell your supervisor,
15 yes, ma'am.

16 Q. And ultimately it would be -- you write
17 everything down because it would be the government
18 or the solicitor's office that determines what
19 important facts are needed to try a particular
20 case?

21 A. I never work for the solicitor's
22 office, but yes, ma'am.

23 Q. That's why you include as much
24 information as possible so they have everything
25 they need to work with?

1 A. Yes, ma'am.

2 Q. And other than basic training you also
3 receive additional training in writing reports at
4 your job?

5 A. On-the-job training. You write reports
6 every day, yes, ma'am.

7 Q. And the reason it's so important is
8 because other officers rely on your reports when
9 they are conducting investigations?

10 A. Yes, ma'am.

11 Q. And detectives may rely on your report?

12 A. Yes, ma'am.

13 Q. The government relies on your reports?

14 A. Yes, ma'am.

15 Q. Defense attorneys rely on your reports?

16 A. Yes.

17 Q. And they need all of the information so
18 that they can do a proper investigation?

19 A. I will say yes, ma'am.

20 Q. And solicitors need all of the
21 information because they need everything they can
22 to be able to prosecute a case?

23 A. Yes, ma'am.

24 Q. And defense attorneys need all of the
25 information so they can defend their client?

1 A. Yes, ma'am.

2 Q. So the report should be comprehensive?

3 A. Yes, ma'am.

4 Q. Because the solicitor gets a copy of
5 that report?

6 A. Yes, ma'am.

7 Q. And he relies on it?

8 A. Yes, ma'am.

9 Q. You learned that when drafting your
10 report you make sure to include everything that you
11 want the solicitor to know about your case?

12 A. Detailed facts, who, what, when, where
13 and why, yes, ma'am.

14 Q. And you have responded to several cases
15 since November of 2015; is that right?

16 A. Yes.

17 Q. Quite busy?

18 A. Yes, ma'am.

19 Q. You have to remember a lot of names and
20 faces and details about cases that you work on?

21 A. To the best of your ability, yes,
22 ma'am.

23 Q. And that's why you write a report
24 because it is not possible to remember everything
25 about every case?

1 A. That is correct.

2 Q. And you know that defense attorneys
3 receive copies of your reports?

4 A. Yes, ma'am.

5 Q. And you know from testifying in other
6 cases that the defense lawyer like myself is going
7 to cross-examine you about the contents of your
8 report?

9 A. Yes, ma'am.

10 Q. So drafting your report you want to
11 make sure you include everything that you are going
12 to testify to at trial, all the important facts?

13 A. Yes, ma'am.

14 Q. And you're not given any time limit on
15 how long you have in order to write a report?

16 A. Not correct.

17 Q. So are you only given ten minutes to
18 write a report or can you take an hour if you need
19 to?

20 A. No, ma'am, depending on your supervisor
21 they will move you along depending upon the volume
22 of calls.

23 Q. But you can take the time you need to
24 draft a report?

25 A. In most cases, yes, ma'am.

1 Q. Or you can supplement the report if you
2 didn't have time on this particular day, you can
3 write a report which is essentially a secondary
4 report that adds information?

5 A. Yes, ma'am.

6 Q. And when you are finished with the
7 report you look over it?

8 A. You write it, yes, ma'am, and the
9 supervisor looks over it.

10 Q. You make sure that you didn't forget
11 anything important?

12 A. Yes, ma'am, supervisor would make sure.

13 Q. You want to make sure that you have the
14 names, addresses and any contact information for
15 any witnesses that are in the case?

16 A. Yes, ma'am.

17 Q. And you know from doing this you said
18 almost 20 years now you know that usually there's
19 some time period between the time when you make an
20 arrest before you ever come to trial?

21 A. Yes, ma'am.

22 Q. And sometimes that time period can be
23 over a year long?

24 A. Yes, ma'am.

25 Q. And during that time you make other

1 arrests on other cases?

2 A. Yes, ma'am.

3 Q. So this incident that you responded to
4 was November of 2015?

5 A. Yes, ma'am.

6 Q. So it's been almost two years?

7 A. Yes, ma'am.

8 Q. And during that time you've worked on
9 many other cases?

10 A. Yes, ma'am.

11 Q. Made many other arrests?

12 A. Yes, ma'am.

13 Q. And like all of us obviously your
14 memory is better immediately following an incident
15 than it would be say two years down the road?

16 A. In most cases, yes, ma'am.

17 Q. Which is why it is best to write all of
18 the details as close as possible to the events as
19 possible?

20 A. Yes, ma'am.

21 Q. And you are taught that in the report
22 you list whatever your role was when you arrived at
23 a potential crime scene or situation?

24 A. You list your observances, you list
25 your things that you do.

1 Q. And then your supervisor signs off on
2 that report?

3 A. Yes, ma'am.

4 Q. And at the academy they teach you,
5 right, if it's not in the report it didn't happen?

6 A. No, ma'am.

7 Q. You didn't write a report in this case,
8 did you?

9 A. No, ma'am.

10 Q. So none of the things that you
11 testified to on direct were in a police report?

12 A. I have not seen the police report
13 except when I was subpoenaed to come here. The
14 report was written by the officer that the
15 supervisor designated and I would have no reason to
16 go back and see what report he wrote.

17 Q. You didn't write a report about what
18 you saw that night?

19 A. No, ma'am.

20 Q. So in the report there wouldn't be any
21 report where you wrote that you saw Mr. Shumpert
22 holding a gun to one of the female's head?

23 A. No, ma'am.

24 Q. That's not in the report?

25 A. Not having read the report that the

1 solicitor provided when I got the subpoena, no,
2 ma'am.

3 Q. And you didn't tell the officers on
4 scene that he had a gun to one of the female's
5 head, did you?

6 A. I told the supervisor.

7 Q. And so did you enter the house -- you
8 didn't enter the house guns drawn, did you?

9 A. The two officers that were on the front
10 side of the house, once the female was able to open
11 the door, they entered the house first when I could
12 see the side shoulder sleeve of one of them because
13 he was standing in the doorway. And as they
14 approached to him and he directed his attention
15 there I ran around to the other side of the house
16 which allowed me access to get in with the other
17 officers.

18 Q. But those officers did not have their
19 guns drawn when they entered that house?

20 A. I did not see those officers. I could
21 not see what they did.

22 Q. Did you meet -- you met with the
23 solicitor's office prior to testifying today,
24 correct?

25 A. Only on the day they served me with a

1 subpoena.

2 Q. And you talked about your role in that
3 situation?

4 A. I discussed what I discussed here today
5 which answered his questions, whatever questions he
6 asked me, yes, ma'am.

7 Q. That was approximately a month ago or
8 so?

9 A. Yes, ma'am.

10 Q. So the first time that the solicitor
11 was made aware that you saw one of the females with
12 a gun to her head was a month ago?

13 A. Yes, ma'am, from me directly, yes,
14 ma'am.

15 Q. You went over what your testimony would
16 be with the solicitor?

17 A. He asked me several questions and in
18 which I just answered several questions.

19 Q. You went over some of the questions
20 that he would ask you when you were on the stand?

21 A. I'm not sure what -- some of them were
22 questions he asked me today, mostly what do you
23 remember of that day.

24 Q. You talk to any of the officers since
25 the date of this incident?

1 A. No, ma'am. I seen them in the hallway
2 a moment ago.

3 Q. You didn't talk about your testimony?

4 A. No, ma'am.

5 Q. So you took pictures of Ms. Clarkson's
6 injuries; is that correct?

7 A. Yes, ma'am.

8 Q. You didn't take pictures of Mr.
9 Shumpert's injuries?

10 A. No, ma'am.

11 Q. Who was in charge of doing that?

12 A. If you have a combative person, you are
13 going to try to get them out of the scene first of
14 all away from the victims. And there's no time to
15 stand and take pictures at that point.

16 Q. So did you ever go back to either the
17 police station or to the jail and take pictures of
18 his injuries that time?

19 A. No, ma'am.

20 Q. Do you know if anybody else did?

21 A. No, ma'am.

22 Q. And the injuries that you took pictures
23 of on Ms. Clarkson, you don't know how long they
24 had been there or how they were put there?

25 A. I couldn't tell you the exact time.

1 They were all freshly committed. They had fresh
2 appearances.

3 Q. But outside of just seeing them you
4 have no idea how they got there?

5 A. No, ma'am.

6 Q. You indicated that Mr. Shumpert was
7 combative, you put leg irons on him?

8 A. Yes, ma'am.

9 Q. Usually in those situations and when a
10 person being arrested is injured there is paperwork
11 involved in that, correct?

12 A. If they are injured, yes, ma'am, by
13 you, correct, otherwise we call the EMS because I'm
14 not a medical doctor.

15 Q. Right, because you guys don't want
16 liability, somebody being injured in your custody?

17 A. No, because we were trained to call EMS
18 and they handle the medical aspects.

19 Q. And you would write paperwork regarding
20 how a particular suspect was injured if they were
21 in custody at the time of the injuries?

22 A. If we injured them, yes, ma'am.

23 Q. And you are not aware of any paperwork
24 that was filed regarding Mr. Shumpert being injured
25 in your custody?

1 A. I'm not aware of any injuries he had,
2 no, ma'am.

3 Q. And you testified on direct that your
4 supervisor didn't allow you to write a report?

5 A. No, the supervisor instructed me after
6 following him -- Mr. -- the other officer who is
7 sitting in the courtroom to the jailhouse to make
8 sure he got in, to stay on the street, and they
9 would handle things from there. They would take
10 care of the report. It is not uncommon for one
11 officer to be assigned to write a report, someone
12 assigned to do the booking. That's standard. That
13 happens all the time.

14 Q. But you never went back and read it to
15 make sure the important facts that you observed
16 were included in the report?

17 A. No, ma'am. That would not have been
18 something that we would normally have done.

19 Q. And you haven't looked back at this
20 since November of 2015 until a month ago?

21 A. No, ma'am.

22 MS. SHIVERS: No further questions.

23 THE COURT: Redirect?

24 MR. DENNIS: No further questions.

25 THE COURT: You can step and be

1 excused. We appreciate your time. Call your next
2 witness.

3 MR. STEGALL: State calls Denise
4 Newman.

5 DENISE NEWMAN

6 having been duly sworn, testifies as follows:

7 THE CLERK: Please state your full name
8 and spell your last name for the record.

9 THE WITNESS: Millie Denise Newman,
10 N-E-W-M-A-N.

11 DIRECT EXAMINATION

12 BY MR. STEGALL:

13 Q. Hey, Ms. Newman. Where are you
14 currently employed?

15 A. Berkeley County EMS.

16 Q. How long have you been with EMS?

17 A. Since 2001.

18 Q. Where were you employed prior to
19 Berkeley County?

20 A. American Heritage Ambulance.

21 Q. How long have you been a certified EMS
22 medic?

23 A. Since 1996.

24 Q. What sort of education and training
25 have you had?

1 A. Some college, EMT school, paramedic
2 school; I am also an instructor.

3 Q. How long have you been an instructor?

4 A. Since 2006 I believe.

5 Q. Were you on duty on the night of
6 November 26th, 2015?

7 A. I believe so..

8 Q. Did you receive a call associated with
9 why we are here today?

10 A. I believe. You have a copy of my
11 report?

12 Q. I have got a copy I can --

13 THE COURT: Can that chair slide up?

14 THE WITNESS: Is that better?

15 THE COURT: Yes, ma'am.

16 MR. STEGALL: May I, Your Honor?

17 THE COURT: Yes.

18 BY MR. STEGALL:

19 Q. See if that refreshes your memory.

20 (Handing.)

21 A. Um-hmm.

22 Q. So you remember going to a call that
23 night?

24 A. Sure.

25 Q. You got a location where?

1 A. It says at 249 Gulledge Street
2 Apartment [REDACTED].

3 Q. What was the purpose for that call?

4 A. Says came in as an assault.

5 Q. Was anyone else with you?

6 A. My partner Sara Evans.

7 Q. When you arrived at the incident
8 location what did you see? What did you do? Tell
9 us what you did?

10 A. It says found her sitting in living
11 room on the couch. Said her boyfriend came in
12 smelling of alcohol and began to assault her. He
13 bit her arms, grabbed me by the neck, slammed me on
14 floor and began waving a gun around.

15 MS. LITTLEJOHN: I will object on
16 hearsay.

17 THE COURT: I sustain the objection.
18 Disregard what was in that report. That would be
19 based on hearsay.

20 BY MR. STEGALL:

21 Q. Did you treat her for injuries?

22 A. Says I did an evaluation on her. Says
23 that --

24 MS. LITTLEJOHN: Your Honor, there's
25 no -- she does not have a -- she is not refreshing

1 her memory. She is reading the report.

2 THE COURT: You can't read off the
3 report. If you need to have the report to refresh
4 your memory.

5 THE WITNESS: That's been a couple of
6 years so I can't really testify to anything that's
7 not written in my report.

8 THE COURT: I was talking to the
9 lawyers, not your lawyer, I am sorry, but the
10 State's lawyers.

11 MR. STEGALL: You can't read it
12 verbatim, but you can testify about what you
13 treated her for.

14 THE WITNESS: Says that I -- like I
15 said, I can't recall other than what's here. Says
16 -- I remember some bruising.

17 THE COURT: You can use the report to
18 refresh your recollection. You can't read off it.
19 If you need it to refresh your recollection you can
20 review it to do that.

21 MR. STEGALL: Let me ask it a different
22 way.

23 MS. LITTLEJOHN: Your Honor, I think we
24 have a matter of law.

25 THE COURT: I will let the jury go to

1 the jury room.

2 (Thereupon, the jury exited the
3 courtroom at 4:44 p.m.)

4 THE COURT: What's the issue?

5 MS. LITTLEJOHN: Your Honor, I believe
6 what the State is getting ready to do, if I am
7 wrong here, is introduce the pictures. We didn't
8 have an objection originally; however, she can't
9 remember because I know they go on a lot and
10 particularly paramedics lots and lots of these.
11 She can't remember the facts of this independent.

12 THE COURT: I thought the pictures were
13 already in evidence.

14 MR. STEGALL: They are.

15 MS. LITTLEJOHN: They haven't been
16 published, though, to the jury.

17 THE COURT: That doesn't matter.
18 They're in evidence. She can --

19 MS. LITTLEJOHN: But she wouldn't be
20 able to recognize them if she doesn't recognize the
21 report. If she doesn't know the report independent
22 of it.

23 THE COURT: Well, I think show her the
24 photographs. Her response would be I have never
25 seen that in my life or I have no idea what it is

1 or that I recall that.

2 MS. LITTLEJOHN: Your Honor, she has
3 already said she doesn't remember.

4 THE COURT: Well, she is -- we are at
5 the point where she uses the document to refresh
6 her recollection and I'm going to let him show
7 them. If she can't recall it then she can't recall
8 it, but I'm going to let him -- if that's what he
9 is planning on doing is show the photographs and
10 see if she recalls those images. You are on the
11 record with your objection. Bring in the jury.

12 (Whereupon the jury entered the
13 courtroom at 4:46 p.m.)

14 BY MR. STEGALL:

15 Q. Ms. Newman, I'm going to show you some
16 photographs. I want you to tell the Court what it
17 is that we are showing you. If you can't remember
18 you can't remember. This is showing you State's
19 Exhibit 9. I sorry. You may have to turn around.
20 Is that the patient you treated that night?

21 A. Yes.

22 Q. What injuries?

23 A. Bruising to her neck, some bite marks.
24 We focused on the arms.

25 Q. Let me show you State's Exhibit 10.

1 What is that?

2 A. Looks like marks around her neck,
3 bruising.

4 Q. Show you State's Exhibit 6. See if I
5 can zoom out a little bit. What's that?

6 A. Bite marks.

7 Q. Show you State's Exhibit 8. What is
8 that?

9 A. A little fuzzy, but it appears to be
10 bite marks.

11 Q. Show you State's Exhibit 7.

12 A. Same. Looks like bite marks.

13 Q. I'm going to show you last State's
14 Exhibit 5.

15 A. Looks like what appears to be like bite
16 marks.

17 Q. Did you treat anyone else that night?

18 A. Mr. Shumpert as well apparently.

19 Q. Did you treat him or did --

20 A. According to this it was me. Said I
21 was the primary caregiver.

22 Q. Okay. What did you treat Mr. Shumpert
23 for?

24 A. Looks likes he had a laceration to the
25 cheek.

1 Q. What's that?

2 A. Right upper cheek, like a cut.

3 Q. Did either one of them request to be
4 transported to the hospital or request any further
5 treatment?

6 A. Not according to these, no. Said it
7 was also witnessed by Moncks Corner PD they did not
8 want to be transported.

9 MR. STEGALL: Nothing further, Your
10 Honor. Please answer any questions Ms. Littlejohn
11 has for you.

12 CROSS-EXAMINATION

13 BY MS. LITTLEJOHN:

14 Q. Thank you for your service because I
15 know you all work some grueling hours and see a lot
16 of things out there.

17 A. Yes, ma'am.

18 Q. You and I have never talked before
19 today, have we?

20 A. No, ma'am.

21 Q. And actually you had to look at both
22 those reports on Mr. Shumpert and Ms. Clarkson to
23 kind of see what went on that night?

24 A. Yes, ma'am.

25 Q. You just mentioned that you were the

1 primary caregiver for both of them?

2 A. Yes, ma'am.

3 Q. And that's because there were two of
4 y'all who arrived on scene, both of you were
5 paramedics I think. Paramedic Evans was the
6 driver, you were the primary caregiver?

7 A. Yes.

8 Q. For both Mr. Shumpert and Ms. Clarkson?

9 A. According to the report, yes, ma'am.

10 Q. According to the report. Really let's
11 get right down to it. Today what you have been
12 going off of because of how many cases you see
13 every month all you can go is according to the
14 report?

15 A. Yes, ma'am.

16 Q. And so according to your report you
17 said that Mr. Shumpert's chief complaint was
18 laceration, correct?

19 A. Yes.

20 Q. According to the report what was Mrs.
21 Clarkson's chief complaint?

22 A. She was -- just that she was assaulted
23 I'm assuming.

24 Q. I am looking at page two of six.

25 A. Bruising.

1 Q. Okay. And on both Mr. Shumpert and
2 Mrs. Clarkson where it says disposition, they both
3 refused care. Patient disposition patient refused
4 care, correct?

5 A. Yes.

6 Q. That would be for both of them?

7 A. Yes.

8 Q. As a paramedic if someone -- one thing
9 you need to know that if it's really serious if
10 someone had alcohol or illegal drugs, not because
11 of wanting to know if they have, but because of
12 treatment, the type of treatment?

13 A. Correct.

14 Q. And there's no notation here on either
15 one of them that I could tell that you made. So
16 would that be fair to say that neither one of them
17 stuck out as alcohol or drugs here?

18 A. Nothing other than the statement.

19 Q. As far as your assessment though?

20 A. We cannot test for alcohol or drugs.

21 Q. And the report on both of them pretty
22 much goes through and either reads normal, not
23 assessed or no abnormalities in general?

24 A. In general other than what's written in
25 my narrative. Because what you are looking at is a

1 drop down box and if it doesn't fit any of those
2 little categories so...

3 Q. A lot of what you have in the
4 narrative, though, is -- not a lot of it, but some
5 of it would be like what the patient told you?

6 A. Yes.

7 Q. Like Ms. Clarkson says bit her arms?

8 A. Yes.

9 Q. So you didn't make that up, that's what
10 she told you, right?

11 A. Yes.

12 Q. Can you tell me why it says down here
13 on the third line, patient found sitting on the
14 living room couch. States that in quotes boyfriend
15 came in this evening. You're quoting the word
16 "boyfriend"?

17 A. Yes.

18 Q. Because that's --

19 A. That's what she said.

20 Q. Okay. I wanted to be certain. You
21 don't actually know the date and time when these
22 bruises occurred, though, do you? Bruises are very
23 difficult to pinpoint if it was then or if it was
24 maybe the day before or earlier that day. Right?

25 A. Right.

1 Q. I know Berkeley County is growing big,
2 and we all hear of a lot of tragedies out there.
3 I'm sure you have had -- seen your fair share of
4 those cases that make you not be able to sleep,
5 right?

6 A. Correct.

7 Q. Those kind of will stay with you
8 forever that you will always remember?

9 A. Yes, ma'am.

10 Q. That you wouldn't even have to look at
11 notes for because you remember them so well. Those
12 are usually the most tragic cases, aren't they?

13 A. Yes, ma'am.

14 MR. STEGALL: Objection.

15 THE COURT: I sustain the objection.

16 MR. STEGALL: Relevance.

17 BY MS. LITTLEJOHN:

18 Q. But this one you had to look at your
19 report on, right?

20 A. Yes, ma'am.

21 Q. When y'all first arrived at the scene
22 you clock in so to speak, radio in, you get your
23 equipment because you go in with some equipment?

24 A. Yes.

25 Q. So that takes you about a minute to get

1 all that and get to the door and all, right?

2 A. Yes, ma'am.

3 Q. So you arrived on scene at 2147, so
4 nine hours -- 9:57:26 seconds p.m. according to
5 that?

6 A. Yes, ma'am.

7 Q. And you left and were back in service
8 or were available for the next call at 2208:9
9 seconds, correct?

10 A. Correct.

11 Q. So you were there approximately
12 21 minutes?

13 A. Yes.

14 Q. If you end up at a situation with great
15 trauma and you are fortunate enough to have two
16 paramedics and both of them are -- do both of you
17 treat one person or do y'all kind of divide up if
18 there is tremendous trauma?

19 A. Depends on the situation. Sometimes we
20 split. Sometimes we have to go together.

21 Q. But if you go together you will see
22 both of your names on the provider thing?

23 A. Not necessarily, ma'am.

24 Q. But on this one you alone were
25 treating?

1 A. Yes. Both were probably both involved
2 and back and forth, but I was down as primary.

3 Q. So it wasn't as though this person is
4 really bad, this person is really bad, let's split
5 up and conquer?

6 A. No.

7 Q. Okay. And if you take off the time
8 getting ready and checking in and checking out it
9 was probably about 20 minutes total you think?

10 A. Probably about 20 minutes, yes, ma'am.

11 MS. LITTLEJOHN: Appreciate it. Thank
12 you.

13 MR. STEGALL: Nothing from the State,
14 Your Honor.

15 THE COURT: You can step down. You can
16 be excused. Can I see counsel over here for one
17 second.

18 (Off-the-record conference.)

19 THE COURT: I think it's best for us to
20 stop rather than -- the next witness may be
21 lengthy. So we will stop for the day and start
22 back at 10:00 in the morning. Report back like you
23 did after lunch today keeping in mind not to
24 discuss the case or try and make up your own mind
25 or go on line to obtain information or let yourself

1 be exposed to news coverage if there is any and
2 remember if anybody does try to talk to you report
3 that back to me and have a pleasant evening. We
4 will see you at 10:00 in the morning.

5 (Thereupon, the jury exited the
6 courtroom at 5:02 p.m.)

7 (Thereupon, the proceedings adjourned
8 at 5:02 p.m. on August 7, 2017.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (The following proceedings continued
2 July 8, 2017, Berkeley County, South Carolina, @
3 10:00 a.m.)

4 THE COURT: The bailiff tells me we
5 have Mr. Gohm, one of the alternates has some issue
6 so I'm going to bring him in and find out what it
7 is and then we will deal with it. Bring Mr. Gohm
8 in.

9 (Thereupon, the juror was brought to
10 the courtroom.)

11 THE COURT: Yes, sir. I hate to put
12 you on the spot, but I am told you have some issue
13 that you need to --

14 THE JUROR: Yes. Two things came up..
15 One, I talked to my wife. Apparently we can't
16 financially handle it, me not get paid for over
17 three days. The people who will be getting my son
18 in the afternoon had a family emergency. Someone
19 in their family died.

20 THE COURT: How old is your son?

21 THE JUROR: He will be three next
22 month.

23 THE COURT: You take care of him?

24 THE JUROR: Um-hmm.

25 THE COURT: What time is that?

1 The JUROR: Generally I have to be
2 there by 5:30, 6:00. That's the latest I can be
3 there and they really don't like us doing that.

4 THE COURT: I'm going to let you step
5 out to the hallway for just a minute.

6 THE JUROR: Okay.

7 (Thereupon, the juror left.)

8 THE COURT: Any comment from the State?

9 MR. STEGALL: Your Honor, I think the
10 State should rest probably around before lunch
11 today barring any unforeseen things that come up.
12 I'm not sure what, you know, the defense would do.
13 If he needs to be out of here by 5:30, 6:00, they
14 may can get the case by lunchtime.

15 THE COURT: What's the defense
16 position?

17 MS. LITTLEJOHN: Your Honor, I mean I
18 understand where he's coming from. Thankfully he's
19 an alternate. It was the other alternate that we
20 were also having issues with. I agree with Mr.
21 Stegall that they should probably be able to get
22 the case.

23 THE COURT: The problem is if they get
24 it this afternoon they will probably go past 6:00
25 in the afternoon.

1 MS. LITTLEJOHN: He's an alternate so
2 really shouldn't be much of a problem.

3 THE COURT: I think I'm going to let
4 him go. He's the one also, this is kind of ironic,
5 he's the one who actually served within the last
6 three calendar years, came up and told me he had
7 served in the last three years, but he would stay.

8 So bring him back in.

9 (Thereupon, the juror was brought to
10 the courtroom.)

11 THE COURT: I'm going to go ahead and
12 excuse you. You told me yesterday that you had
13 already served within the last three calendar
14 years. Since you have this issue, I am concerned
15 about your pay, but I am more concerned about the
16 issue with your child because if this case -- we
17 get it to the jury this afternoon you will be the
18 alternate so you wouldn't be deliberating, but it
19 would very likely go past the time you pick up the
20 child so I'm going to excuse you.

21 THE JUROR: Thank you. If it had been
22 one or the other, but with both. Thank you for
23 your consideration and time.

24 THE COURT: Anything else before the
25 jury comes in?

1 MR. DENNIS: Your Honor, we just need
2 to check and make sure that our first witness up
3 this morning is actually present here.

4 THE COURT: What time were they told to
5 be here?

6 MR. DENNIS: 9:45, 9:30.

7 THE COURT: It is past both of those
8 times.

9 MR. DENNIS: Yes, Your Honor.

10 THE COURT: Do either of you have any
11 requested charge you want me to look at?

12 MR. DENNIS: Not at this point, Your
13 Honor.

14 THE COURT: We are getting at the point
15 where it will be too late. After lunch you will
16 have everything ready.

17 MR. DENNIS: Yes, sir.

18 THE COURT: Ms. Littlejohn, you don't
19 have any request?

20 MS. LITTLEJOHN: I would agree with Mr.
21 Dennis. Not at this point. I would think possibly
22 if we could see your standard one.

23 THE COURT: We are working on it very
24 diligently. This is Brett's first rodeo so he is
25 doing a great job, but it's not like somebody like

1 Mr. Stegall after he worked with Judge Gibbons for
2 a year or so turning one out.

3 MS. LITTLEJOHN: Your Honor, we are
4 going to of course oppose any lesser charges.

5 THE COURT: Okay.

6 MS. LITTLEJOHN: We had already
7 referenced that.

8 THE COURT: The only one requested was
9 A&B 1st if any.

10 MR. DENNIS: And I think the State
11 would be fine with any standard charges that you
12 would have as well.

13 THE COURT: Okay. You still want the
14 lessers included?

15 MS. SHIVERS: We would have argument on
16 the request for lesser included of assault and
17 battery in the first degree.

18 THE COURT: We will get that handled.
19 I got to step out. I had something in my eye. I
20 thought it was gone. If you would go ahead and
21 hand those up, I will go ahead and look at them.

22 (A recess transpired.)

23 THE COURT: State ready?

24 MR. DENNIS: Your Honor, we have two
25 witnesses that are in route, should be here within

1 five minutes.

2 THE COURT: Who are they?

3 MR. DENNIS: Officer Jeremy Younginer
4 who was the case agent listed on the file and
5 Officer Scarborough who is the supervisor over that
6 unit at Moncks Corner Police Department. Our other
7 two witnesses were told to be here a little bit
8 later in the morning. One is the SLED analyst who
9 is driving from Columbia. The other witness is
10 Brad Norvell with the Moncks Corner Police, could
11 be here most likely within the same amount of time
12 as the other two that are already in route. Both
13 of those officers -- one actually just lives right
14 around the corner. The other one is currently
15 getting off 52 according to my investigator.

16 THE COURT: You need to have your
17 witnesses on time.

18 MR. DENNIS: Yes, Your Honor. I
19 understand.

20 THE COURT: We got jurors sitting back
21 there.

22 MR. DENNIS: He's here.

23 THE COURT: Okay. Ready for the jury?

24 MR. DENNIS: Yes, Your Honor.

25 THE COURT: Defense ready?

1 MS. LITTLEJOHN: Yes, Your Honor.

2 THE COURT: All right. Bring in the
3 jury.

4 (Whereupon the jury entered the
5 courtroom at 10:06 a.m.)

6 THE COURT: Be seated. Call your next
7 witness.

8 MR. DENNIS: State calls Officer Jeremy
9 Younginer.

10 JEREMY YOUNGINER

11 having been duly sworn, testifies as follows:

12 THE CLERK: Please state your full name
13 and spell your last name for the record.

14 THE WITNESS: Jeremy Curt Younginer,
15 Y-O-U-N-G-I-N-E-R.

16 DIRECT EXAMINATION

17 BY MR. DENNIS:

18 Q. Good morning, Officer Younginer. Where
19 are you currently employed?

20 A. Currently self-employed and part time
21 at Ninety Six Police Department.

22 Q. What do you do in your self employment?

23 A. Home automation installation.

24 Q. And how long have you been in law
25 enforcement?

1 A. About eight years.

2 Q. Where are the different precincts or
3 areas that you have been employed?

4 A. I was with Greenville County throughout
5 about the first six years of my career, then Moncks
6 Corner for about a year.

7 Q. Why did you leave Greenville County or
8 where in Greenville County were you employed?

9 A. Sheriff's office.

10 Q. What caused you to leave the Greenville
11 County Sheriff's Department?

12 MS. LITTLEJOHN: Your Honor, I object,
13 relevance.

14 THE COURT: I sustain the objection.

15 BY MR. DENNIS:

16 Q. Where are you currently working again?

17 A. For myself I am self-employed and then
18 part time with Ninety Six police.

19 Q. Were you ever employed with the Moncks
20 Corner Police Department?

21 A. Yes, sir.

22 Q. When did you work for them?

23 A. Almost a year. I started about
24 January.

25 Q. January of what year?

1 A. '15.

2 Q. What were your responsibilities while
3 you were with the Moncks Corner Police Department?

4 A. I was a patrol officer. I was on the
5 road rotating shifts, taking calls, any calls for
6 service and proactive police work.

7 Q. What other types of training have you
8 had during your career as a law enforcement
9 officer?

10 A. Most of my training was at Greenville
11 County which included a bunch of active shooter
12 training and incident command training. Pretty
13 much anything you can name.

14 Q. And were the duties that are -- excuse
15 me -- were your responsibilities during November of
16 2015 the same as you have already stated?

17 A. Yes, sir.

18 Q. And during that month were you
19 dispatched to 249 Gullledge Street Apartment [REDACTED]?

20 A. Yes, sir.

21 Q. And what date was that?

22 A. That was on Thanksgiving.

23 Q. November 26th sound about right?

24 A. Yes.

25 Q. Is that address in Berkeley County?

1 A. Yes, sir.

2 Q. What type of residence is located
3 there?

4 A. They are like apartments like set up
5 kind like of townhouses.

6 Q. Would you please explain to the jury
7 the reason why you were at that location that
8 evening?

9 A. It came out as a domestic with a gun
10 involved over the air. So obviously all of Moncks
11 Corner Police headed that direction.

12 Q. Where were you when you first received
13 that call?

14 A. At the police department.

15 Q. And who else was with you at the police
16 department?

17 A. I was with Scarborough, Corporal
18 Scarborough and then Officer Mason and Officer
19 Brown.

20 Q. Where were you all at that department?

21 A. I don't recall exactly where we were,
22 either inside or right out in the parking lot.

23 Q. What was the coverage like? By
24 coverage I mean the number of officers on the road
25 that evening?

1 A. It was actually a little heavy. We
2 normally have three officers, but we had four that
3 night.

4 Q. Any particular reason why that was?

5 A. I don't recall. I think Brown was
6 working at the schools and was off.

7 Q. Okay. When you were dispatched what
8 did you do once you arrived at that location?

9 A. As soon as I got out at the location
10 Corporal Scarborough went to the front door so I
11 went toward the front window just to kind of see
12 what's going on, see what's happening before we go
13 in or knock on the door. And so as soon as I got
14 to the window I saw Ms. Faye and she had her hands
15 up and she could see me through the window barely.
16 She could just, you know, peripheral and she was
17 pointing like she was in distress like there was
18 something happening in front of her and she
19 couldn't talk to or make contact with me.

20 So I headed towards the front door to
21 tell Scarborough we were going to force entry, she
22 was obviously in distress.

23 Q. Where was that window in relationship
24 to the door that Scarborough was at?

25 A. Probably 10 to 15 feet to the left.

1 Q. Was it basically side to side on the
2 same side of that apartment?

3 A. If I recall it was close enough where I
4 could see in where I was at.

5 Q. What happened once you saw Faye, You
6 said it was Faye. What happened once you saw her
7 signal towards wherever she was signalling?

8 A. I headed towards the front door because
9 I figured we were going to have to force our way
10 in.

11 Q. Why did you figure that?

12 A. She was in immediate distress.

13 Q. What happened once you reached the
14 front door?

15 A. As soon as we were about to make entry
16 to the front door entry I believe it was Karen
17 opened the door. I couldn't see who opened the
18 door, but I saw the door opening and Karen was
19 stepped back.

20 Q. Who was first through that door?

21 A. I believe Scarborough was first through
22 the door.

23 Q. What did you hear while you were
24 approaching this front door?

25 A. Just a bunch of yelling.

1 Q. How long were you at that window and
2 then how long did it take you to get from the
3 window to the front door?

4 A. It was seconds, maybe five seconds
5 would be like the maximum.

6 Q. What did you see once you gained entry
7 into that apartment?

8 A. I saw Karen pointing towards the
9 hallway and then immediately saw the Defendant
10 coming out of the hallway without a weapon.

11 Q. How was Karen acting?

12 MS. LITTLEJOHN: Speculation, Your
13 Honor.

14 THE COURT: No, I overrule the
15 objection. He can testify what he observed.

16 THE WITNESS: I immediately observed
17 her. She was kind of frantic pointing towards the
18 hallway and what's going on like she was in
19 distress, something had just happened to her.

20 BY MR. DENNIS:

21 Q. What was the Defendant doing?

22 A. He was yelling and cussing and then he
23 started talking to Scarborough like he was trying
24 to -- almost like he was trying to befriend
25 Scarborough when we first got there.

1 Q. Did you see anybody else in that front
2 room?

3 A. No. I could see Faye down the hallway.

4 Q. Where was Faye in relationship to Mr.
5 Shumpert?

6 A. When I first walked in? It would have
7 been Faye in the bedroom and Shumpert coming down
8 the hallway and then Karen was in the living room.

9 Q. Once you kind of ascertained what that
10 situation looked like what did you do next?

11 A. Me and Scarborough went to get
12 Shumpert's arms up behind his back so we could cuff
13 him and make sure he didn't have any other weapons
14 on him because all we knew was a male suspect had a
15 weapon on him and was firing a gun inside the
16 house. So he was the only male person there so he
17 was detained.

18 Q. How did you know that?

19 A. That he was the --

20 Q. That that was what was being -- that
21 that was what you thought was going on in that
22 house?

23 A. Over dispatch.

24 Q. Did Mr. Shumpert have any injuries to
25 him when you first entered that room?

1 A. I don't recall seeing any injuries when
2 I walked in.

3 Q. How did you restrain Mr. Shumpert?

4 A. I grabbed one of his arms and then I
5 was trying to grab his other arm while Scarborough
6 had his shoulders, but Scarborough ended up having
7 to help me get his arms together because when he
8 realized he was being detained he started to
9 struggle a little bit.

10 Q. Did you notice anything else about him?

11 A. He was obviously under the influence of
12 something but, you know, he was acting a little out
13 of character for a person just to be awoken from
14 sleep.

15 Q. Did you smell alcohol on him?

16 A. I smelled alcoholic beverage.

17 Q. What did you do once -- so again how
18 was Mr. Shumpert detained?

19 A. Myself and Scarborough had to struggle
20 with him a little bit to get handcuffs on him and
21 then we went ahead and started to bring him
22 outside.

23 Q. Once you got him to the doorway what
24 happened then?

25 A. I thought he was fine for a minute and

1 then Scarborough -- he started kicking back at
2 Scarborough like he was trying to kick
3 Scarborough's shins. So I grabbed one side of him
4 and Scarborough grabbed the other side of him and
5 we started to make our way towards my patrol car.

6 Q. Okay. As you are making your way to
7 your patrol car how was he acting?

8 MS. LITTLEJOHN: Your Honor, objection,
9 relevancy to the charge.

10 THE COURT: I will overrule the
11 objection.

12 THE WITNESS: As we were going to the
13 patrol car he was still trying to kick at our shins
14 and then when we got to the patrol car he kind of
15 -- we put his chest on the patrol car, you know, so
16 he could get to the door and he kind jumped back
17 off of the patrol car and was kicking at us and
18 both myself and Scarborough about the same time had
19 to get him -- hit him pretty hard against the
20 patrol car to get him to quit kicking back at us.

21 BY MR. DENNIS:

22 Q. How hard did you put him on the patrol
23 car?

24 A. Just the necessary force to get him to
25 stop moving. I believe that he might have busted

1 his lip or something because right after we got him
2 detained he had like a little bit of blood on his
3 face.

4 Q. Who else helped you get him into the
5 car?

6 A. All four of us were out there. I was
7 kind of tunnel vision with him, but I remember
8 Brown was there, Mason was there and we got the --
9 I don't know who put the shackles on his legs.
10 That was the only thing we were equipped with to
11 keep somebody's legs from moving. So I pretty much
12 kept on his upper body while somebody was
13 handcuffing his or shackling his legs.

14 Q. Why did you have to use shackles?

15 A. We were afraid he was going to kick the
16 window out because he was trying to kick at us, you
17 know. It's not that hard to get out of a seat belt
18 and kick the window out if you're fighting with the
19 police.

20 Q. What did you do once Mr. Shumpert was
21 placed in that vehicle?

22 A. I got my statements, my blank copies of
23 victim forms and all and went back into the house
24 to try to assess what happened prior to me getting
25 there.

1 Q. How long between your entryway into
2 that apartment and sitting down with whomever you
3 took those statements from was it just ballpark?

4 A. Ballpark, probably about ten minutes, I
5 believe. I'm not 100 percent.

6 Q. Okay. Who did you speak with that
7 night?

8 A. Both Faye and Karen.

9 Q. Who wrote those statements?

10 A. I wrote them. I prefer to -- I was
11 always trained in Greenville County to write my own
12 statements as the victim dictates, especially when
13 they're distressed and they can't even, you know,
14 sit still because they're so upset about what
15 happened and also for purposes of me --

16 MS. LITTLEJOHN: Speculation, Your
17 Honor, object.

18 THE COURT: I sustain the objection.
19 Let's just stick to what happened there in the
20 general area of where the events occurred.

21 BY MR. DENNIS:

22 Q. Why did you prefer to take those
23 statements so closely after the incident?

24 A. So I would have something to take to
25 the judge in order to get a warrant.

1 Q. How often do you go back and try to
2 supplement any written statements that you take
3 from --

4 A. It depends on the case. If it was a
5 case that I did normally, if it's a municipal case
6 I usually handle it then, but I think an
7 investigator took over that case and wanted to
8 follow up on it.

9 Q. How did both of Faye and Karen look
10 while you were taking those statements?

11 MS. LITTLEJOHN: Your Honor, again
12 speculation.

13 THE COURT: Well, he can testify as
14 what he observed so I overrule the objection as
15 long as he sticks to something he observed.

16 THE WITNESS: Took me a while to calm
17 both of them down. It was like one -- hard to get
18 a statement when somebody is so upset. So I had to
19 separate them so they would -- they were feeding on
20 each other's stress because about what happened.
21 They were both trying to talk to each other, so I
22 kind of separated them so I could focus just on
23 Faye and then just on Karen.

24 BY MR. DENNIS:

25 Q. Once you took those statements what did

1 you do next?

2 A. After I got those statements I gave
3 them a copy and had them sign it. I got my
4 statements, got in my car and transported Mr.
5 Shumpert to detention.

6 Q. Okay. What happened with the gun that
7 night?

8 A. I put that in my vehicle as soon as it
9 was safe.

10 Q. Where did you obtain the gun?

11 A. From the floor.

12 Q. From the floor where?

13 A. Partly in the hallway on the floor.
14 I'm not sure if it moved prior or it had been
15 kicked or anything, but --

16 Q. From this hallway where is Faye's
17 bedroom?

18 A. Couple feet.

19 Q. And on the other side of the hallway,
20 what's that area?

21 A. The opposite of the bedroom? That's
22 the living room.

23 Q. Your Honor, may I approach the witness?

24 THE COURT: You may.

25 BY MR. DENNIS:

1 Q. Officer, please describe what I have
2 just set in front of you.

3 A. This is the .22-caliber revolver that
4 we recovered from that incident location.

5 Q. How do you know it's a .22?

6 A. From the shell casings.

7 Q. Is this gun substantially similar -- in
8 similar condition than when you first picked it up
9 from the floor of that night?

10 A. The condition it was when I picked it
11 up it was loaded and the cylinder was closed. So
12 it was ready to fire.

13 MR. DENNIS: At this point, Your Honor,
14 the State would move to enter in what's been
15 premarked as State's 4 into evidence.

16 MS. LITTLEJOHN: Without objection.

17 THE COURT: In without objection.

18 (STATE'S EXH. 4 in evidence.)

19 MR. DENNIS: May I publish it to the
20 jury, Your Honor?

21 THE COURT: You may.

22 BY MR. DENNIS:

23 Q. What did you do with this gun once you
24 took it from that home, Officer Younginer?

25 A. Prior to leaving I was curious if it

1 was loaded because both their statements both said
2 it was pulled multiple times while pointed at their
3 head and at Karen's stomach so I checked it to see
4 if it was even loaded and I saw that it was a round
5 in every chamber. And there were multiple pin
6 stripes from the firing pin on each round.

7 So it was kind of a little bit
8 unnerving Thanksgiving night having a gun that for
9 whatever reason did not hit the primer perfectly
10 enough to fire a round. We were both -- I think
11 all of us -- were kind of shocked.

12 MS. LITTLEJOHN: Your Honor --

13 THE COURT: Don't go into what you were
14 shocked. It's what you saw.

15 MS. LITTLEJOHN: Not an expert in the
16 tool and die.

17 THE COURT: Go ahead. Just state what
18 he saw.

19 BY MR. DENNIS:

20 Q. Officer Younginer, once you get the gun
21 into evidence where did you go?

22 A. The gun didn't go into evidence until
23 we got to the police department.

24 Q. Once you took the gun from the home
25 where did you take it?

1 A. To my car trunk.

2 Q. What did you do with the gun after
3 that?

4 A. Took it to -- well, after we went to
5 the detention it was taken to evidence at the
6 police department.

7 Q. Did you have any other involvement with
8 the case after that?

9 A. Obviously I had to spend time typing
10 the report and then Corporal Scarborough handled
11 taking photos of the gun and the rounds for me.

12 Q. So who wrote the report for this case
13 that night?

14 A. I wrote the actual main report,
15 everybody else supplemented.

16 Q. Just briefly, Your Honor.

17 (Off-the-record conference.)

18 BY MR. DENNIS:

19 Q. Officer Younginer, just a few more
20 follow-up questions. Previously you testified you
21 heard some yelling inside that apartment. What
22 type of voices did you hear?

23 MS. LITTLEJOHN: Your Honor, asked and
24 answered, hearsay.

25 THE COURT: I sustain the objection.

1 BY MR. DENNIS:

2 Q. And what did the -- what was the
3 Defendant's -- what was Mr. Shumpert's appearance
4 before you placed handcuffs on his wrists?

5 MS. LITTLEJOHN: Asked and answered,
6 Your Honor.

7 THE COURT: I will overrule the
8 objection. Let's don't be repetitive.

9 BY MR. DENNIS:

10 Q. Yes, Your Honor.. What type of injuries
11 did the Defendant have before you placed him into
12 handcuffs?

13 A. I didn't see any.

14 Q. You said previously that you mentioned
15 shots that were fired. Was there any evidence of
16 shots being fired?

17 A. No actual -- dispatch said that the gun
18 was fired multiple times.

19 MS. LITTLEJOHN: Objection, Your Honor.

20 THE COURT: I am sorry. Let's start
21 over. What was the question again?

22 MR. DENNIS: Your Honor, I asked
23 Officer Younginer when he -- just for clarity he
24 testified that there were some shots. I asked --

25 THE COURT: Just what you asked him.

1 MR. DENNIS: Yes, Your Honor. Asked
2 him if there were shots fired over the radio, did
3 you see any presence of shots being fired in the
4 apartment.

5 THE COURT: You object?

6 MS. LITTLEJOHN: He was testifying as
7 to what dispatch told him.

8 THE COURT: I sustain the objection as
9 to what dispatch said.

10 MR. DENNIS: Thank you, Your Honor. No
11 further questions.

12 THE COURT: Cross?

13 CROSS-EXAMINATION

14 BY MS. LITTLEJOHN:

15 Q. Hey, Officer Younginer.

16 A. Yes, ma'am.

17 Q. You and I have actually not talked
18 about this case, have we?

19 A. No, ma'am.

20 Q. Do you know about how many times you
21 have spoken with the government on this case?

22 A. I was with the government so --

23 Q. The solicitor's office?

24 A. Just once, maybe just once.

25 Q. Just once, okay. And y'all prepared,

1 for your testimony today, right?

2 A. Well, a while back.

3 Q. So you went to the academy, right?

4 A. Yes, ma'am.

5 Q. In Columbia. That's a pretty vigorous
6 training, right?

7 A. Yes, ma'am. It was nine weeks.

8 Q. I think they have actually decreased it
9 some since, used to be really bad?

10 A. It's 12 now.

11 Q. I thought it was decreased, but it was
12 not easy, is it?

13 A. Depends on how motivated you are.

14 Q. Not everyone can do it, can they?

15 A. Correct.

16 Q. It's got pretty high standards, doesn't
17 it?

18 A. Yes, ma'am.

19 Q. One of the classes that you take about
20 is a four-hour class on how to write reports, isn't
21 it?

22 A. It's pretty brief.

23 Q. And Greenville County where you did
24 most of the training has a lot of inner agency
25 training?

1 A. Most definitely.

2 Q. Don't they? Pretty big department?

3 A. It's over 500 deputies.

4 Q. And they go into, they look at the
5 quality of your work and the report writing as
6 well, correct?

7 A. Yes, ma'am.

8 Q. And you don't like to do sloppy police
9 work, do you?

10 A. No, ma'am.

11 Q. Nobody does. So you write a good
12 report?

13 A. Yes, ma'am.

14 Q. Because you know that the State is
15 going to depend on your report, right?

16 A. Yes, ma'am.

17 Q. I'm going to depend on it?

18 A. Yes, ma'am.

19 Q. Detectives might depend on it, right?

20 A. Yes, ma'am.

21 Q. Lot of people might depend on the
22 report?

23 A. Yes, ma'am.

24 Q. So what you learned to write was put
25 everything in there that was said and done,

1 correct?

2 A. As best you can.

3 Q. As best you can. Particularly if it's
4 important you need to get that down?

5 A. Yes, ma'am.

6 Q. And Moncks Corner doesn't give you a
7 time limit on how long you have to write a report?
8 They don't say you only have five minutes to write
9 your report, do they?

10 A. You might start and stop it, but you
11 probably need to finish it before you go home.

12 Q. But there's no time limit placed on
13 you?

14 A. No, ma'am.

15 Q. And when you do it you look over it,
16 correct?

17 A. Yes, ma'am.

18 Q. Make sure it's accurate, make sure you
19 have all the names and everything, right?

20 A. Yes, ma'am.

21 Q. And one of the reasons you do that is
22 because you probably worked other cases since this
23 incident, right?

24 A. Yes, ma'am.

25 Q. And that helps you refresh your memory?

1 A. Yes, ma'am.

2 Q. Because with so many cases you need to
3 keep them all sorted out?

4 A. It's more so for everybody else than
5 me.

6 Q. It is helpful, though, wouldn't you
7 agree?

8 A. Yes, ma'am.

9 Q. You said that when you were in
10 Greenville you took the active shooter training?

11 A. Yes, ma'am.

12 Q. Is that where you -- like a target, you
13 know, one of those precise shooting people for lack
14 of a better word?

15 A. It's more of an active shooter inside
16 of an incident. You arrive on scene and there's
17 somebody that's actively shooting.

18 Q. That's one of those let's go in guns
19 drawn?

20 A. Yes, somebody is in immediate danger.

21 Q. And in this case y'all didn't have guns
22 drawn, did you?

23 A. I was low ready.

24 Q. But y'all didn't have your guns up in
25 the air drawn, did you?

1 A. I could only testify for myself.

2 Q. You didn't?

3 A. Mine was at low ready; it was not up.

4 Q. It was not up?

5 A. It was unholstered, yes.

6 Q. But it was not up?

7 A. No.

8 Q. Was not drawn, right. I'm sure with
9 particularly as many years as you have been doing
10 this you have had the experience of busting down
11 doors or been with people when doors have been
12 busted down?

13 A. Yes, ma'am.

14 Q. The door didn't have to be busted down,
15 did it?

16 A. It was seconds from being busted down.

17 Q. But y'all didn't have to bust it down?

18 A. We didn't have to.

19 Q. So you arrived on scene, waited and
20 looked to the window and then went to the door,
21 right?

22 A. This is all about five seconds.

23 Q. No kicking the door down?

24 A. No, ma'am.

25 Q. And if someone gets hurt in police

1 custody isn't the protocol to fill out a police
2 special form?

3 A. There is not a special form. You just
4 document it inside your report.

5 Q. That is if someone is hurt in police
6 custody that isn't sent to SLED?

7 A. Not usually, not unless it's to the
8 point of serious injury.

9 Q. And you talked about Billy's lip. You
10 actually don't know when his lip got hurt, do you?

11 A. Not exactly.

12 Q. Right. You are just guessing?

13 A. I don't remember it being hurt, but I
14 could have missed it. I just think it might have
15 happened outside.

16 Q. You testified that you wrote the
17 statements for Ms. Karen Clarkson and Ms. Faye
18 Boone, right?

19 A. Yes, ma'am.

20 Q. You testified that they teach you to
21 put down exactly what they say?

22 A. Yes, ma'am.

23 Q. And you were in here the whole
24 testimony?

25 A. Yes, ma'am.

1 Q. And in their statements you put down
2 exactly what they told you, correct?

3 A. Lot of times people talk faster than
4 you can write and you have to stop, then go back
5 and stop and go back, especially in a traumatic
6 incident, so I may have missed it.

7 Q. But if it's something serious it's
8 coming down on here, right? Here or in your
9 report, correct?

10 A. Pretty much everything that was serious
11 with that.

12 Q. In Ms. Faye Boone's supplement, have
13 you looked at the statements recently?

14 A. When I met with the prosecutor.

15 Q. Would you like to see them just
16 briefly?

17 A. Sure.

18 Q. Your Honor, may I approach?

19 THE COURT: Yes.

20 BY MS. LITTLEJOHN:

21 Q. To refresh your memory.

22 A. Yes, ma'am.

23 Q. In their statements that you wrote it
24 doesn't say anywhere Billy said he was going to
25 kill us, does it?

1 A. I don't believe so. I think it was
2 kind of inferred.

3 Q. They didn't -- they didn't tell you
4 that for you to write it down, did they?

5 A. I don't recall it. They may or may not
6 have.

7 Q. But it's not something that you do
8 recall?

9 A. If somebody pulls a trigger on a loaded
10 gun it's pretty much assumed that they are trying
11 to kill you.

12 Q. But you don't know?

13 A. If they said that?

14 Q. Right.

15 A. I couldn't swear on it, no, ma'am.

16 Q. Because it's not written down. And
17 that would be something important to know, right?
18 If it was said and they told you that you would
19 have written it down?

20 A. I may or may not have. The fact that a
21 loaded gun was -- the trigger was pulled on a
22 loaded gun to a head, was pretty much --

23 Q. Would or would not you have written it
24 down? That's pretty important, isn't it?

25 A. That loaded gun was --

1 Q. That somebody would say I want to kill
2 you?

3 A. I may have missed it. When somebody is
4 distressed and trying to give you a statement it's
5 not as easy to take as you would think. Like
6 somebody is almost crying and yelling I may have
7 missed something.

8 Q. You took your time with them?

9 A. As much as I could. I had a Defendant
10 in the car.

11 Q. Right. You didn't rush them? You went
12 back and all, right?

13 A. I mean I did them pretty fast.

14 Q. But you didn't just roll over on them?

15 MR. DENNIS: Objection, Your Honor.
16 This has been asked and answered.

17 THE COURT: It's cross. Go ahead.

18 BY MS. LITTLEJOHN:

19 Q. You didn't rush them, did you?

20 A. I did them pretty quickly as fast as I
21 could.

22 Q. As fast as you could, but you didn't
23 make them hurry up, did you?

24 A. No, I just had to stop them multiple
25 times.

1 Q. You stopped them to go back as you
2 said?

3 A. Because I can only write so fast.

4 Q. Exactly. Your Honor, if I can just
5 approach him. So nowhere in their voluntary
6 statements was it written that they said that Billy
7 said that. You also were the one who got the
8 warrants for him, weren't you?

9 A. Yes, ma'am.

10 Q. And you got two warrants, didn't you?

11 A. Yes, ma'am.

12 Q. Both of them were for attempted murder,
13 correct?

14 A. Yes, ma'am.

15 Q. With regard to the time there, if the
16 CAD report reflected that the arrival time was
17 around 2129:56 seconds, so 2130, and the dispatch
18 time and the clear time was around 2253:57, so
19 2254, would that be about accurate do you think?

20 A. Clear time from the jail?

21 Q. For the entire?

22 A. Usually the call goes from start to
23 finish. So I went to the jail. I wouldn't have
24 cleared it until I left the jail.

25 Q. Your Honor, if I may approach the

1 witness?

2 THE COURT: You may.

3 A. The clear time would indicate when I
4 left the jail.

5 Q. That's 2253?

6 A. Yes, ma'am.

7 Q. And the arrival time when you arrived
8 at the house was 2129?

9 A. That's probably off by 30 or 40 seconds
10 because somebody who talked on the radio.

11 Q. They are all off by a few seconds?

12 A. Yes, everybody is trying to talk at
13 once.

14 Q. Right. So the whole entire situation
15 if you just want to round it up even would be 2130
16 to 2254?

17 A. Yes, ma'am.

18 Q. So --

19 A. Pretty cut and dry case.

20 Q. So less than an hour and-a-half,
21 correct?

22 A. Yes, ma'am.

23 Q. And four police officers. One of the
24 ways we get here into court as you know is an
25 indictment, correct?

1 A. Yes, ma'am.

2 Q. Did you present the indictment to the
3 grand jury on this case?

4 A. I didn't.

5 Q. You didn't. One of the things that
6 they teach you at the academy is about different
7 crimes and you learn that of course on-the-job
8 training and continuing education and all the
9 different crimes?

10 A. Yes, ma'am.

11 Q. And in this case there was no warrant
12 taken for assault and battery first, was there?

13 A. No, ma'am.

14 Q. There wasn't a warrant taken for
15 assault and battery second?

16 MR. DENNIS: Objection, Your Honor.

17 THE COURT: I will sustain the
18 objection.

19 BY MS. LITTLEJOHN:

20 Q. You didn't take a warrant for resisting
21 arrest, did you?

22 A. No, ma'am.

23 Q. You didn't take --

24 A. The reason is he was probably under the
25 influence and I didn't think he -- a lot of times I

1 don't like to charge unless they mentally know
2 they're resisting. And I think he didn't -- wasn't
3 all there.

4 Q. Not something you know for sure, but
5 bottom line is you didn't take a warrant for it,
6 did you?

7 A. No. He was in a lot of trouble
8 already.

9 Q. You didn't take a warrant, you're
10 familiar with the pointing and presenting a
11 firearm?

12 MR. DENNIS: Objection, Your Honor.

13 THE COURT: I sustain the objection. I
14 sustain the objection. Leave it at that.

15 BY MS. LITTLEJOHN:

16 Q. So the only thing we have is we have
17 two counts of attempted murder, correct?

18 A. Yes, ma'am.

19 Q. What photographs did you take, do you
20 recall?

21 A. I didn't take any.

22 Q. You didn't? And in your police report
23 you documented everything, correct?

24 A. Best I could.

25 Q. Best you can. At least all the

1 important elements?

2 A. I believe so.

3 Q. You said that there were -- you saw
4 multiple strikes on the bullets, correct?

5 A. Multiple pin strikes on the shell
6 casing.

7 Q. You don't know when those got there, do
8 you?

9 A. I couldn't say for sure. If it doesn't
10 go off it is not hot.

11 Q. Right. You know it didn't work because
12 you noticed the back strap was broken, correct?

13 A. The back strap?

14 Q. Did you notice that part of it was
15 broken?

16 A. I didn't look at it that closely. I'm
17 not -- as you said earlier, I'm not a gun expert.

18 Q. Court's indulgence.

19 (Off-the-record conference.)

20 BY MS. LITTLEJOHN:

21 Q. Just so the jury gets a feel for where
22 this occurred to the jail, because the jail is next
23 door to us, correct?

24 A. Yes.

25 Q. Where we are right here?

1 A. Yes, ma'am.

2 Q. Takes about two to three minutes to get
3 from Gulledge Street to the jail?

4 A. Probably.

5 Q. And in your written report, would you
6 like to see it to refresh your memory?

7 A. Depends on what you're asking.

8 Q. Nowhere in that do you write down that
9 Mrs. Faye Boone or Ms. Karen Clarkson stated that
10 Billy Shumpert said I'm going to kill you?

11 A. I may not have.

12 Q. Would you like to see your report?

13 A. I believe you. I mean I think it's
14 pretty much assumed --

15 Q. You didn't write it down, did you?

16 A. No. If somebody pulls a trigger with a
17 gun that's loaded they are trying to kill you.

18 Q. In your police work they teach you not
19 to make assumptions, right?

20 A. That's not even an assumption. That's
21 the God's honest truth.

22 Q. But they teach you not to make
23 assumptions, don't they?

24 A. Exactly.

25 Q. Okay.

1 MS. LITTLEJOHN: No further questions.

2 THE COURT: Recross?

3 MR. DENNIS: Just briefly.

4 REDIRECT-EXAMINATION

5 BY MR. DENNIS:

6 Q. Officer Younginer, you testified
7 earlier about low ready. What does that mean?

8 A. Means basically the gun is unholstered
9 so I just don't have my sights in my eye. So
10 purposes of like slightly lower than it would be if
11 I was going to take a shot. Basically a split
12 second from going to low ready to shoot.

13 Q. Your gun was out and low ready,
14 correct?

15 A. Yes, sir. I had all intentions of
16 taking a shot.

17 Q. Why did you not have to break into that
18 apartment?

19 A. The door opened.

20 Q. Who opened that door?

21 A. I didn't see, but I believe it was
22 Karen.

23 MR. DENNIS: No further questions, Your
24 Honor.

25 MS. LITTLEJOHN: Just briefly.

RECROSS-EXAMINATION

BY MS. LITTLEJOHN:

Q. Going into domestic calls it's pretty common to go in low ready, isn't it?

A. Especially when you have been advised of the risk involved.

Q. But domestic calls that's common?

A. Depends. If there's a weapon involved most definitely.

Q. It is not uncommon, is it?

A. No, ma'am.

MS. LITTLEJOHN: Thank you.

THE COURT: Call your next witness.
You may step down and be excused.

MR. STEGALL: State calls Chris Scarborough.

CHRIS SCARBOROUGH

having been duly sworn, testifies as follows:

THE CLERK: State your full name and spell your last name.

THE WITNESS: Chris Scarborough,
S-C-A-R-B-O-R-O-U-G-H.

DIRECT EXAMINATION

BY MR. STEGALL:

Q. How are you? I see you have some

1 stripes on your shoulder. What's that? What rank
2 is that?

3 A. PFC.

4 Q. So what would I address you as?

5 A. Officer.

6 Q. Officer Scarborough?

7 A. Yes, sir.

8 Q. Who are you employed with?

9 A. The Summerville Police Department.

10 Q. How long you been with them?

11 A. About seven months.

12 Q. Where were you before that?

13 A. Moncks Corner Police Department.

14 Q. About how long were you employed with
15 Moncks Corner?

16 A. About eight and-a-half years.

17 Q. What was your rank?

18 A. I was a corporal when I left.

19 Q. And what did that entail?

20 A. I was a shift supervisor.

21 Q. So what kind of duties did you have as
22 the shift supervisor?

23 A. On top of just the duties of a regular
24 patrolman I was also in charge of the officers on
25 the shift. Everything that had to do with the

1 shift. If somebody needed to be off then I would
2 have to make arrangements and making sure officers
3 are doing what they are supposed to be doing, the
4 paperwork and all the above.

5 Q. Did you have any training or
6 certification that comes along with that position?

7 A. I have been through a couple of
8 supervisory classes. They didn't have
9 certifications per se.

10 Q. Have you ever been involved in
11 investigative?

12 A. Yes, sir. I was assigned
13 investigations for about two years with Moncks
14 Corner.

15 Q. What year was that, do you know?

16 A. I went in 2011 and came out in June of
17 2013 I believe it was.

18 Q. Okay. So what type of calls would you
19 typically respond to with Moncks Corner?

20 A. Anything from somebody having a bicycle
21 stolen to a murder case.

22 Q. How big of a department were y'all?

23 A. Roughly about 30 officers.

24 Q. Is it fair to ask -- well, do other
25 officers have a wide variety of cases that they

1 see? In other words, being a small office do y'all
2 --

3 A. I mean you don't have a lot of
4 specialized units. You have investigations and
5 then patrol as far as patrol side goes. So as a
6 patrol officer you see everything.

7 Q. Have you ever asked your patrol
8 officers to also conduct investigations?

9 A. Yes. It's the -- any time we go out on
10 a call we are investigating and so depending on the
11 severity or the nature of the call the patrol
12 officer may be the one that does the followup
13 investigation.

14 Q. Switch gears on you and talk about
15 November 26th of 2015. Were you working that
16 night?

17 A. Yes, sir.

18 Q. What was the significance of that
19 night?

20 A. We got a call to the apartments on
21 Gullledge, 249, I can't remember the name of the
22 actual apartments.

23 Q. Was it a busy night for you?

24 A. Not that I recall. I don't remember
25 being extremely busy.

1 Q. Okay. So you got a call from Gullledge.
2 Where is that located?

3 A. In Moncks Corner.

4 Q. Okay. What county is that in?

5 A. Berkeley County.

6 Q. All right. Can you describe the
7 apartments?

8 A. They're single story. It's -- they're
9 older people. The residents there are typically
10 elderly. When you pull in there is an apartment on
11 the left. And it's a set of four apartments. You
12 have two in the front and two in the back, but when
13 you look at it just looks like a square house so to
14 speak and then you have someone right there and you
15 go on around. They are all set up pretty much the
16 same.

17 Q. So you get a call. Who responds with
18 you?

19 A. Myself and Officer Younginer were the
20 first two on the scene.

21 Q. What did y'all do when you arrived?

22 A. The call was for the first building on
23 the left. I think it was the [REDACTED] building.
24 Apartment [REDACTED]. Which if you are looking from
25 Gullledge Street at the apartments it would be to

1 the front and on the left side. We approached.
2 When you pull in the parking spaces for that
3 building you have to go to the left and pull
4 directly in front of the building. The nature of
5 the call there, it was a person with a gun. So I
6 wouldn't want to pull up into the front of the
7 front door. So we kind of pulled up to the side of
8 the right side of the building a little bit and
9 made our approach.

10 Q. Where did you position yourself?

11 A. What do you mean? Like once we got up
12 to it? Just to the left of the front door.

13 Q. Where was Younginer?

14 A. When we walked up there's a -- you have
15 the front door and then a window for like a living
16 room area and then to the left of that on the end
17 of the -- or the front end is a window that goes to
18 the bedroom. And Younginer came over to the --
19 approached over to the window and I went to the
20 front door.

21 Q. So there was a window looking in the
22 bedroom on the edge of the apartment; is that what
23 you are telling me? Like is the bedroom -- does
24 the bedroom share a wall with [REDACTED] 2?

25 A. It would -- not with [REDACTED] 2. It would be

1 ■ and 2 in the front. Then you would have 3 and 4
2 in the back. So apartment ■ front door and
3 apartment 2's front would be side by side. And
4 then they both have the windows for the living room
5 and then the bedroom window.

6 Q. I got you. Okay. All right. So you
7 get to the door. Did you hear anything?

8 A. No, sir, I didn't hear anything. Not
9 that I recall. It wasn't any loud yelling or
10 screaming or anything that I could hear.

11 Q. So what did you do when you got to the
12 door?

13 A. When I got to the door I just listened
14 to see if I could hear anything. Officer Younginer
15 went to the bedroom window and looked in to see if
16 he could see anything there.

17 Q. Okay. Did anybody come to the door?

18 A. Yes, sir. After Younginer looked into
19 the window he came over towards the front door and
20 I knocked on the door. And a lady opened the door
21 up.

22 Q. Who was that lady?

23 A. I don't recall her name. She's the
24 daughter of the resident that lived at the
25 apartment.

1 Q. Okay. Can you describe her appearance
2 for the court?

3 A. Middle aged.

4 Q. How was she acting?

5 A. When she opened the door she looked
6 scared, distraught. She did not really say
7 anything. As the door opened I could see her and
8 then in the living room behind her was the
9 Defendant Mr. Shumpert and she kind of backed out
10 of the doorway.

11 Q. What did you do when you saw Mr.
12 Shumpert?

13 A. The call we had was referring to a guy
14 with a gun inside the apartment so as soon as I saw
15 him I looked to see if he had a gun in his hands.
16 Best I remember I told him let me see your hands
17 and myself and Officer Younginer went into the
18 apartment and immediately went to him and
19 handcuffed him. We detained him.

20 Q. How close did you have to get to him to
21 handcuff him?

22 A. You had to be right on up a person.

23 Q. Got a good look at him?

24 A. Yes, sir.

25 Q. Did he have any injuries?

1 A. Not that I recall.

2 Q. No lacerations on his face?

3 A. Not that I recall, no, sir.

4 Q. How was he acting?

5 A. He seemed kind of excited I guess,
6 appeared to be intoxicated.

7 Q. When you say excited, was he happy?

8 A. I wouldn't say happy, just kind of
9 breathing a little bit heavier, just it is hard to
10 describe, but somebody that's completely relaxed
11 whose different than somebody that's just been
12 running around for example, just the way they are
13 being, their appearance I guess.

14 Q. Okay. How did he react to you when you
15 tried to handcuff him?

16 A. He tried to pull away. He tried to
17 back away from us. It wasn't -- he didn't just
18 stand there and not move at all.

19 Q. You mentioned your partner being there.
20 Did he have to help you or did you do it by
21 yourself?

22 A. No, sir, we did it together. He was
23 facing us. We approached him. Best I remember I
24 was to the -- my right would be Mr. Shumpert's left
25 side and Officer Younginer was on the other.

1 Grabbed him by the arm, kind of with my right hand
2 lowered down on the arm and my left hand a little
3 bit higher up just would be the normal way just to
4 put a hand behind the back and then Officer
5 Younginer came into the other side.

6 Q. Okay. What happened after you got the
7 cuffs on him? What did you do?

8 A. Once we got the cuffs on him I stayed
9 with Mr. Shumpert. Officer Younginer went off. I
10 believe at that time he went to the bedroom area.
11 When you go in the living room toward the front
12 side of the living room there's a little hallway
13 that goes over to the bedroom. And he went over in
14 that direction. I really didn't pay a lot of
15 attention to him. I was focused more on Mr.
16 Shumpert and just trying to figure out what was
17 going on.

18 Q. What did you do with Mr. Shumpert?

19 A. We stayed in the living room by the
20 couch area. Let me back up. Once we had him
21 handcuffed I patted him down to make sure he didn't
22 have any weapons or anything like that. We stayed
23 over by the couch area and I talked with him just
24 to try to see what was going on.

25 Q. Did he tell you anything?

1 A. Not -- no, sir.

2 Q. Did you eventually get him outside?

3 A. Yes, sir. When I was standing there
4 with him Officer Younginer walked out of the
5 apartment and Mr. Shumpert started getting
6 agitated. Not -- he didn't want to be handcuffed
7 and he wanted us to leave him alone. So I told him
8 we had to go out to the car. I was trying to get
9 him to go out. He started pulling away from me,
10 tried to prevent me from getting him out of the
11 apartment.

12 Q. Okay. How was he doing that?

13 A. Just trying to pull away from me. As
14 we got closer to the front door he was trying to
15 use his body to like put his shoulder up against
16 the shoulder frame trying to prevent me from
17 getting him out.

18 Q. Anybody help you with him?

19 A. Once I got him out and off the front
20 porch he was still actively trying to pull away
21 from me and jumping up and down and Officer
22 Younginer came over and helped me escort him to the
23 car.

24 Q. Okay. Did y'all get him in the car
25 fairly easily?

1 A. No, sir. When we got to the -- closer
2 to the car and the whole time we were walking down
3 the sidewalk toward where the car was parked
4 through the grass too he was continually trying to
5 pull away from us. Kind of hopping or jumping as
6 we got to the car or within a couple of feet of the
7 car. He tried to kick back toward us trying to
8 kick me, trying to kick Officer Younginer and we
9 pushed him, shoved him up towards up against the
10 car. I don't remember which officer. Officer
11 Younginer and I stayed right there with him. There
12 was also Officer Brown and Officer Mason I believe
13 was there. One of them got leg irons and we put
14 leg irons on him and then put him into the car,
15 back seat of the car.

16 Q. What do you mean you pushed him against
17 the car? I'm not --

18 A. I was on one side of him on his right
19 side I believe and Younginer was on his left side.
20 We each had an arm and when he was trying to kick
21 us we just pushed him up against the car.

22 Q. Did you notice anything about him when
23 you got him to the car, his appearance?

24 A. He had a busted lip.

25 Q. Do you know when that might have

1 happened?

2 MS. LITTLEJOHN: Speculation, Your
3 Honor.

4 THE COURT: I sustain the objection.
5 BY MR. STEGALL:

6 Q. What did you do after you got him in
7 the car?

8 A. I stayed with him. We called for an
9 ambulance and I stayed at the car for the most part
10 with Mr. Shumpert while Officer Younginer did
11 whatever it was he was doing and the other officer.

12 Q. Why did you call for an ambulance?

13 A. To have the ladies that were in the
14 apartment checked out and also while they were
15 there to have Mr. Shumpert looked at.

16 Q. Did Mr. Shumpert request an ambulance?

17 A. No, sir.

18 Q. What did you do after you called EMS?

19 A. I stayed within a few feet of the car.
20 I wasn't necessarily right at the car. Mr.
21 Shumpert was -- the whole time he was in the back
22 seat he was yelling and screaming and moving
23 around. He flipped around and was trying to kick
24 the window out with his feet and so I stayed close
25 to the car to deal with him.

1 Q. Okay. Did you feel like you needed to
2 keep eyes on him?

3 A. Yes, sir.

4 Q. Did you ever call CID or Criminal
5 Investigative Division?

6 A. I don't recall calling them, no, sir.
7 I don't recall calling them.

8 Q. So what did you do? Was your night
9 over after that?

10 A. No, sir. Once EMS came and left, once
11 we were finished at the scene getting statements
12 and everything we do there Mr. Shumpert was
13 transported to the Berkeley County detention center
14 and booked in there and then we went back to the
15 police station, Moncks Corner police station and
16 Officer Younginer worked on his report and the
17 evidence that we had. I assisted in getting the
18 forms filled out and getting it ready to be put
19 into evidence.

20 Q. What evidence were you referring to?

21 A. It was a revolver.

22 Q. Okay. Court's indulgence.

23 MS. LITTLEJOHN: Your Honor, we have a
24 matter of law we need to take up.

25 THE COURT: I will let you go to the

1 jury room just for a few minutes while we take up a
2 matter of law.

3 (Thereupon, the jury exited the
4 courtroom at 11:09 a.m.)

5 THE COURT: Yes, ma'am.

6 MS. LITTLEJOHN: Yes, Your Honor. I
7 think, correct me if I'm wrong, I think at this
8 point in time they are getting ready to introduce
9 the pictures of the guns and bullets.

10 MR. STEGALL: Correct.

11 MS. LITTLEJOHN: That's why I think he
12 paused and looked at me. We are going to be
13 objecting to that, Your Honor. Obviously the best
14 evidence is they have the best evidence right
15 there. They have the gun. They have the bullets.
16 It's best evidence rule. It is cumulative. All
17 that is already in evidence, it's been published to
18 the jury. It's also very prejudicial with regard
19 to the firing pin because no one has testified
20 about the firing pin. That's a tool and die expert
21 on firing pins that can tell when a mark was
22 actually put there. So in looking at that and what
23 they would be looking at is an enlargement, not the
24 actuality when they have the actual best evidence
25 here. So for the best evidence we have

1 prejudicial, we have cumulative.

2 Your Honor, we totally object to the
3 photographs coming in. As some people say we have
4 the real McCoy here, you have the gun.

5 THE COURT: Mr. Stegall.

6 MR. STEGALL: Your Honor, the State
7 believes that the photographs were taken,
8 specifically the ones with the bullets because what
9 I believe Corporal Scarborough is going to testify
10 to is that he noticed pin marks. Now, I know he is
11 not a tool and die expert, but he can certainly
12 testify that he observed pin marks on the bullets
13 and Ms. Littlejohn can certainly cross-examine that
14 he doesn't know when those pin marks would have
15 been placed on the bullet.

16 So it's the State's position that it's
17 -- you know, goes towards what he observed when he
18 was photographing the bullets. We don't believe
19 it's cumulative. We believe that's our position.

20 MS. LITTLEJOHN: Your Honor, the jury
21 can look at those bullets, all 12 of them, just as
22 easily as the officer did. Probably 12 of them you
23 have one of them saying look here and somebody else
24 says look here. The bottom line is it's highly
25 prejudicial because no one can testify as to when

1 those were put there. No one.

2 THE COURT: Well, I think he can
3 testify that those were -- the bullets that --
4 testify that these were the bullets that were
5 collected from that pistol regardless. He can
6 testify to that and I think that he can testify --
7 they have to lay a better foundation about pin
8 marks than I have heard so far. I will allow the
9 photographs in and allow him to testify that was
10 the weapon found and those were the pictures of the
11 bullets that were found. But without more I am not
12 going to let him talk about pin marks.

13 MS. LITTLEJOHN: Your Honor, the pin
14 marks are what is reflected in the photographs.

15 THE COURT: Photographs are what the
16 photographs are. He can testify those are
17 photographs of the bullets collected that night.

18 MS. LITTLEJOHN: So bottom line is
19 these are pictures of the bullets we took out.
20 That's it.

21 THE COURT: Lay a better foundation
22 because just I think that I have to hear more about
23 why he has and why he feels like he has -- an
24 expert testifies when they have greater knowledge
25 than the general public. And I don't know what the

1 pin marks or marks -- pin marks would be an area
2 that require expert testimony. I don't think a
3 regular layperson would know. There is a lot of
4 hunting in Berkeley County so a lot of Berkeley
5 County people may know, but I think he has to lay a
6 better foundation before I let him testify what
7 those photographs show as far as pin marks.

8 But I will allow him to testify that
9 those are -- I thought you had a tool and die
10 person coming to testify.

11 MR. STEGALL: We do, Your Honor. We
12 have got a SLED agent whose a gun expert and he is
13 going to testify. We were simply going to ask
14 Corporal Scarborough if he knows the general
15 appearance of the bullets, not really go into why
16 or why not, you know, those marks could have gotten
17 there, just that he noticed marks. Because he took
18 a picture of them standing up.

19 THE COURT: But I think -- I am not
20 going to have him go into what those are. The jury
21 can look at the pictures and then I don't know what
22 the expert is going to testify to, but I will allow
23 him to testify that is ammunition gathered, that
24 pistol was gathered, taken into custody, but not as
25 to what the photographs show other than they are

1 the bullets collected that night.

2 MS. LITTLEJOHN: Thank you, Your Honor.

3 THE COURT: Bring in the jury.

4 THE BAILIFF: They are using the
5 restroom.

6 THE COURT: Let's take a short break.
7 Tell them we are taking a ten-minute break.

8 (A recess transpired.)

9 THE COURT: Bring in the jury.

10 (Whereupon the jury entered the
11 courtroom at 11:28 a.m.)

12 BY MR. STEGALL:

13 Q. Officer Scarborough, I believe you were
14 telling us -- you were describing the evidence?

15 A. Yes.

16 Q. What evidence was that?

17 A. It was a revolver that was loaded and
18 had bullets in it.

19 Q. Okay. What did you do with that?

20 A. Once we got back to the station --
21 well, before we left the scene the gun was in
22 Officer Younginer, the trunk of his car. Before we
23 left the scene I removed the bullets from the
24 weapon to make it safe. They were placed into a
25 paper bag. Once we got -- and left in his trunk.

1 Once we got to the police station took the bag
2 containing the bullets and the gun into the squad
3 room and I laid them out on a countertop and took
4 photographs of them and then they were placed into
5 a gun box and put into evidence.

6 Q. I want to back up one second. You said
7 you removed the bullets. Where at in the home did
8 you do that?

9 A. It was at Officer Younginer's car.
10 When -- the gun was placed in the trunk of the car
11 for safety reasons and then once we had Mr.
12 Shumpert in the car and everything was kind of
13 calming down so to speak, before we left Officer
14 Younginer opened his trunk and we took the bullets
15 out of the gun.

16 Q. How many did you take out?

17 A. I think it was either five or six. I
18 don't recall exactly, four or five. I really
19 honestly don't remember.

20 Q. Permission to approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. STEGALL:

23 Q. I'm going to show you what's been
24 marked as State's Exhibit 4. Tell the jury what
25 that is?

1 A. It's a revolver and bullets.

2 THE COURT: I need to make sure that
3 gun firearm protocol -- is it made inoperable?

4 Q. Yes, sir, Your Honor. Is there a lock
5 on that gun?

6 A. Yes, sir, there's a lock.

7 THE COURT: I want the jury to know we
8 have a protocol when people use evidence, a
9 revolver or any kind of firearm prior to being
10 shown or brought out into open that it be locked
11 and made inoperable for safety reasons. I have to
12 check on that and they have done it.

13 BY MR. STEGALL:

14 Q. Was that the gun you collected from the
15 scene?

16 A. Yes, sir.

17 Q. Were these the bullets you removed from
18 the gun?

19 A. Yes, sir.

20 Q. How many bullets do you see in that
21 bag?

22 A. Six.

23 Q. May I approach?

24 THE COURT: Yes.

25 Q. So after you took photographs did you

1 have any other involvement in this case?

2 A. After I took the photographs the gun
3 was placed in a box, secured, tied down into the
4 box so it wouldn't move around. And the bullets
5 were loosely -- I don't remember if they were in an
6 evidence bag themselves and then put into the --
7 well, they were in the evidence bag and put into
8 the box and that's all I had.

9 Q. Did you turn it into evidence?

10 A. I don't remember if I did or if Officer
11 Younginer did. It was Officer Younginer's case. I
12 was just kind of helping getting things done so he
13 wasn't tied up with it for hours and hours on end.

14 Q. Okay.

15 (Off-the-record conference.)

16 MR. STEGALL: That's all I have.
17 Please answer anything Ms. Littlejohn has for you.

18 CROSS-EXAMINATION

19 BY MS. LITTLEJOHN:

20 Q. Hi, Officer Scarborough.

21 A. How are you doing?

22 Q. Hopefully get you out of here. I think
23 you stayed up last night for the night shift?

24 A. Yes, ma'am.

25 Q. You have been doing this a while,

1 right?

2 A. Yes, ma'am.

3 Q. Like you said earlier, you do
4 everything from stolen bicycles to murder?

5 A. Yes, ma'am.

6 Q. And on those really serious ones it is
7 pretty typical to take crime scene photographs and
8 fingerprint and all, right?

9 A. Yes, ma'am. It just depends on the
10 situation itself.

11 Q. But at least most of the serious ones
12 have at least the crime scene photographs taken,
13 right?

14 A. Yes, ma'am.

15 Q. Now, let's talk about what we have
16 here. Do you remember speaking with my
17 investigator Christy Page around June 22nd of this
18 year?

19 A. Yes.

20 Q. And didn't you tell her that you
21 knocked on the door and that the young lady
22 answered, that would be Ms. Clarkson?

23 A. Yes, ma'am. I don't know her name. I
24 don't remember her name. It was the younger of the
25 two.

1 Q. Okay. And you didn't go in your weapon
2 drawn, did you, pointing out?

3 A. I don't recall that, no, ma'am.

4 Q. And didn't she ask you if the ladies
5 had visual injuries?

6 A. Yes, ma'am, she did.

7 Q. Didn't you tell her that you didn't
8 remember seeing any?

9 A. I did tell her that, yes, ma'am.

10 MS. LITTLEJOHN: No further questions,
11 Your Honor.

12 THE COURT: Redirect?

13 MR. STEGALL: Nothing on redirect, Your
14 Honor.

15 THE COURT: You can step down. We
16 appreciate your time. Call your next witness.

17 MR. DENNIS: State calls Lieutenant
18 Tracy Thrower.

19 TRACY THROWER

20 having been duly sworn, testifies as follows:

21 THE CLERK: Please state your full name
22 and spell your last name for the record.

23 THE WITNESS: Tracy Thrower,
24 T-H-R-O-W-E-R.

25 DIRECT EXAMINATION

1 BY MR. DENNIS:

2 Q. Good morning, Lieutenant Thrower.
3 Thanks for coming down here. Where are you
4 currently employed?

5 A. I am employed by the South Carolina Law
6 Enforcement Division also known as SLED.

7 Q. What is your position at SLED?

8 A. I am the supervisor of the firearm and
9 tool mark department.

10 Q. How long have you been in that
11 position?

12 A. I have been the supervisor since about
13 six years.

14 Q. What did you do before that?

15 A. I was a firearm and tool mark examiner.

16 Q. For SLED?

17 A. Yes.

18 Q. How long have you been doing this?

19 A. Since 1999, so roughly a little over
20 18 years.

21 Q. Would you please explain exactly what
22 you do for SLED to the jury?

23 A. First and foremost I'm currently the
24 supervisor of the firearms department which means I
25 manage the daily activities of the department. But

1 I'm also a firearm and tool mark examiner.

2 Essentially what that means is I
3 examine firearms and firearm related evidence. I
4 examine tools and tool mark related evidence. I
5 perform serial number restoration, muzzle to target
6 distance determination for physical pellet
7 patterns, limited crime scene response, and any
8 sort of other physical analysis related to firearms
9 and/or tool marks.

10 Q. What education did you have to become a
11 firearm and tool mark expert?

12 A. I went to Winthrop University where I
13 got a bachelor of science degree with a major in
14 biology. Once I graduated from Winthrop I went on
15 and got hired by SLED. They put me through the
16 South Carolina Criminal Justice Academy. I
17 completed that. I then went on to start the SLED
18 firearm and tool mark examiner course of
19 instruction. This course of instruction typically
20 lasts about three years. It is supervised by court
21 qualified firearm examiners. Trainees have to
22 perform extensive reading and studying during that
23 three years. They have to assist case working
24 examiners in preparing their case and working their
25 cases. Learning the ropes. It's a mentorship

1 style program. Trainees are given practical
2 problems, written examinations, oral examinations,
3 that sort of thing. We send trainees to outside
4 schools, seminars and conferences that deal with
5 firearms and/or the field of identification as they
6 are available.

7 Had to perform extensive microscopic
8 comparisons trying to determine if two items were
9 fired by the same firearm.

10 Upon completion of that course of
11 instruction taking my final exam, passing my
12 competency test, passing the moot court I was
13 allowed to start working cases on my own. Since
14 then I have continued my education. I have been
15 through the specialized techniques in firearm
16 identification course taught by the Federal Bureau
17 of Investigation. I have been through the course
18 on scientifically defensible criteria for the
19 identification of tool marks which is taught by
20 Murdock and Moran. Serial number restoration
21 course taught by the Bureau of Alcohol, Tobacco and
22 Firearms. I have been through numerous armorer
23 courses where they teach you how to look at
24 firearms, how to determine what is wrong with them,
25 how to repair them for Glock, Hi-Point, Savage,

1 Smith and Wesson, Remington, Hi-Point just to name
2 a few among numerous other courses that I have
3 taken.

4 Q. And since that have you ever been
5 qualified as a firearms expert witness in court?

6 A. Yes, sir, I have.

7 Q. How many times have you been qualified?

8 A. I believe 57 now.

9 MR. DENNIS: Your Honor, at this point
10 the State would move to qualify Lieutenant Thrower
11 as an expert in firearm and tool mark examination.

12 THE COURT: Any voir dire?

13 MS. SHIVERS: No objection to his
14 qualifications.

15 THE COURT: I find him qualified as an
16 expert in that area.

17 MR. DENNIS: May I approach the
18 witness?

19 THE COURT: You may.

20 BY MR. DENNIS:

21 Q. Lieutenant Thrower, would you please
22 describe to the jury what I have just handed you?

23 A. First of all, ladies and gentlemen of
24 the jury, as you just saw, I have checked the
25 firearm. The cylinder is unloaded and the barrel

1 is unloaded. It is safe to handle. I will try not
2 to point it at anybody, but accidents happen. It's
3 safe. It can't hurt anybody.

4 What I have here is a Gucato revolver,
5 a .22 long rifle caliber, serial No. 95778 which is
6 SLED item one. It is also six misfired .22 long
7 rifle caliber cartridges.

8 Q. Let the record reflect that I did hand
9 Lieutenant Thrower what's been previously marked as
10 State's 4. Is there anything else in that box,
11 Lieutenant Thrower?

12 A. Yes. There is some light in color
13 debris that I collected from the revolver.

14 Q. Have you ever seen this item before?

15 A. Yes, sir, I have.

16 Q. How do you know that you have seen it
17 before?

18 A. Because on the underside of this area
19 called the top strap I took an engraver and I
20 engraved my SLED laboratory number, my item numbers
21 and my initials. Inside this heat sealed pouch are
22 cartridges and it bears my marking also of lab
23 number, item number initials. And that's also the
24 SLED bar code. That is a heat sealed pouch.

25 Q. Did you have a chance to examine and

1 test everything that you have just discussed?

2 A. Yes, I examined. I did not test the
3 light debris, I just collected it and preserved it.

4 Q. How did you test the firearm?

5 A. The first thing I do with a firearm is
6 when I open the package I look at it. I look to
7 see if there's any sort of what I call trace debris
8 on it. Something that should not be there like
9 blood, hair, fibers. That's when I noticed the
10 white debris so I collected it. I then go on to
11 look at what is submitted being the revolver and
12 the cartridges. I compare that to the submission
13 documents to make sure what I have opened is what
14 the submitting agency claims is supposed to be
15 there. I then photograph the evidence and go on to
16 fill out our departmental worksheets for a firearm.
17 It's a two-page worksheet that documents anything
18 from make, model, caliber, serial number, what
19 types of sights are on it, trigger pull, all sorts
20 of things. Does the gun work, are there any
21 problems with the gun. I do the same sort of thing
22 for the ammunition. I document that. Whatever is
23 on our worksheet, whatever observations need to be
24 made. I then test fire the gun with my
25 examination.

1 Q. What were the results of the testing on
2 the actual firearm?

3 A. During testing when I was first looking
4 at the gun, I noticed that this area here which is
5 between the hammer and the back strap of the frame,
6 I noticed it's got a crack in it. It's broken all
7 the way through.

8 Beyond that as I looked around,
9 everything else looked to be in working order. As
10 I cycled it everything felt normal. The trigger
11 pull was reasonably heavy. The hammer moved.
12 Everything seemed to function as normal until I
13 placed some ammunition in the gun, took it to our
14 bullet recovery tank which is essentially about a
15 three-foot diameter piece of stainless steel pipe
16 goes down through the floor, there's a funnel in
17 the bottom of it. And it is full of water.
18 Basically you point the gun down into the water
19 into the tank, that's where we can shoot so that
20 water slows the bullets so that we can recover test
21 specimens from the gun.

22 When I was trying to test fire this gun
23 there are two modes of fire. The first mode is
24 called single action which means your trigger has
25 one job. It's a single action. Means you first

1 precock the hammer and a simple pull of the trigger
2 does one thing. It releases the hammer and causes
3 it to go forward. The other mode of fire is called
4 a double action which means the trigger does two
5 things. As you pull the trigger the trigger causes
6 the hammer to cock of its own accord and then
7 releases the hammer at the end; so it performs two
8 functions.

9 During my testing I tested it six times
10 in single action and six times in double action and
11 I was not able to get the gun to fire during my
12 testing.

13 Q. What type of ammunition did you use
14 during the test?

15 A. I used CCI brand .22 long rifle caliber
16 cartridges.

17 Q. What did you determine through making
18 that test about the operability of this firearm?

19 A. That during my testing it would not
20 fire for me under the conditions of my testing.

21 Q. Did you have a chance to test the
22 actual bullets that were located inside of the gun?

23 A. Yes. What I did is from where I tried
24 to test fire this revolver I took those test
25 specimens that had firing pin impressions. The

1 firing pin is that portion of the gun that strikes
2 the piece of ammunition that causes it to
3 discharge. So when I tried to fire the gun with my
4 ammunition I put the firing pin impressions on that
5 ammunition. I took my test specimens and I
6 microscopically compared them to the ammunition
7 that was recovered with the firearm.

8 Q. And what did that examination lead you
9 to conclude?

10 A. The results of my examination were
11 inconclusive which means I can't tell. The
12 markings of this gun because the firing pin
13 impression was so light, those markings were so
14 faint that it really didn't give any markings for
15 me to compare the individual characteristics that I
16 need. They were not present. They were not given
17 from the gun to the ammunition.

18 Q. For the laymen here in the courtroom if
19 we were to pick up that gun and just look at it is
20 there anything that would denote whether or not
21 that gun would fire or not?

22 A. Right away I think that most people
23 looking at it would notice that there is a crack in
24 the frame which could suggest there might be a
25 problem with the gun. But that's about as far as

1 you can go with it. You would have no way of
2 knowing if it would fire or not unless you tried
3 it. Like I said, during my just handling of the
4 gun feeling how much spring pressure was on the
5 hammer, feeling how heavy the trigger pull was, it
6 felt good. It felt like it ought to fire. It
7 wasn't until I tried to fire it that I found out
8 that it wouldn't or did not during my testing.

9 Q. How could this gun -- well, first off,
10 is it within the realm of possibility that this gun
11 could go off?

12 A. Absolutely.

13 Q. And how could this gun fire even though
14 after you did all of this testing and without it
15 successfully discharging a round, how could it fire
16 on say November 26th of 2015 after all of this
17 investigation?

18 A. Different ammunition when they're
19 producing the metal that they put into the rim of a
20 cartridge, this was a rim fire style piece of
21 ammunition which means that the base of the
22 cartridge has got a rim that goes all the way
23 around it. When you push the piece of ammunition
24 into each of these chambers that rim of the
25 ammunition sits on the outside against the back of

1 the metal of the cylinder. When the hammer falls
2 the firing pin comes through the frame and strikes
3 the back of the cartridge crushing that cartridge
4 or that rim against the back of the cylinder. That
5 crush is what causes it to discharge. That rim has
6 got a hollow cavity in it where the primer or the
7 ignition component of the piece of ammunition is
8 located.

9 Different manufacturers use different
10 hardness of metal to make that cartridge case.
11 Some metals or some manufacturers use harder metal
12 than others. So if they had a cartridge that has a
13 softer metal than what I test fired, it could cause
14 that weak firing pin impression to dent it a little
15 bit more and possibly cause it to crush enough to
16 cause ignition and cause a firearm to actually
17 discharge. There's always a possibility that trying
18 to shoot it more than one time. As you keep
19 pulling the trigger and that revolver cylinder
20 rotates around putting the next round in the line
21 to be fired, eventually you are going to come all
22 the way around. If you strike the same area of
23 that cartridge a second time where it's already
24 partially crushed it could cause that rim to crush
25 a little bit more and possibly this time cause it

1 to discharge. You just -- you don't know.

2 Q. Lieutenant Thrower, do you teach any
3 sort of firearm safety in your position?

4 A. I do assist in helping train our
5 trainees and in doing that I also -- we preach
6 safety, safety, safety in my department.

7 Q. In your training and your opinion and
8 your expertise what does it mean when you point a
9 gun that's loaded at another person?

10 A. To point a loaded gun at another person
11 means that you are going to -- that you feel like
12 your life --

13 MS. SHIVERS: Objection, Your Honor.

14 THE COURT: I sustain the objection.
15 Stop there.

16 MR. DENNIS: Just briefly, Your Honor.

17 (Off-the-record
18 conference.)

19 MR. DENNIS: No further questions at
20 this time, Your Honor. Lieutenant Thrower, please
21 address any questions that the defense would have.

22 CROSS-EXAMINATION

23 BY MS. SHIVERS:

24 Q. Hi, Lieutenant Thrower.

25 A. Good morning.

1 Q. So you recall speaking with me on the
2 phone July 25th of this year?

3 A. Yes, ma'am, I remember speaking with
4 you.

5 Q. And we talked about this case?

6 A. Yes, ma'am.

7 Q. We talked about the weapon that you
8 examined?

9 A. Yes, ma'am.

10 Q. And obviously as you testified you're a
11 forensic expert on firearms?

12 A. Yes, ma'am.

13 Q. And that means you know how firearms
14 operate?

15 A. Yes, ma'am.

16 Q. And at SLED you test fire various
17 firearms and ammunitions that are involved in
18 suspected crimes?

19 A. Yes, ma'am.

20 Q. To obtain forensic evidence?

21 A. To obtain test specimens that could be
22 compared to forensic evidence, yes, ma'am.

23 Q. To determine if a firearm was involved
24 in a particular crime?

25 A. Yes, ma'am.

1 Q. And to determine what kind of firearm
2 fired a particular shell casing?

3 A. Yes, ma'am.

4 Q. And to determine whether or not a
5 firearm is operational?

6 A. Yes, ma'am.

7 Q. Such as in this case?

8 A. Yes, ma'am.

9 Q. And you were the forensic examiner in
10 this case?

11 A. Yes, ma'am.

12 Q. And you were asked by the solicitor's
13 office to determine whether or not this gun could
14 fire?

15 A. Yes, ma'am.

16 Q. And you examined the firearm?

17 A. Yes, ma'am.

18 Q. And you examined the ammunition that
19 was located in the firearm as well?

20 A. Yes, ma'am.

21 Q. And you removed the ammunition?

22 A. I did not remove the ammunition from
23 the gun. It was separate when it came to me.

24 Q. Okay. You put other ammunition other
25 than the ones that were originally located in the

1 gun during your testing?

2 A. Yes, ma'am. I used laboratory supplied
3 ammunition..

4 Q. And you test fired that firearm?

5 A. Yes, ma'am.

6 Q. And you did that 12 times?

7 A. Yes, ma'am.

8 Q. Six single action?

9 A. Yes, ma'am.

10 Q. And six times as double action?

11 A. Yes, ma'am.

12 Q. And you also tested for hammer push
13 off?

14 A. Yes, ma'am.

15 Q. And just so the jury can understand,
16 some firearms when you are looking at them allow
17 you to be able to disassemble the firearm and see
18 how the internal components work together?

19 A. Yes, ma'am.

20 Q. And some firearms don't allow you to be
21 able to do that?

22 A. That is correct.

23 Q. So if you have the type of firearm that
24 you were able to disassemble and see all the inner
25 workings you would be able to look inside that gun

1 and determine if a particular internal component is
2 the cause or the reason why it doesn't fire?

3 A. It would be a lot easier, yes, ma'am.

4 Q. And on this particular gun you're not
5 able to disassemble that and see how the components
6 worked together?

7 A. No. On this firearm as you can see the
8 frame is solid on both sides. It's just a series
9 of pins that go through so you wind up having to
10 drop parts down into it and then place pins in.

11 On some firearms, for instance Smith
12 and Wesson revolvers, there's a series of screws on
13 the side. You can take the entire side off of the
14 gun so that you can look in, see the parts, see how
15 the parts interact, so on and so forth to try to
16 determine what may or may not be wrong with the
17 gun. But this one you can't see down inside to
18 figure that out.

19 Q. So because you can't see inside of a
20 weapon such as that you are not able to tell if any
21 of the internal components are defective?

22 A. No, ma'am.

23 Q. The firearm in this case is one of
24 those that you weren't able to disassemble?

25 A. That's correct.

1 Q. So you were not able to pinpoint the
2 exact cause of why the firearm does not work?

3 A. That is correct.

4 Q. But when you test fired it as six times
5 in single action it never fired?

6 A. No, ma'am.

7 Q. And when you test fired six times as
8 double action it never fired?

9 A. No, ma'am.

10 Q. And during the testing there were times
11 when the firing pin of the gun actually became
12 stuck in the forward position?

13 A. Yes, ma'am. With revolvers there is
14 essentially two types as far as this goes. So on
15 this hammer you will see a point that sticks out
16 where the firing pin is actually attached to the
17 hammer. In this firearm the face of the hammer is
18 flat. And in the portion of the frame there is a
19 hole drilled through and a short cylinder is placed
20 in there and that is the firing pin and it just
21 moves back and forth within that hole. So
22 essentially what happens with this gun is the
23 firing pin moves or the hammer moves forward,
24 strikes the firing pin pushing the firing pin
25 forward to strike the cartridge. On this

1 particular firearm sometimes the firing pin would
2 stay in that forward position.

3 So if it stays in that forward position
4 the next time the hammer comes down the firing pin
5 may already be flat with the frame of the revolver
6 so therefore the hammer just strikes the frame, it
7 doesn't actually strike the firing pin. So that
8 could be one reason this gun misfired. On the
9 reference collection gun that I looked at and tried
10 to compare it to there was actually a spring
11 attached to the firing pin that would cause the
12 firing pin to retract and move back into that
13 firing position.

14 This firing pin would not automatically
15 do that so I don't know if this was an early model
16 where they simply didn't install a spring or if
17 that spring has been removed or the spring may be
18 broken. There could be a number of reasons why it
19 doesn't do that.

20 Q. And when the firing pin gets stuck to
21 the forward position it doesn't allow the hammer as
22 you just described to function properly?

23 A. Correct.

24 Q. And as you just indicated, that could
25 mean that the spring inside the firearm is not

1 there or isn't functioning properly?

2 A. Correct. Or was never there.

3 Q. Or it's broke?

4 A. Yes, ma'am.

5 Q. And as you testified, you have been in
6 law enforcement for over almost 20 years, 18 years?

7 A. A little over 18, yes, ma'am.

8 Q. And you went through extensive training
9 in firearms?

10 A. Yes, ma'am.

11 Q. And so at SLED your job is to be able
12 to examine these things to be able to provide an
13 answer as to why something does or does not fire?

14 A. We try. However, with this particular
15 brand I don't think it's even still made. So there
16 aren't courses out there that teach you how to
17 disassemble. It's more of a generalized knowledge
18 of looking at the gun and trying to figure it out.

19 Q. And you were not able to get the gun to
20 fire?

21 A. Not during the 12 times I tried to test
22 fire, no, ma'am.

23 Q. Because the gun is inoperable?

24 A. The gun did not function during my
25 testing.

1 Q. And do you remember again when we spoke
2 on the phone and I asked you at what point you can
3 consider a gun to be inoperable, and you told me
4 that you would consider this gun to be inoperable?

5 A. Yes. This gun would not fire during my
6 testing.

7 Q. And there's no way of looking at the
8 gun and telling at what point it became inoperable?

9 A. No, ma'am. I mean so you have the
10 crack on the top of the frame, but it's a fairly
11 small crack, not wide. To look at that I would not
12 expect the tension -- the main spring for this gun
13 travels down through the grip. When you cock the
14 hammer it compresses the spring and that is what
15 places the pressure on the hammer to cause it to
16 fly forward. This small crack I would not expect
17 to reduce that spring tension so greatly as to
18 cause it to not work. To look at it I could not
19 readily recognize what caused the gun to
20 malfunction or when this would have started.

21 Q. And you have no idea by looking at it
22 at what point it became broken in between the back
23 strap and the other?

24 A. No, ma'am. I have no way of placing a
25 date on that.

1 MS. SHIVERS: No further questions.

2 THE COURT: Redirect?

3 MR. DENNIS: Briefly, Your
4 Honor.

5 REDIRECT EXAMINATION

6 BY MR. DENNIS:

7 Q. Lieutenant Thrower, because that gun
8 did not go off during your testing, those 12 shots
9 that you fired, does it mean that that gun could
10 never go off?

11 A. No, sir. There is always a
12 possibility. Everything else seems to function.
13 It is just during my testing I was not able to get
14 it to fire with the ammunition that I chose to use.

15 MR. DENNIS: Thank you. No further
16 questions, Your Honor.

17 THE COURT: Recross?

18 RECROSS-EXAMINATION

19 BY MS. SHIVERS:

20 Q. I just have one other question. When
21 we talked on the phone I believe at the end of the
22 conversation I asked you a hypothetical similar to
23 that like is there a way that you would be able to
24 squeeze the gun together in such a way that you
25 could force it to fire. And you indicated that you

1 do not routinely do that kind of testing because it
2 would be unsafe?

3 A. Yes, ma'am.

4 Q. Thank you.

5 A. Basically what she is referring to is
6 to try to close up this gap would require me to
7 somehow place my hand and try to squeeze it
8 together. But where this cylinder approaches the
9 barrel there's a small gap in there called a barrel
10 cylinder gap. If I place my hand around this area
11 to try to support it to squeeze the gun back
12 together, my hand now covers that barrel cylinder
13 gap. When you shoot revolvers, flames, shards of
14 lead, sparks come shooting out of that barrel
15 cylinder gap. For safety purposes we try to keep
16 our hands free of such areas so I did not try to
17 squeeze the gun back together to see if that would
18 make it work.

19 Q. And if there were a missing or broken
20 spring even if you did attempt that very unsafe
21 move it still would not fire, correct?

22 A. Possibly.

23 MS. SHIVERS: No further questions.

24 THE COURT: You can step down and be
25 excused. We appreciate your time. Call your next

1 witness.

2 MR. DENNIS: Your Honor, at this point
3 the State rests.

4 THE COURT: All right. You want to get
5 the exhibits?

6 MR. DENNIS: Yes, Your Honor.

7 THE COURT: Members of the jury panel,
8 the State has rested. That means it has finished
9 presenting the evidence it intends to present for
10 your consideration. You are not yet at the stage
11 where you are going to consider the case and it is
12 not yet time for you to try to make up your own
13 mind or discuss the case. Case isn't over. You
14 haven't -- even though the State has rested. But
15 we do have to take up matters of law outside your
16 presence before we move forward.

17 So we will take a littler longer lunch
18 hour today because we have some work to do. I
19 don't know how long it will take. We would like to
20 have some lunch too. We are going to take until
21 2:00. It's a little after 12:00, so that's a long
22 lunch, but this will give us a chance to do what we
23 need to do and we will see you back at 2:00 keeping
24 in mind don't discuss the case, don't let anyone
25 discuss the case with you or try to make up your

1 mind. We are not at that point yet. Have a
2 pleasant lunch.

3 (Thereupon, the jury exited the
4 courtroom at 12:06 p.m.)

5 THE COURT: Anything from the State?

6 MR. DENNIS: Nothing at this time, Your
7 Honor.

8 THE COURT: Defense?

9 MS. SHIVERS: Yes, Your Honor. We
10 would make a motion for a directed verdict at this
11 point on the charge of attempted murder.
12 Specifically attempted murder requires three
13 things. That there is an attempt to kill with a
14 specific intent to kill another person. And we
15 believe that the State has failed on two of the
16 elements.

17 As you heard from the SLED expert, the
18 weapon was inoperable. So there was actually not
19 ever an attempt to kill anybody. The gun could not
20 fire despite the fact that it was fully loaded.
21 SLED who has been an expert 58 times now in court,
22 has been doing this for over 18 years couldn't get
23 the gun to fire. He deemed it to be an inoperable
24 weapon. Therefore, despite the fact that he may
25 have pointed and presented a gun at the two alleged

1 victims and pulled the trigger multiple times it
2 was an inoperable weapon so there was no -- not
3 ever a real attempt to kill anybody.

4 Despite that the evidence indicates
5 that even when the gun did not fire he never made
6 any other attempt to take the life of either of the
7 two complaining witnesses. He never -- there were
8 several other ways that we went over in
9 cross-examination that he could have attempted to
10 kill them, but he did not take any of those
11 actions. At most Ms. Clarkson indicated that he
12 punched her several times which is not indicative
13 of trying to kill somebody. So we would argue that
14 there was not -- there's no evidence that there was
15 an attempt to actually kill either victim.

16 In addition, there has to be a specific
17 intent to kill. This is an inoperable weapon. I
18 believe Ms. Littlejohn -- Ms. Faye knew that
19 similar action had taken place prior, months prior
20 with the father. There's no indication that my
21 client didn't know that the gun was inoperational.
22 He owned this gun. It was his. The expert
23 testified that to the layperson they would clearly
24 be able to see that the gun was broken based on
25 where the back strap is cracked and that would be

1 clearly visible to any layperson looking at it even
2 without any expertise. Without a specific intent
3 to kill he may have had an intent to scare them, it
4 clearly did scare them.

5 Obviously the specific intent to kill
6 is specifically related to the client. It is not
7 the subjective belief of the person experiencing
8 the assault. So despite the fact that they
9 believed that he wanted to kill them or he believed
10 or that they believed that he was going to kill
11 them, that's irrelevant when it comes to specific
12 intent to kill. That intent can only be manifested
13 within his mind at the time of the action and
14 there's nothing that indicates that he actually had
15 that intent.

16 If he had a specific intent to kill
17 them even if he didn't know that the gun was not
18 functioning, he would have then taken further steps
19 to go for that intent that he had to kill which
20 would be either to grab a knife or any other means
21 that you can use to kill them, which all of the
22 evidence presented cuts completely against that.

23 The 911 call put in by the State has
24 specific instances throughout the call where you
25 can hear him saying in the background I am not

1 trying to hurt you. There's no better way to show
2 his intent at the time of the action than exactly
3 to play as it is happening in real time which is
4 what the 911 call does and you can hear his intent
5 over and over telling them that he's not intending
6 to hurt them. And so despite the actions being
7 completely terrible and horrible and probably
8 horrifying for the two alleged victims, there was
9 no specific intent to kill and for those reasons we
10 would request a directed verdict on the two
11 attempted murder charges.

12 Additionally, Ms. Faye testified that
13 she was scared until she saw that the gun had
14 bullets in it. Additionally, possession of a
15 weapon during commission of a violent crime can
16 only exist if the attempted murders were to go
17 forward. So we would ask Your Honor to dismiss
18 that as well.

19 THE COURT: The motion is denied. I
20 think there is sufficient for direct and
21 substantial circumstantial evidence from which the
22 jury can conclude the State, I am not saying it
23 will conclude, but the State has proven beyond a
24 reasonable doubt the necessary elements for the
25 charge so I deny the motion for directed verdict.

1 Anything else? Mr. Shumpert, can you hear me?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: We have reached the point
4 where you have a right to call witnesses and
5 present a defense if you wish. You don't have to,
6 but you are welcome to call witnesses on your
7 behalf. You are presumed innocent and need not
8 prove your innocence so you don't need to call any
9 witnesses. You have a right to testify if you
10 wish. Does he have any impeachable offenses,
11 counselor?

12 MR. DENNIS: Your Honor, I do not
13 believe.

14 MS. SHIVERS: He does not.

15 THE COURT: If you testify you will be
16 under oath and have to answer on cross-examination
17 questions by the State. You can testify if you
18 wish. If you exercise the right to remain silent I
19 will tell the jury that you have exercised your
20 constitutional right to remain silent, that they
21 cannot hold that against you in any way, they
22 cannot use that in their deliberations, do not
23 discuss or in their own mind consider your right to
24 remain silent against you in any way whatsoever and
25 I will remind the jury that you are presumed

1 innocent of these three charges and the State must
2 prove the elements of each one beyond a reasonable
3 doubt before you can be convicted. Do you
4 understand all that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any questions
7 about any of that?

8 THE DEFENDANT: No, sir.

9 THE COURT: Now, the decision is yours.
10 It is not your attorneys or any family, friends.
11 You can obtain whatever input you wish from
12 whomever whether to testify or not. Do you
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have you made up your mind
16 yet as to whether to testify or exercise the right
17 to remain silent?

18 MS. SHIVERS: I believe he wishes to
19 speak with us before making that decision.

20 THE COURT: We will do that. Also
21 while we are doing that, if he doesn't testify I
22 have got six witnesses listed. Do you intend to
23 present any or all of these witnesses?

24 MS. LITTLEJOHN: We are going to make
25 all these decisions here shortly.

1 THE COURT: Okay. We will break for
2 lunch and I will have my rough draft I call of my
3 proposed charge and verdict forms. We will give
4 them to you in just a minute and you can look at
5 those over lunch. Let's get about back a quarter
6 until 2:00. That will give us time to confirm with
7 Mr. Shumpert and defense team where we are going as
8 far as use of our time this afternoon and we can
9 start looking at the charge now.

10 In the charge I still have the
11 inference of malice from the use of deadly weapon
12 because I haven't heard anything as far as
13 mitigation as of yet. So we will chat about that
14 later.

15 MS. SHIVERS: Well, the fact that the
16 SLED investigator who testified indicated that the
17 gun is inoperable, we feel that is mitigating.

18 THE COURT: There's no evidence that
19 your client knew it was inoperable when he pulled
20 the trigger according to the testimony if the jury
21 believes the witness six times. That's not -- the
22 fact that later on somebody determines it was
23 inoperable I don't find to be mitigation. I will
24 tell you that up front. We will convene about a
25 quarter until 2:00.

1 (A luncheon recess transpired.)

2 THE COURT: State ready?

3 MR. DENNIS: Yes, Your Honor, the State
4 is ready.

5 THE COURT: Defense ready?

6 MS. LITTLEJOHN: Yes, Your Honor.

7 THE COURT: Bring in the jury.

8 MS. SHIVERS: Your Honor, do we need to
9 proffer the testimony of our witness first?

10 THE COURT: Why don't we do that. Call
11 your witness. I understand -- we had a dialogue in
12 conference in camera on the charge. I think we
13 have come to an understanding on that. We also
14 have the first witness from the defense. I
15 suggested based on what I understand he or she may
16 be testifying to that we have a proffer on that so
17 that's where we are.

18 MS. SHIVERS: The defense calls Officer
19 Norvell.

20 BRADLEY NORVELL

21 having been duly sworn, testifies as follows:

22 THE CLERK: State your full name and
23 spell your last name.

24 THE WITNESS: My name is Bradley Edward
25 Norvell, last name is N-O-R-V-E-L-L.

DIRECT EXAMINATION

BY MS. SHIVERS:

Q. Officer Norvell, you're aware that Mr. Shumpert used the same weapon against his father in June of 2015, correct?

A. That's what he said.

MS. SHIVERS: That would be all the questions I would have of this witness, Your Honor.

MR. STEGALL: Your Honor, I would object --

THE COURT: Do you have any questions?

MR. STEGALL: No questions on cross, Your Honor.

THE COURT: What's the objection?

MR. STEGALL: Under hearsay there are no exceptions under -- Officer Norvell can't testify what the Defendant told him. I believe it's self-serving hearsay. There's no exception.

THE COURT: I agree. It's on the record as a proffer, but I'm not going to allow him to testify before the jury.

MS. SHIVERS: Am I able to put our argument on the record?

THE COURT: Yes.

MS. SHIVERS: One, I didn't ask what my

1 client said to him. I just asked him whether or
2 not he was aware of that. That certainly goes to
3 my client's knowledge so it is not hearsay under
4 the rule.

5 THE COURT: How would he know if he
6 hadn't been told? We always do that trick where we
7 don't ask somebody who told them something. We ask
8 them did they know it. They say well, I knew it.
9 Well, it had to be found through a third party.
10 Here it is Mr. Shumpert.

11 MS. SHIVERS: I understand. However,
12 we are arguing that it is not hearsay anyway
13 because of the fact that it goes to my client's
14 knowledge that the gun did not function. It
15 doesn't go to the truth of the matter asserted.
16 The officer in the interview with my client, they
17 talked about the incident with the father and how
18 he used the same gun in the same manner, pulled the
19 trigger which would indicate that my client knew
20 that the gun didn't fire back in June which was
21 three or four months prior to this incident
22 occurring.

23 I think knowledge is a critical element
24 that cuts against the attempt to kill as well as
25 the specific intent to kill. And the fact that

1 they were -- he was made aware of this prior
2 incident, that goes to that knowledge.

3 THE COURT: Well, reading what the
4 solicitor has articulated, I believe it's based on
5 hearsay. But also there is so much missing. There
6 was no testimony that the gun at that time was even
7 loaded or that he pulled the trigger or that he did
8 anything. He -- or I don't know if he even, he
9 meaning the Defendant, I will use the word
10 Defendant, the jury is not here, Mr. Shumpert.

11 So it's on the record, but I am not
12 going to allow him to testify as to that, the only
13 thing he testified to. You can step down and be
14 excused.

15 Where do we stand with further
16 witnesses on behalf of the Defendant?

17 MS. SHIVERS: Yes, sir. We will have
18 one, the Defendant.

19 THE COURT: All right. Bring the jury.
20 (Whereupon the jury entered the
21 courtroom at 2:07 p.m.)

22 THE COURT: You may be seated. Call
23 your next witness, first witness.

24 MS. SHIVERS: The defense calls William
25 Shumpert.

1 THE COURT: Please come up and be
2 sworn.

3 WILLIAM SHUMPERT

4 having been duly sworn, testifies as follows:

5 THE CLERK: Please state your full name
6 and spell your last name for the record.

7 THE WITNESS: William Guy Shumpert,
8 S-H-U-M-P-E-R-T.

9 DIRECT EXAMINATION

10 BY MS. SHIVERS:

11 Q. Good afternoon, Mr. Shumpert. So you
12 are obviously aware why we are here.

13 A. Yes, ma'am.

14 Q. And you saw the evidence that the State
15 introduced?

16 A. Yes, ma'am.

17 Q. The gun?

18 A. Yes, ma'am.

19 Q. Are you familiar with that gun?

20 A. Yes, ma'am.

21 Q. How are you familiar with it?

22 A. It was mine.

23 Q. How long have you owned it?

24 A. About four or five years before this
25 happened, so I guess it was -- I bought it six

1 years ago.

2 Q. Have you ever shot it?

3 A. Yes, ma'am.

4 Q. What did you use it for?

5 A. Target practice.

6 Q. At some point did you stop using it for
7 target practice?

8 A. Yes, ma'am.

9 Q. Why?

10 A. Because it broke.

11 Q. And were you able to fire it after
12 that?

13 A. No, ma'am.

14 Q. Did you try?

15 A. Yes, ma'am. I tried to put different
16 bullets in it a couple of times. I tried to
17 lubricate it and clean it and nothing would get it
18 to work. I tried for about two weeks.

19 Q. Hasn't worked since?

20 A. No, ma'am.

21 Q. Did you have an occasion to use that
22 gun with your father?

23 A. Yes, ma'am.

24 MR. STEGALL: I will make an objection,
25 Your Honor.

1 THE COURT: I sustain the objection.

2 MS. SHIVERS: If I may have just a
3 moment.

4 (Off-the-record conference.)

5 BY MS. SHIVERS:

6 Q. Have you ever pointed that gun at
7 anybody else?

8 MR. STEGALL: I will make another
9 objection, your Honor.

10 THE COURT: I sustain the objection.

11 BY MS. SHIVERS:

12 Q. In November of 2015 was the gun
13 working?

14 A. No, ma'am.

15 Q. And you knew that?

16 A. Yes, ma'am.

17 Q. Did you intend to kill Faye Boone?

18 A. No, ma'am.

19 Q. Did you intend to kill Karen Clarkson?

20 A. No, ma'am.

21 Q. Why did you point a gun at them and
22 pull the trigger?

23 A. They had been acting kind of mean to me
24 that day and day before and I just got some pretty
25 bad news from the doctor. I felt that -- I just

1 lashed out at them because they were such jerks
2 toward me at the time because --

3 Q. So what was -- tell the jury what your
4 intention was on that day.

5 A. Just to scare them.

6 Q. Did you ever attempt to kill them?

7 A. No, ma'am.

8 Q. Did you want Ms. Faye dead?

9 A. No, ma'am.

10 Q. Did you want Karen dead?

11 A. No, ma'am.

12 (Off-the-record conference.)

13 MS. SHIVERS: I don't have any further
14 questions, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. STEGALL:

17 Q. Mr. Shumpert, are you a gun expert?

18 A. No, sir.

19 Q. You are not. Okay. You heard Ms.
20 Boone and Ms. Clark testify. Both of them said
21 that you said I'm going to kill you?

22 A. I never said that.

23 Q. So are you telling the truth or are
24 they telling the truth?

25 MS. SHIVERS: Objection, Your Honor.

1 THE COURT: I sustain the objection.
2 That's pitting.

3 MR. STEGALL: No further questions,
4 Your Honor.

5 MS. SHIVERS: No redirect.

6 THE COURT: You can step down and have
7 a seat with counsel. Anything else from the
8 defense?

9 MS. SHIVERS: At this time, Your Honor,
10 the defense rests.

11 THE COURT: Anything in reply?

12 MR. STEGALL: Nothing from the State,
13 Your Honor.

14 THE COURT: Members of the jury, you
15 now have heard all the evidence. I have to take up
16 some legal matters outside your presence. You are
17 not yet in a position to make up your minds because
18 you haven't heard any charge on the law and haven't
19 heard the attorneys summation or the attorneys
20 closing arguments where they tell you why your
21 verdict should be a certain verdict. Unlike what
22 we did yesterday when they were outlining the
23 trial, now they will be talking about the evidence.

24 I have over the lunch hour gone over
25 with the attorneys my charge and I will tell you

1 about the law and so they will tell you why the
2 evidence and the law should convince you of what
3 your verdict should be.

4 So I will let you go to the jury room
5 and when you return it will be time for the
6 attorneys to make their closing arguments and then
7 my charge.

8 (Thereupon, the jury exited the
9 courtroom at 2:13 p.m.)

10 THE COURT: Anything from the State?

11 MR. DENNIS: Your Honor, I think after
12 this testimony, this is what I was talking about in
13 chambers. They basically have opened up the door
14 to assault and battery first because they have said
15 that he was threatening or offering to commit great
16 bodily injury. And that was the original reason
17 why we even introduced that lesser included in the
18 first place.

19 So I think at this point, again when we
20 were discussing this in chambers it was something
21 that I wanted to kind of predicate on what
22 information we had at the end of this case in order
23 to go to the charging language. For that reason I
24 think we should re-enter assault and battery first
25 since they have opened the door and introduced

1 evidence that would demonstrate that being present
2 and having the legal basis for it.

3 MS. SHIVERS: Certainly we would
4 object. My client testified nothing to the effect
5 that he intended or tried to produce great bodily
6 injury. He specifically denied that allegation.
7 He testified strictly to his intent and whether or
8 not he attempted to kill them. And the direct
9 testimony was limited to that and we would object
10 to assault and battery first. We don't believe
11 that there is a basis for assault and battery in
12 the first degree. The gun was inoperable based on
13 what SLED indicated. My client testified on the
14 stand that he knew that gun didn't function so
15 therefore the gun in question could not likely
16 produce great bodily injury or death because it
17 didn't work.

18 THE COURT: Well, of course testimony
19 from the expert was that it wasn't outside the
20 realm of possibility that it could work.

21 MS. SHIVERS: I understand that, but
22 when I asked him directly if he considered the gun
23 to be inoperable he said it was. He said it was
24 inoperable and that he was unable to get the gun to
25 fire despite all of his years of experience with

1 firearms.

2 THE COURT: He still testified it
3 possibly could have. Here is where we are. I'm
4 going to charge the lesser included. But I'm going
5 to leave out and I find that based on his testimony
6 there is an excuse. I am not going to charge
7 inference of malice based on the use of a deadly
8 weapon. But I am going to charge and the statute
9 says that assault and battery first degree is a
10 lesser included.

11 MS. SHIVERS: Your Honor, if I may just
12 for the record purposes, I understand your ruling,
13 but just to make the record clear, the defense
14 would object to any lesser includeds being
15 included. The State chose what to indict in this
16 case and should be held to the standard of going
17 forward what they indicted and just for the record
18 purposes we would object to any lesser includeds
19 being added.

20 THE COURT: That's my job and if I make
21 a mistake there are avenues of review for that.
22 And I don't say that lightly. I don't say that
23 with fingers crossed so to speak. I know there is
24 somebody out there wiser and greater than I to look
25 at it. I just believe that the ruling is correct

1 based on where we are in this case.

2 Again, the statute says that assault
3 and battery first degree is a lesser included and
4 the language -- the only language I am charging out
5 of the statute and I can tell you this so that you
6 can argue it, so you know about arguing, is that
7 define great bodily harm. The definition from the
8 statute is great bodily harm, great bodily injury
9 being a bodily injury that causes a substantial
10 risk of death and of course the argument would be
11 it is not a substantial risk, but there was no
12 risk.

13 So it goes on, or which causes a
14 serious permanent disfigurement. That's not
15 applicable here. Or protracted loss or impairment.
16 That's not present here. So simply be for purposes
17 of this case great bodily injury would mean injury
18 that causes substantial risk of death. So that's
19 where we are. You need a quick break before we get
20 the jury?

21 MS. SHIVERS: Yes, sir. If we may have
22 a few minutes to set up technology for closing.

23 THE COURT: Okay. Let us know when you
24 are ready.

25 MS. SHIVERS: Thank you.

1 (A recess transpired.)

2 THE COURT: State ready to proceed?

3 MR. DENNIS: Yes, Your Honor.

4 THE COURT: Defense?

5 MS. LITTLEJOHN: Yes, Your Honor.

6 THE COURT: Under Beatty the State
7 opens in full. Defense has a full argument and
8 then the State is relegated to reply. Bring in the
9 jurors.

10 (Whereupon the jury entered the
11 courtroom at 2:25 p.m.)

12 THE COURT: You may be seated.
13 Counsel.

14 MR. DENNIS: Thank you, Your Honor.
15 May it please the Court, Billy was going to kill us
16 that night. Ladies and gentlemen of the jury, you
17 heard that right from Faye's mouth. You have heard
18 now all of the State's testimony. We began this
19 trial with intent. Bart over here saying this
20 morning when he got into his truck, put the keys in
21 the ignition and started it up and he intended to
22 go to work, whether the truck had gas in it,
23 whether the truck worked or not, he intended to go
24 to work that morning.

25 You have heard what happened that night

1 from a 911 call that we played for you. You heard
2 the shouting, the screams. You heard both Karen
3 and Faye's voice on that call. Faye got up there
4 and told you that Mr. Shumpert pointed a gun at her
5 head and pulled that trigger telling her I'm going
6 to kill you as he kept pulling that trigger.

7 You heard Karen talk about the number
8 of times that she was struck and bitten and hit and
9 then he pulls a gun on her and says I'm going to
10 kill you. Pulls the trigger over and over again.
11 Swearing each time he does.

12 Now, November 26th, 2015, was a little
13 while ago. All of these people testified to the
14 same thing, this assault. You heard from multiple
15 law enforcement personnel that said that they saw
16 Billy Shumpert pointing a gun directly at Faye's
17 face. You heard from another law enforcement
18 officer that says that he saw Faye in her room
19 pointing in the direction into the living room
20 where Billy and Karen were. You heard from other
21 officers, Officer Younginer and Scarborough, that
22 both Karen and Billy were in that room when they
23 opened that door. And the gun was found just a few
24 steps away from where Billy was standing.

25 Now, this gun as you have heard from

1 our SLED expert, Lieutenant Thrower, didn't fire
2 that night. Lieutenant Thrower couldn't get that
3 gun to fire. Lieutenant Thrower didn't say that
4 that gun could never fire. He did not say that gun
5 was never going to fire or couldn't fire in any
6 other situation. He just said that it didn't fire
7 then.

8 Now, that night there were statements
9 taken again corroborating this attack. Statements
10 were taken just a few minutes after both Karen and
11 Faye were put through this horrific, traumatic,
12 horrifying ordeal where they had a gun pointed to
13 their heads. They were frantic. They were crying.
14 They were nervous. They were being asked just a
15 few minutes later to recount every single detail of
16 what happened that night. You heard that officers
17 came in with their guns unholstered. Officer
18 Younginer said that he had his gun low at the ready
19 and was ready to fire at any moment because of what
20 came out over the dispatch. What they heard, what
21 they saw, what they appreciated, what they heard
22 coming out of that house.

23 Now, these three people were connected
24 through a relationship that they all shared. You
25 heard Faye and Karen both say they were like a

1 family. Faye looked at Karen as if she were her
2 daughter. Karen took care of Faye as if Faye was
3 her mother. Faye also took care of another person.
4 William Shumpert. How did he repay her? By
5 holding a gun to her head and pulling the trigger
6 telling her I'm going to kill you because they were
7 being jerks to him.

8 Pulled a gun on them because they were
9 being jerks to him? A gun that he admitted on the
10 stand had fired at some point and was loaded.
11 Remember, pointed a loaded gun at two women and
12 pulled the trigger.

13 Now, Lieutenant Thrower also said that
14 there were multiple ways that that gun could fire.
15 If he had pulled it multiple times, if there had
16 been different ammunition in it. Mr. Shumpert
17 testified he is not a gun expert. He wouldn't know
18 a gun was going to fire or not. He just said it
19 hadn't fired in a while. So what's to say that
20 that next pull of the trigger, that next round that
21 gets chambered and popped with that firing pin
22 doesn't go off? And we would be having an entirely
23 different conversation.

24 Now, as Bart told you earlier, the
25 judge is going to instruct you on the law of this

1 case. From the moment that we have started this
2 case is an attempted murder. Attempted murder
3 means the attempt for someone to kill another with
4 -- to threaten to kill with the intent to kill with
5 malice aforethought.

6 Now, Mr. Shumpert pointed that gun at
7 another person. He pulled that trigger multiple
8 times. Not at one person but two people saying I'm
9 going to kill you. He has shown not only through
10 his actions pulling that trigger the actual
11 attempt, but also through his words that he
12 intended to kill Faye and Karen that night.

13 Now, the judge is also going to
14 instruct you on another crime. It's assault and
15 battery first. Assault and battery first is what
16 is called a lesser included offense. That is, and
17 again, the judge is going to give you the law.
18 That is whenever someone with present ability to do
19 so offers or attempts to injure through means that
20 would cause great bodily injury. But again, this
21 is an attempted murder.

22 He attempted to kill someone with the
23 intent to kill them with malice aforethought. He
24 went outside somewhere presumably to his car and
25 got that gun from a truck. After he had assaulted

1 Karen to come back in to tell them both again I'm
2 going to kill you and he tried to fire that gun
3 multiple times.

4 Now, we started this off with the
5 State's burden of proof. We bear it all gladly.
6 We have to leave you firmly convinced after you
7 have heard everything from both the State and the
8 defense that Mr. Shumpert is guilty.

9 When you look at the amount of
10 attention that you have all paid to all of this
11 that we have gone through the past two days, you
12 are going to go back there and you're going to find
13 William Shumpert guilty. Thank you.

14 MS. SHIVERS: May it please the Court,
15 ladies and gentlemen, William Shumpert is a lot of
16 things. It's not every day that I get to stand
17 before a jury and call my client a jerk. But
18 that's what he is. He's a jerk. Scumbag, whatever
19 you want to call it. Evil. What he did was
20 horrible that day. But the one thing that he's not
21 is an attempted murderer.

22 Let's talk about what is attempted
23 murder. You have to attempt to kill another person
24 with the specific intent to kill them and that it
25 must be done with malice aforethought express or

1 implied. What does that mean exactly?

2 The first element that the State has to
3 prove is that there was an attempt to kill. And
4 every single thing I submit to you that has been
5 presented to you cuts against an attempt to kill
6 another person. You have the gun that's completely
7 inoperable. It doesn't fire, it's broken.

8 Lieutenant Thrower from SLED told you that a
9 layperson would be able to look at the gun, see the
10 break and know that something is not right on the
11 weapon. He has been an expert 58 times, 57 prior
12 to testifying here today. So 58 times he has been
13 an expert. He has dealt with guns, has worked with
14 SLED for at least 18 years. If anybody could get
15 that gun to fire, I submit to you it's that guy
16 right there. And he attempted to get the gun to
17 fire and I didn't -- when I asked him specifically
18 about whether or not he considered the gun to be
19 inoperable he said it was. This isn't some magical
20 land where like in some far off universe it could
21 fire in some fantasy. He wasn't able to take the
22 gun apart so he can't tell you exactly what
23 component isn't working, but what he knows is that
24 it doesn't work.

25 So if he can't say definitively that it

1 could never fire under any circumstances, if it was
2 going to be able to fire he would have been able
3 to. He test fired it 12 times with bullets that
4 SLED uses. And trust me when I tell you if SLED
5 wants to convict -- help the State convict, they
6 are part of the State, they are part of the
7 government. So if that gun would have been able to
8 be fired it would have been fired at SLED. It was
9 inoperable. So when you point an inoperable gun at
10 somebody it obviously means it doesn't work. It is
11 no different than pointing a toy pistol at
12 somebody. So there is not an actual attempt to
13 kill because the gun doesn't fire. So there's no
14 actual attempt made.

15 Next you have to have a specific intent
16 to kill. The specific intent to kill is solely
17 within the mind and the heart of the Defendant. It
18 has to be there. This is not subjective. It's not
19 what the person that's being subjected to the
20 assault, it is not what they feel. They may feel
21 like they are going to die. They might think that
22 somebody is going kill to them, but that's not what
23 the statute requires. The statute requires that
24 the person that's committing the act actually wants
25 the person dead. That's what a specific intent to

1 kill is. I want you dead. So when I do this thing
2 to you I'm going to do it to cause your death so
3 you are no more. Both of the ladies are still
4 here. He did not have an intent to kill.

5 How do we know that? There is tons of
6 other intentions that you can have. The number
7 one there is the one he testified to, he had an
8 intention to scare them. You can be a jerk. You
9 can want to scare someone, torture them, harm them,
10 beat them, maim them, disfigure them, you can want
11 to harass them, mistreat them, torture them. None
12 of those are an intent to kill. Those are all
13 different intentions somebody can have when they
14 are doing something to somebody else.

15 So if you find that any one of these is
16 what the intention was there's no intent to kill.
17 It is very specific. You have to actually want the
18 person dead. And he told you exactly what he did.
19 He did it to scare them. He knew the gun didn't
20 work. And he did it to scare them. Because he's a
21 jerk.

22 What better way to know his intention
23 than to listen to what exactly he says when it's
24 happening? I implore you to listen to the 911 call
25 again. I know you have heard it twice all the way

1 through and I ask you to listen to it again in its
2 entirety. Because there's no better way to tell
3 exactly what happened on this day than to listen to
4 the 911 call which is happening in real time while
5 this is occurring. You hear Ms. Faye talking to
6 the operator very calm and she is explaining to the
7 operator what's happening. You can hear the
8 scuffle in the background and you can hear the
9 exchange between Karen and Billy.

10 And what did you hear in the 911 tape?
11 Well, first off what don't you hear? You don't
12 ever hear I'm going to kill you. Because that just
13 miraculously appeared at trial. Nobody has ever
14 once ever made any indication that he said he was
15 going to kill anybody until we got here to court
16 today. We went through both witnesses and the
17 officer who took the statement. It is not in the
18 statement. That's not what was said that night.
19 Officer Younginer takes pride in his work. He is a
20 good officer. He does not do sloppy police work.
21 And had that been said to him on the night of this
22 incident when this happened it would have been in
23 his report and it would have been in those
24 statements as he wrote down for each one of the
25 witnesses. It's not there. Because it never got

1 said.

2 You can listen to that in the 911 call.
3 It is not in there. He never told them he was
4 going to kill them. It's easy to say that now to
5 exaggerate things to try to get the case better and
6 it's kind of unfortunate sometimes we see that when
7 witnesses come to court. I understand it's nerve
8 racking to get up there. It's scary to relive the
9 situation that occurred. But just because there's
10 an exaggeration on the stand doesn't mean that
11 that's what happened on the day of the event. This
12 has been almost two years.

13 I submit to you that the most reliable
14 account of what happened is what is in the original
15 statement and none of that was there. What did
16 Billy say? Let's hear about his intentions. And I
17 put here for you guys if you are listening to the
18 911 call approximately where you'll find each of
19 these so you will be able to go back and listen to
20 them yourself.

21 (Thereupon, the 911 call was played.)

22 MS. SHIVERS: There was a tussle
23 between Karen and she told you on the stand, I
24 asked her. She sticks up for herself. She was
25 fighting back.

1 (Thereupon, the 911 was call played.)

2 Let me go. That's Billy.

3 Here is where the intention comes in.

4 (Thereupon, the 911 call was played.)

5 He is not -- I'm not trying to hurt
6 you. What better way to know what his intention in
7 that moment was than when it was happening. I'm
8 not trying to hurt you. Exactly what he told her.

9 (Thereupon, the 911 call was played.)

10 I'm not trying to hurt you. I love
11 you. He was trying to scare them. They did get
12 into a tussle. You heard -- you saw the injuries
13 to Karen's arms. I submit to you to look closely
14 at the pictures. You are going to see she has a
15 bite on her hand and her forearm. They were in a
16 tussle. So it just makes sense to me that she
17 likely had her hand around his face. That's how he
18 was able to bite her arm and her hand. It doesn't
19 make sense that he is like standing over her just
20 deciding to bite her hand. That just doesn't make
21 any sense. They were tussling on the floor after
22 the fact after the gun was put down and there was a
23 fight between them.

24 That's not attempted murder. How do we
25 know Billy did not have an intent to kill? He used

1 an inoperable gun that he knew did not fire. He
2 told you that the gun stopped working. It didn't
3 fire any more. It was broken. You will be able to
4 look at the gun and see the break on the gun. SLED
5 told you it doesn't fire. So although he scared
6 the living daylights out of Ms. Karen and Ms. Faye,
7 there is no intent to kill because he knew that the
8 gun didn't work.

9 If he wanted to use that gun, this
10 specific gun that doesn't work to kill them, he
11 would have beat them with it to death. He didn't
12 do that. And when the gun didn't fire he never
13 went to go get a knife, rope, a hammer, a machete,
14 fill a bathtub, get another gun, get a crowbar, get
15 a razor blade or any of the other imaginable ways
16 that you can possibly kill somebody. He didn't do
17 any of those. If he had an intent to kill them and
18 he wanted them dead there were plenty of ways that
19 he could have done it and he did not. That was not
20 his intention.

21 He never stabbed them to death. He
22 didn't strangle them. He didn't beat them to
23 death. They're still here. If he wanted them dead
24 he could have killed them. That was not his
25 intention that night. His intention was to scare

1 them and he did that. Doesn't make it right. It's
2 a horrible thing to do. I'm not excusing that by
3 any means, but it is not attempted murder.

4 What does all of this mean? The State
5 is the one that chose the charges in this case.
6 They went to the grand jury. They issued the
7 indictment, the indictment that the judge read to
8 you at the beginning of the case for attempted
9 murder. So they have to prove that not only was
10 there an attempt to kill, but that he had the
11 intent, the specific intent to kill and without
12 that there is no attempted murder. The State
13 overcharged this case. They have the ability to
14 use any of our statutes to go before the grand jury
15 and they chose this one and you need to hold them
16 to that burden. Although the actions that were
17 committed on that day were horrible, they don't
18 amount to attempted murder. And the State can't be
19 throwing around attempted murder like it's no big
20 deal. It's a big deal.

21 But if you don't have that intent to
22 actually kill somebody you shouldn't be found
23 guilty of attempted murder. That's their burden.
24 He got up there and told you what his intentions
25 were. He told you why he did it. He told you

1 exactly what happened and that is what we have.

2 He's a jerk. I mean he's just a jerk.

3 Listen back to all of the witnesses and
4 look at all of the evidence. I don't believe that
5 you are going to see there was ever an attempt to
6 kill nor was there the intent to kill. I know I am
7 harping on that, but those are like the two
8 critical elements of attempted murder.

9 Ms. Faye told you she was scared until
10 she saw that there were bullets in the gun.
11 Understandably. Some of the things that you don't
12 see which is kind of odd, you listened to Karen's
13 testimony and she told you about this preassault
14 which wasn't included in her statement. Which
15 apparently she was being thrown around, broken
16 glass everywhere, thrown into a TV. None of which
17 was in Younginer's report either because this was
18 the first time we heard about it. But, you know,
19 there's no pictures that were taken. You heard the
20 officer say when we go to a crime scene they take
21 pictures of the crime scene itself to show the
22 state of how things were. I submit to you that if
23 there were glass everywhere and broken TV and all
24 that that there would have been pictures of that to
25 provide to you. And there weren't.

1 And I would submit to you that that's
2 because it didn't happen that way. And I get what
3 they went through. It's horrible, but you can't
4 exaggerate this when you come to court and testify
5 to things that are not exactly what happened. The
6 memory fades and, you know, it is just kind of
7 interesting that, you know, when you have the same
8 version of events until a month or two prior to
9 when you were preparing with the State. Now all of
10 a sudden these critical things that help with the
11 elements they are lacking come out in testimony on
12 the stand like all of this I'm going to kill you
13 business that was never included. And oddly
14 enough, I point out, too, you listen back, you'll
15 have the ability to listen back to the testimony if
16 you need to of the various witnesses. Listen back
17 to Ms. Faye's testimony. Because just completely
18 unprompted she decided to blurt out well, they
19 didn't tell me what to say which is kind of odd I
20 say and I am not saying that they indicated what
21 she should testify to, but certainly she rehearsed
22 her testimony with them and there were a lot of
23 things included that weren't in her original
24 statement. And we need to hold the State to their
25 burden. Don't let them get away, the witnesses,

1 with exaggerating actually what happened and at the
2 end of the day when you come back we believe that
3 you will find William Shumpert not guilty of
4 attempted murder. And possession of a weapon
5 during the commission of a violent crime, that goes
6 along with the attempted murder. So if you find
7 there's no violent crime, and that's the only
8 violent crime that will be charged to you, if you
9 find him not guilty on the attempted murder
10 obviously the possession of a weapon during the
11 violent crime would be not guilty as well.

12 The State requested that lesser. He
13 mentioned to you about the assault and battery in
14 the first degree. We submit to you that there's no
15 evidence of assault and battery in the first degree
16 either. The elements for the assault and battery
17 first would be that somebody offers to injure
18 somebody in such a way that great bodily injury
19 results or that it could likely produce great
20 bodily injury or death.

21 And the definition and you will hear
22 the judge talk about the definition of great bodily
23 injury and that is just that there's a substantial
24 risk of death. And I would submit to you that
25 there's no risk of death when you have an

1 inoperable weapon so therefore assault and battery
2 doesn't apply either.

3 So we would ask for a not guilty on
4 that and just think back to what the solicitor said
5 in his closing. He called this an assault. He
6 said during the assault. He said that because it's
7 not an attempted murder so we ask that you find
8 Billy not guilty. Thank you.

9 MR. DENNIS: Lieutenant Thrower was
10 used in this case to decide whether or not that gun
11 was operable or not, that's true. He wasn't trying
12 to get that gun to fire. He was trying to find out
13 whether or not it was inoperable. Billy Shumpert
14 tried to get that gun to fire at least six times.
15 Pulling that trigger over and over and over again.

16 Now, there was all this discussion
17 briefly about why he didn't go do other things to
18 go and kill these two women. The police arrived
19 right when he was in the throes of doing all this.
20 You heard from Karen. She had to run, scurry away.
21 You heard from Officer Brown that someone scurried
22 over to the door to open it up. Because Mr.
23 Shumpert was holding the gun at Faye's head. You
24 heard that there were screams still going on inside
25 the house again while the gun was pointed at Faye's

1 head.

2 Now, I don't know how much more
3 specific with an intent you have to be to say I'm
4 going to kill you and point a gun at someone and
5 then pull the trigger. Not once, not twice, three,
6 four times, I don't know how much more you have to
7 do it. But in the end I want you to think about
8 this: Why was Billy Shumpert carrying around a gun
9 fully loaded that he knew wouldn't work? When
10 Lieutenant Thrower said a layman couldn't just look
11 at that gun and say why it wouldn't work. Why
12 carry around a fully loaded gun that you know
13 doesn't work?

14 THE COURT: Members of the jury, I
15 appreciate the attention you have given all of us
16 during the trial. It is now my charge to charge
17 you on the law that you are to apply to the facts
18 as you determine them to be in this case.

19 There are two indictments. You will
20 not have these back in the jury room with you. But
21 I want to tell you that these indictments are just
22 simply the charges, that is, they are the charges
23 that the State has brought against Mr. Shumpert.
24 They're not evidence. They will ultimately hold
25 the record of the jury's unanimous verdict, but

1 there is no evidence and the fact that he was
2 charged is not any evidence that he committed these
3 offenses.

4 The fact that he was arrested, charged
5 and indicted in this case is not evidence and
6 cannot be considered by you as evidence in the
7 case, nor as I just mentioned does it create any
8 presumption of inference of guilt. The document,
9 three documents are simply the formal written
10 instruments which contain the charges. The
11 allegations are the formal documentation of the
12 charges against Mr. Shumpert. There are two for
13 attempted murder with two separate victims, Ms.
14 Clarkson and Ms. Boone. There's one for use of a
15 weapon during the commission of a violent crime,
16 that violent crime being attempted murder.

17 Now, the fact there are three charges,
18 the fact that there are two individuals in this
19 case, Ms. Clarkson and Ms. Boone, does not give the
20 case any more weight either. That's just based on
21 the facts the way the State has brought these
22 charges.

23 Now, each indictment contains a
24 distinct and separate charge. You must decide each
25 indictment separately on the evidence and the law

1 applicable to it uninfluenced by your decision to
2 any of the other indictments except one exception
3 and I will tell you about it in just a minute. Mr.
4 Shumpert may be convicted or acquitted on any or
5 all of the offenses charged and you will be asked
6 to write a separate verdict of guilty or not guilty
7 for each indictment.

8 The one exception is I will charge you
9 later on something called a lesser included
10 offense; assault and battery in the first degree.

11 I will tell you more about that later.
12 But if you find both of the -- let me restate it.
13 If you do not find Mr. Shumpert guilty as to one or
14 the other of the attempt to kill -- I am sorry, let
15 me start over again.

16 You have two Defendants -- two victims.
17 Two individuals. If you find that he is not guilty
18 as to one, but guilty as to the other, you could
19 consider whether or not he possessed a weapon
20 during the commission of a violent crime. If you
21 find him not guilty as to both of the individuals
22 or if you find him guilty of both of the lesser
23 included offenses of first degree assault and
24 battery then you could not find him guilty of
25 possession of a weapon during the violent crime.

1 Attempted murder under our law is a
2 violent crime. If you find him guilty of one or
3 both of those offenses you may consider the
4 possession of weapon during the commission of a
5 violent crime. If you do not find him guilty as to
6 one or both of those attempted murder charges you
7 cannot even consider the possession of a weapon
8 during the commission of a violent crime because
9 you would have determined that he is not guilty of
10 a violent crime.

11 Now, to the charges Mr. Shumpert has
12 entered pleas of not guilty. His pleas of not
13 guilty place on the State the burden of proof, the
14 burden of proving his guilt beyond a reasonable
15 doubt. Anyone charged in our system with any
16 offense is presumed innocent of that charge. Here
17 the presumption of innocence in Mr. Shumpert's
18 benefit attached at the time of his arrest. The
19 presumption of innocence has remained with him as
20 his case has been processed through our court
21 system and remains with him at this very moment.
22 In fact, the presumption of innocence remains with
23 Mr. Shumpert even as you deliberate. The
24 presumption of innocence in his favor is removed if
25 and when, only if and when, you determine that the

1 State as to a charge has found him guilty beyond a
2 reasonable doubt.

3 Now, the State is not required to prove
4 his guilt beyond every doubt. But this presumption
5 of innocence is not just a legal theory or a mere
6 legal phrase. The presumption of innocence is a
7 substantial right that inures to anyone charged
8 with any offense, including Mr. Shumpert.

9 Now, as I said, the State is not
10 required to prove his guilt beyond all -- beyond
11 every doubt, but beyond a reasonable doubt. Our
12 courts have described a reasonable doubt as the
13 kind of doubt that would cause a reasonable person
14 to hesitate to act. Proof beyond a reasonable
15 doubt is proof that leaves you firmly convinced of
16 the someone's guilt. There are very few things in
17 our world as I said that we can know with absolute
18 certainty and that is not required in a case such
19 as this.

20 If based on your consideration of the
21 evidence you are firmly convinced that Mr. Shumpert
22 is guilty of one or more of the offenses, you would
23 return a verdict of guilty as to that offense. If,
24 on the other hand, you think there's a real
25 possibility that he is not guilty as to one of the

1 offenses, as to that offense you would find him not
2 guilty.

3 He is entitled to the benefit of any
4 reasonable doubt you have as to any element in this
5 case. I remind you that I am the sole judge of the
6 law and you must take, accept and apply the law as
7 I charge it. You must do that even if you think I
8 charge the law in error or even if you think laws
9 should be different. Your oath requires you to
10 take, accept and apply the law as I charge it.

11 You are not to infer from anything I
12 have said or done or anything I now say or do as
13 indicating an opinion of mine on the facts. That
14 is solely your job. You are solely the judges of
15 the facts in this case.

16 Your duty is to determine the effect,
17 value and weight of the evidence presented during
18 the trial. Now, there are two types of evidence
19 which are generally presented in a case, direct and
20 circumstantial evidence. Direct evidence is the
21 testimony of a person who claims to have actual
22 knowledge of a fact such as an eyewitness. Direct
23 evidence is evidence which immediately establishes
24 the main fact sought to be proven. Circumstantial
25 evidence is proof of a chain of facts and

1 circumstances which indicate the existence of a
2 fact. Circumstantial evidence is evidence which
3 immediately establishes collateral facts from which
4 the main fact may be inferred. Circumstantial
5 evidence is based on inference and not on personal
6 knowledge or personal observation. Our law makes
7 absolutely no distinction between the weight or
8 value to be given either direct or circumstantial
9 evidence.

10 Nor is a greater degree of certainty
11 required of circumstantial evidence than of direct
12 evidence. What you should do is weigh all of the
13 evidence. After weighing all the evidence if you
14 are not convinced of Mr. Shumpert's guilt beyond a
15 reasonable doubt you would find him not guilty.

16 As judges of the facts you must judge
17 the believability of the witnesses who testify. It
18 is your duty to analyze and evaluate the evidence
19 and determine the weight and value you are to give
20 the evidence. In determining the believability of
21 witnesses who have testified use the things that
22 you find in your day-to-day life as indicating
23 truthfulness in an individual. And you can use
24 certain evaluators. You may believe one witness as
25 opposed to several, several as opposed to one. You

1 may believe all, part or none of a witness's
2 testimony. Use your common sense, your sense of
3 reason and your experience in life. Use such
4 things as whether or not a witness has any reason
5 to help or hurt one side or the other, that is,
6 whether a witness has any bias or prejudice.
7 Consider a witness's ability to actually know the
8 things to which that witness testified. And you
9 can look at whether a witness is hesitant or
10 straightforward and consistent or inconsistent in
11 their testimony.

12 Now, in this case we have had testimony
13 of an individual who was qualified as an expert,
14 Lieutenant Thrower. Generally individuals can only
15 come into court and testify to something they have
16 observed with one of their senses. Usually it's
17 somebody that has seen or heard something, but it
18 could be taste, touch or smell. However, where an
19 individual has certain training, knowledge and
20 experience in a certain area that person may be
21 qualified as what we call an expert witness and
22 that person can testify as to their opinion.

23 The example I always use is that I have
24 a child who appears to be sick, that's lethargic,
25 running a fever, throwing up. I can come and

1 testify to all those things that I saw with my
2 child. But I couldn't give you an opinion about
3 what was wrong with the child. I can guess, but I
4 couldn't give an opinion of any value. However, I
5 could take that child to a physician and a
6 physician could see the exact same things that I
7 see and render an opinion, it's generally thought
8 of as a diagnosis with a doctor, but it's basically
9 the doctor's opinion. That was not a medical
10 doctor, but the same analogy applies. The evidence
11 from an expert is allowed into evidence to assist
12 you. It is not binding on you. Even though I said
13 he was qualified as an expert you as the determiner
14 of facts in this case can determine whether you
15 think he has expertise in the area in which he
16 testified. You also can examine your opinion as to
17 what value to give to opinions he reached. Experts
18 are allowed to testify to assist you. They are not
19 binding on you and you look at the testimony of an
20 expert through the same lens as you look at the
21 testimony of all other witnesses in this case.

22 The charge of attempted murder is a
23 statutory offense, that is, an offense that has
24 been enacted by our legislature. The law provides
25 that a person with intent to kill attempts to kill

1 another person with malice aforethought either
2 express or implied comits the offense of attempted
3 murder. The intent required by the statute is a
4 specific intent to kill. Malice is hatred, ill
5 will or hostility towards another person. Malice
6 is the intentional doing of a wrongful act without
7 just cause or excuse.

8 Something that is malicious is done
9 with an intent to inflict an injury or under
10 circumstances from which the law would infer an
11 evil intent. Malice aforethought does not require
12 that malice exists for any particular time before
13 the act is committed. But malice must exist in the
14 mind of the individual charged just before and at
15 the time the act is committed. Therefore, there
16 must be a combination of the previous intent and
17 that evil act. Malice aforethought may be
18 expressed or inferred. These terms, express and
19 infer, do not mean different kinds of malice, but
20 merely the manner in which malice may be shown to
21 exist, that is, either by direct evidence or by
22 inference from the facts and circumstances which
23 are proven. Express malice is shown when a person
24 speaks words which express hatred or ill will for
25 another or when the person prepared beforehand to

1 do the act which was later accomplished, for
2 example, acts of preparation going to show that the
3 deed was in the individual's mind would be express
4 malice. Malice may be inferred from conduct
5 showing a total disregard of human life. The State
6 must prove those elements that I have gone over for
7 attempted murder before you can convict Mr.
8 Shumpert as to either or both of the charges of
9 attempted murder.

10 Now, you have heard us talk about
11 something called a lesser included offense. I can
12 best describe this to you by asking you to imagine
13 looking at a set of stairs. At the very top of the
14 stairs we have attempted murder on the highest step
15 of the stairs. If you step down to a lower degree
16 to a lower step we have what we call a lesser
17 included offense. Not a step as to the charge, but
18 one that by law is included and may be considered,
19 does not have to be, may be considered by you if
20 you determine the State has not proven Mr. Shumpert
21 guilty of attempted murder.

22 That lesser included offense is assault
23 and battery in the first degree. This too is a
24 statutory offense. The law says that a person
25 comits the offense of assault and battery in the

1 first degree if the person unlawfully offers or
2 attempts to injure another person with a present
3 ability to do so and the act is accomplished by
4 means likely to produce death or great bodily
5 injury.

6 Assault is the intentional creation of
7 a reasonable fear of immediate bodily harm. It is
8 not necessary that the attempted injury or harm
9 actually take place. I can ask you to visualize an
10 assault as me being close to an individual and I
11 rear back in a rude and angry manner and I am close
12 enough to strike a person and I invoke fear of that
13 person that I may strike them. I have assaulted
14 that person. A battery is an unlawful touching of
15 another person who has committed an assault. A
16 battery is a completion of an assault by using or
17 applying force to another person, however slight,
18 in a rude, angry or resentful manner without legal
19 justification for doing so.

20 Following through on my demonstration,
21 if I assault you by rearing back and I go forward
22 and I actually hit you, however slight, I have
23 turned that assault into an assault and a battery,
24 the battery being the actual touching. I used the
25 phrase great bodily injury and that is the phrase

1 used in the statute. Great bodily injury means
2 ()
3 bodily injury which causes a substantial risk of
4 death.

5 Now, if the State has failed to prove
6 Mr. Shumpert guilty of either attempted murder or
7 burglary -- assault and battery in the first
8 degree, you would find him not guilty as to those
9 two charges and if that were the case you are not
10 to consider the possession of a weapon during the
11 commission of a violent crime. That offense,
12 possession of a weapon during the commission of a
13 violent crime, is also a statutory offense. The
14 statute makes it an offense for a person to be in
15 possession or visibly display what appears to be a
16 firearm during the commission of a violent crime.
17 Under our law attempted murder by statute is a
18 violent crime.

19 Now, you have heard it must be
20 unanimous. All 12 jurors must agree on your
21 verdict. Once all 12 have agreed you will knock on
22 the door, tell the bailiff and the bailiff will
23 come and get us. We may be doing other work. We
24 will send for you as promptly as we can. Again,
25 your verdict must be unanimous. It cannot be based
 on passion, prejudice, public opinion, sympathy or

1 other matters outside the record.

2 While you're deliberating, Mr. Foreman,
3 if you have any questions write them down on a note
4 pad that will be provided. Send them out by way of
5 the bailiff and I will confer with the attorneys
6 regarding the note. I may have to bring you back
7 in here and answer whatever question it is. I may
8 be able to write an answer on the note itself. If
9 I write an answer on the note and send it back,
10 keep that note and turn it in with the evidence
11 when you turn the evidence in because it has to be
12 part of the record. Mr. Lee, you will stay out as
13 the alternate. We won't need your services any
14 more. When the jury goes out please remain seated.

15 When you first go out in just a moment
16 do not start deliberating. I have to go over with
17 the attorneys my charge. If I have made an error I
18 will have to bring you back in and correct it. If
19 not I will send in these verdict forms, they will
20 go with you in just a moment and evidence and the
21 exhibits. And the bailiff will tell you to start
22 deliberating. Again, when you have reached a
23 verdict knock on the door and tell the bailiff and
24 he will come and get me and I will send for you as
25 promptly as I can.

1 If you want me to recharge any part or
2 all of the law let me know and I will bring you
3 back out and recharge you. If you want to hear any
4 of the testimony read back or replayed let me know
5 and we will do that.

6 As to the verdict forms you have three
7 options. The order they are in is of no
8 importance. I have to put them in some order and I
9 have been doing for this 25 years and so I always
10 put them in the same order. What you will do, Mr.
11 Foreman, is put an X or a check in front of the
12 verdict that the jury unanimously agrees upon.

13 First line says we find William Guy Shumpert guilty
14 of attempted murder. If that's the case you will
15 put an X that's a unanimous verdict, put a check in
16 front of that line. If on the other hand you find
17 that he is guilty of assault and battery in the
18 first degree rather than attempted murder, you will
19 find a check or an X on that second line. If you
20 find State has failed to prove beyond a reasonable
21 doubt Mr. Shumpert guilty of either of those
22 offenses you will use the third line that says we
23 find William Guy Shumpert not guilty. There's a
24 place for you to sign and date. I believe the date
25 is the eighth.

1 On the possession of weapon during the
2 comission of a violent crime there are only two.
3 We find Mr. Shumpert guilty or we find William Guy
4 Shumpert not guilty. Again, you can only even
5 consider that if you find that he is guilty of one
6 -- at least one of the charges of attempted murder.
7 So I am going to let you go to the jury room.
8 Don't start deliberating until you hear further
9 from me. The bailiff will bring in the verdict
10 forms and exhibits when it is time.

11 (Thereupon, the jury exited the
12 courtroom at 3:20 p.m.)

13 THE COURT: Any exceptions by the
14 State?

15 MR. DENNIS: No exceptions.

16 THE COURT: By the defense?

17 MS. SHIVERS: The only thing, Your
18 Honor, under the circumstantial evidence I didn't
19 hear anything indicating that the circumstances
20 have been to be consistent and if it merely raises
21 suspicion that's not enough.

22 THE COURT: All right. I didn't have
23 in that mine. That is correct. Say that again.

24 MS. SHIVERS: All the circumstances.
25 would have to be consistent with each other and

1 that if it just merely raises suspicion that that
2 would not be enough.

3 THE COURT: Anything else?

4 MS. SHIVERS: No, sir.

5 THE COURT: All right. Bring the jury
6 back in. I will still be with you in just a
7 minute, Mr. Lee.

8 (Whereupon the jury entered the
9 courtroom at 3:21 p.m.)

10 THE COURT: I left out or overlooked
11 one sentence out of circumstantial evidence. I
12 told you the case could be proven by direct or
13 circumstantial evidence. And I explained what
14 circumstantial evidence was to you. I did not tell
15 you that when you consider circumstantial evidence,
16 all of the circumstances must be consistent with
17 each other. If the circumstances merely raise a
18 suspicion that is not enough. So I will let you go
19 back and don't start deliberating yet. I need to
20 correct that for you. I will let you go back to
21 the jury room.

22 (Thereupon, the jury exited the
23 courtroom at 3:22 p.m.)

24 THE COURT: Anything further from the
25 State?

1 MR. STEGALL: No, Your Honor.

2 THE COURT: Anything from the defense?

3 MS. SHIVERS: No, sir.

4 THE COURT: We will be at ease. Mr.
5 Lee, I don't know whether we are going to draw
6 another jury in another case. What is the status?
7 They are calling back in tonight. You were given a
8 phone number yesterday. If you will call back
9 tonight at six you will receive instructions about
10 what to do as far as tomorrow and maybe to come in
11 or maybe call or maybe you are through for the
12 week. I'm not sure. I know we had this case to
13 try and Judge Harrington from Charleston is in the
14 other courtroom trying civil cases so I don't know
15 what her needs are. So we will let you leave at
16 this time, but call tonight after 6:00.

17 THE JUROR: Thank you, Your Honor, for
18 the privilege of serving as a juror.

19 THE COURT: Thank you for being here.
20 We appreciate your time. It really is valuable to
21 us.

22 MS. SHIVERS: We would like to make
23 sure for the record that we are renewing all of our
24 previous motions.

25 THE COURT: For the record all previous

1 motions which have been made are remade and the
2 rulings attached thereto are affirmed. Collect the
3 exhibits and verdict forms.

4 (Thereupon, the jury began deliberating
5 at 3:26 p.m.)

6 (Thereupon, a verdict was reached at
7 3:43 p.m.)

8 THE COURT: Counsel, Mr. Shumpert is
9 back. I understand the jury has reached a verdict.
10 Is the State ready?

11 MR. DENNIS: Yes, Your Honor.

12 THE COURT: Defense ready?

13 MS. LITTLEJOHN: Yes, Your Honor.

14 THE COURT: Bring in the jury.

15 (Whereupon the jury entered the
16 courtroom at 3:44 p.m.)

17 THE COURT: You can be seated. Mr.
18 Foreman, I understand the jury has reached a
19 verdict. Would you hand it to the bailiff. He
20 will hand them up to me. You may be seated.

21 (Brief pause.)

22 THE COURT: State of South Carolina
23 versus William Guy Shumpert. As to attempted
24 murder we find William Guy Shumpert guilty of
25 attempted murder. As to Karen Lee Clarkson we find

1 William Guy Shumpert guilty of attempted murder.
2 As to possession of a weapon during the commission
3 of a violent crime we find William Guy Shumpert
4 guilty.

5 If this be your verdict so say you all
6 by raising your right hand. All 12 jurors have
7 affirmed their verdict. Anything from the State
8 before the jury is dismissed?

9 MR. DENNIS: Nothing from the State,
10 Your Honor.

11 THE COURT: Anything from the defense?

12 MS. LITTLEJOHN: Poll the jury, please.

13 THE COURT: All right. The clerk is
14 going to ask you to confirm your verdict. She will
15 tell you how it is handled. Just listen and follow
16 her instructions.

17 THE CLERK: Juror 71, is this your
18 verdict?

19 THE JUROR: Yes.

20 THE CLERK: Is this still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror 134, is this your
23 verdict?

24 THE JUROR: Yes.

25 THE CLERK: Is this still your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Juror 180, is this your
3 verdict?

4 THE JUROR: Yes.

5 THE CLERK: Is this still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Juror 103, is this your
8 verdict?

9 THE JUROR: Yes.

10 THE CLERK: Is this still your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Juror 62, is this your
13 verdict?

14 THE JUROR: Yes.

15 THE CLERK: Is this still your verdict?

16 THE JUROR: Yes.

17 THE CLERK: Juror No. 120, is this your
18 verdict?

19 THE JUROR: Yes.

20 THE CLERK: Is this still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror No. 88, is this your
23 verdict?

24 THE JUROR: Yes.

25 THE CLERK: Is this still your verdict?

1		THE JUROR: Yes.
2		THE CLERK: Juror No. 56, is this your
3	verdict?	
4		THE JUROR: Yes.
5		THE CLERK: Is this still your verdict?
6		THE JUROR: Yes.
7		THE CLERK: Juror No. 40, is this your
8	verdict?	
9		THE JUROR: Yes.
10		THE CLERK: Is this still your verdict?
11		THE JUROR: Yes.
12		THE CLERK: Juror No. 37, is this your
13	verdict?	
14		THE JUROR: Yes.
15		THE CLERK: Is this still your verdict?
16		THE JUROR: Yes.
17		THE CLERK: Juror No. 70, is this your
18	verdict?	
19		THE JUROR: Yes.
20		THE CLERK: Is this still your verdict?
21		THE JUROR: Yes.
22		THE CLERK: Juror No. 165, is this your
23	verdict?	
24		THE JUROR: Yes.
25		THE CLERK: Is this still your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Your Honor, the jury has
3 been polled and the verdict stands.

4 THE COURT: Anything else before the
5 jury is dismissed?

6 MR. DENNIS: Nothing from the State,
7 Your Honor.

8 MS. LITTLEJOHN: Nothing, Your Honor.

9 THE COURT: Members of the jury, now I
10 am going to excuse you. Call back tonight after
11 six. I haven't been able to confirm whether we are
12 going to have another trial. I have seen Judge
13 Harrington and she does not need a jury tomorrow.
14 I just found that out about five minutes ago. I
15 don't know whether I will need one or not. So call
16 back tonight after six and you will receive
17 instructions. It may be to report at a certain
18 time or it may be to call a certain time tomorrow
19 or it may be that you are through for the week.
20 Thank you for your help. You go follow the bailiff
21 back.

22 (Thereupon, the jury exited the
23 courtroom at 3:48 p.m.)

24 THE COURT: She will have to get the
25 foreman to sign the form.

1 (Brief pause.)

2 THE COURT: You may be seated.

3 Anything from the State now that the jury has been
4 dismissed? I will ask this: You indicated there
5 was no prior record involving impeachable offenses.
6 Is there any prior record?

7 MR. DENNIS: No, Your Honor.

8 THE COURT: Okay. Ms. Littlejohn, Ms.
9 Shivers, I will be glad to hear from you, then Mr.
10 Shumpert before sentencing. Do we have sentencing
11 sheets?

12 MS. LITTLEJOHN: Your Honor, first we
13 would like to renew all our motions as well as a
14 motion for new trial.

15 THE COURT: I deny the motion again. I
16 think that the evidence was sufficient as I said
17 earlier. Do you have sentencing sheets?

18 MR. DENNIS: Your Honor, they are being
19 prepared right now. They should be up here.

20 THE COURT: Anything as far as
21 sentencing you want to tell me, Ms. Littlejohn or
22 Ms. Shivers?

23 MS. LITTLEJOHN: Your Honor, I think
24 this was -- you heard all the evidence. I think
25 attempted murder I think is one of those sticky

1 things and you and I know both were the old ABWIK,
2 assault and battery with intent to kill and are so
3 familiar with that that it is hard to get that
4 specific intent involved with the attempted murder.
5 We talked about this. There were a lot of things.
6 He did a confession. The State did a good strategy
7 in not playing the confession frankly because
8 that's where the evidence came out that he had done
9 the same issue with his father earlier. And you
10 know that's what we were trying to get brought out.

11 Ms. Shivers spoke with the SLED agent.
12 That's when he actually told her inoperable. This
13 is a violent no parole crime. Your Honor, he has
14 been in jail since this happened.

15 THE COURT: Tell me how many days. Can
16 you figure out the days?

17 MS. SHIVERS: Yes, sir.

18 MS. LITTLEJOHN: We will get that for
19 you. Mr. Shumpert is 39 years of age. He is not
20 in good health. He has had a heart attack and a
21 stint since he has been at the jail. He has been a
22 good expense for them. Had we listened to his
23 confession we would have actually heard where he
24 and Officer Norvell spoke about a polyp issue that
25 he had. He has an issue where he had a hole in the

1 roof of his mouth going through the sinus area and
2 they had to cut it out. But first they had to make
3 sure because of his cardio that they could do all
4 that. So he has been -- there has been quite an
5 expense with him at the jail. I think he had his
6 heart attack and his stints either the year or the
7 year before all of this incident, Your Honor.

8 I respect the jury's verdict. I would
9 ask -- I know we told him that he could fully
10 expect something -- I would ask for something
11 somewhere not to punish him for exercising his
12 constitutional rights and for us wanting him to. I
13 would ask for somewhere in the neighborhood of ten
14 years, Your Honor, which I believe is substantial
15 when you look at the violent no parole situation
16 with this as well as his health, his age, et
17 cetera.

18 MR. DENNIS: Your Honor, I first wanted
19 to ask the victims if they wish to speak.

20 THE COURT: I will be glad to hear from
21 the victim if either one wishes to speak.

22 MR. DENNIS: In that case, Your
23 Honor --

24 THE COURT: They have indicated they do
25 not want to.

1 MR. DENNIS: In that case, Your Honor,
2 I think we have heard over the past two days the
3 severity of his behavior that night. The fact that
4 he pointed a gun at not one, but two people and
5 pulled through the chambers of the gun that may or
6 may not fire at this point, this is a serious crime
7 and a violent crime and should be treated as such.
8 I will just defer to Your Honor regarding
9 sentencing.

10 THE COURT: Mr. Shumpert, I will be
11 glad to hear from you first if you have anything
12 you want to tell me.

13 THE DEFENDANT: I have nothing to say.

14 THE COURT: Have you got the sentencing
15 sheet?

16 MR. DENNIS: Yes.

17 MS. LITTLEJOHN: Your Honor, it's been
18 621 days and I would just ask that you not let this
19 one night affect 39 years of absolutely no record
20 and it not result in punishment for his
21 constitutional rights.

22 THE COURT: You will have to sign the
23 sentencing sheets.

24 (Brief pause.)

25 THE COURT: On the attempted murder,

1 all three of these will run concurrent, attempted
2 murder is 17 years on each. They will run
3 concurrent. Five years on the possession of a
4 weapon. That's to run concurrent. I also give him
5 credit for 621 days. Thank you all for your
6 courtesy. /

7 (These proceedings were concluded at
8 3:56 p.m. July 8, 2017, Berkeley County, South
9 Carolina.)

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER

2
3 I, Ruth C. Weese, Registered Diplomate
4 Reporter for the State of South Carolina at Large,
5 do hereby certify that the foregoing transcript is
6 a true, accurate, and complete record.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 28th day of August, 2017 at
12 Charleston, Charleston County, South Carolina.
13

14 *Ruth C. Weese*

15
16 _____
17 Ruth C. Weese
18 Registered Diplomate
19 Reporter
20
21
22
23
24
25

1 THE COURT: I've already addressed
2 that.

3 MR. DENNIS: Thank you, Your Honor.

4 The only other issue, I think there was
5 some discussion, as in the previous case that was
6 heard this afternoon, that the chain witnesses are
7 going to be stipulated to as well. And I just
8 wanted to place that on the record regarding the
9 chain of the firearm from the Moncks Corner Police
10 Department to the South Carolina Law Enforcement
11 Division, as well as a recording received from
12 Berkeley County Emergency Service and the 911.

13 MS. LITTLEJOHN: Right. And I think
14 there was some SLED people which they --

15 MR. DENNIS: That's the --

16 MS. LITTLEJOHN: The whole SLED chain
17 and a couple of SLED people.

18 MR. DENNIS: Yes, Your Honor.

19 MS. LITTLEJOHN: And, Your Honor, we
20 also sent in and submitted to you, and Aleshia said
21 she --

22 MR. DENNIS: That's correct.

23 MS. LITTLEJOHN: -- some supplemental
24 voir dire. I have a copy of it.

25 THE COURT: We have it.

DBP/0311554

WITNESSES

Loach

Moncks Corner Police Department

AGENCY CASE NUMBER

2015-2715

ARREST WARRANT NUMBER

2015A0820500918

DATE OF ARREST

11/27/2015

ACTION OF GRAND JURY

True Bill*Jane M. Marshall* 3-22-16
Foreperson of Grand Jury Date:

VERDICT

*Guilty**[Signature]*
Foreperson of Petit Jury*8/5/17*
Date:

DOCKET NO. 2016-GS-08-00401

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MARCH TERM 2016

THE STATE

VS.

WILLIAM GUY SHUMPERT
W/M DOB: [REDACTED]-1978

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410CLERK OF COURT
BERKELEY COUNTY, S.C.

16 MAR 22 PM 2:45

FILED

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

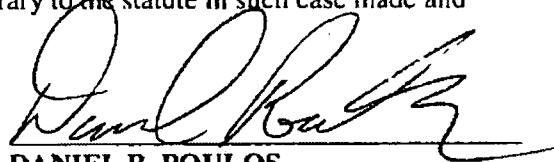
INDICTMENT

At a Court of General Sessions, convened March 2016, the Grand Jurors of Berkeley County present upon their oath:

ATTEMPTED MURDER

That in Berkeley County, South Carolina, on or about November 26, 2015, the Defendant, William Guy Shumpert, did, with intent to kill and malice aforethought, attempt to kill Karen Lee Clarkson. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

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



DANIEL B. POULOS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

283

COUNTY OF BERKELEY

STATE VS.

WILLIAM GUY SHUMPERT

AKA:

Race: White Non-Latino/Caucasian

Sex: M

DOB: 1/1978

SS#: [REDACTED]

Address: 249 Gullledge Street Apt [REDACTED]

City, State, Zip: Moncks Corner, SC 29461

DL# [REDACTED]

SID# [REDACTED]

CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Attempted Murder

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted☐ Lesser Included Offense☐ Defendant Waives Presentment to Grand Jury

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation☒ Negotiated Sentence☐ Recommendation by the State

ATTEST:

Benjamin A. Dennis, Assistant Solicitor SC Bar # 101716

[Signature] Defendant

[Signature] Attorney for Defendant

14323 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Centerfor a determinate term of 17 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and or paymentof \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 8/8/17☒ 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. 621 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms: Obtain GED ☐**FILED**☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp.

AUG - 8 2017

May serve W/E beginning Substance Abuse Counseling ☐ CASE ☐ NO

MARY P. BROWN CLERK OF COURT

Random Drug/Alcohol Testing ☐

BERKELEY COUNTY, SC

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender Fund.Other: ☐ Appointed PD or appointed other counsel.

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: [Signature]Judge Code: 2074Sentence Date: 8/8/17Recipient: Fine: \$ §14-1-206 (Assessments 107.5%) \$ §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ §56-5-2995 (DUI Assessment) \$12 \$ §56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def/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(1) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: K. MillsCourt Reporter: Ruth Weese

DBP/0311554
WITNESSES *Loach*

Moncks Corner Police Department

AGENCY CASE NUMBER

2015-2715

ARREST WARRANT NUMBER

2015A0820500919

DATE OF ARREST

11/27/2015

ACTION OF GRAND JURY

True Bill

Uma M. Marshall 3-22-16
Foreperson of Grand Jury Date:

VERDICT

Guilty

10-9-16 8:07
Foreperson of Petit Jury Date:

DOCKET NO. 2016-GS-08-00402

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS

MARCH TERM 2016

THE STATE

VS.

WILLIAM GUY SHUMPERT
W/M DOB: [REDACTED] -1978

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code 3410

FILED
16 MAR 22 PM 2:45
CLERK OF COURT
BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened March 2016, the Grand Jurors of Berkeley County present upon their oath:

ATTEMPTED MURDER

That in Berkeley County, South Carolina, on or about November 26, 2015, the Defendant, William Guy Shumpert, did, with intent to kill and malice aforethought, attempt to kill Foyde Faye Boone. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

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

A handwritten signature in black ink, appearing to read 'Daniel B. Poulos', is written over a horizontal line.

DANIEL B. POULOS
ASSISTANT SOLICITOR

DBP/0311554
WITNESSES

Loach
Moncks Corner Police Department

AGENCY CASE NUMBER
2015-2715

ARREST WARRANT NUMBER
2016-GS-08-00403

DATE OF ARREST

11/27/2015

ACTION OF GRAND JURY
True Bill

Jina M. Marshall 3-22-16
Foreperson of Grand Jury Date:

VERDICT

Guilty

[Signature] 8-6-17
Foreperson of Grand Jury Date:

DOCKET NO. 2016-GS-08-00403

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS
MARCH TERM 2016

THE STATE

VS.

WILLIAM GUY SHUMPERT
W/M DOB: [REDACTED]-1978

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

CLERK OF COURT
BERKELEY COUNTY, SC

16 MAR 22 PM 2:45

2/4
FILED

2/4

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

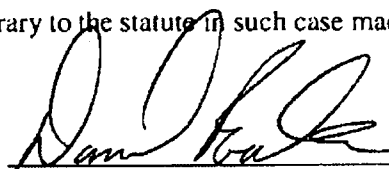
INDICTMENT

At a Court of General Sessions, convened March 2016, the Grand Jurors of Berkeley County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Berkeley County, South Carolina, on or about November 26, 2015, the Defendant, William Guy Shumpert, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Attempted Murder; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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



DANIEL B. POULOS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

289

COUNTY OF BERKELEY

STATE VS.

WILLIAM GUY SHUMPERT

AKA:

Race: White Non-Latino/Caucasian Sex: M

DOB: 1978 SS#: [REDACTED]

Address: 249 Gullidge Street, Apt. [REDACTED]

City, State, Zip: Moncks Corner, SC 29461

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

INDICTMENT/CASE#: 2016-GS-08-00403

A/W:

Date of Offense: 11/26/2015

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

H3

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

TO: Possession Of A Weapon During The Commission Of A Violent Crime

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted ☐ Lesser Included Offense☐ Defendant Waives Presentment to Grand Jury (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation☐ Negotiated Sentence ☐ Recommendation by the State

ATTORNEY

Benjamin A. Dennis, Assistant Solicitor SC Bar # 101716

Defendant

Attorney for Defendant SC Bar # 14323

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Centerfor a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$ plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 8/8/17☒ 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

FILED

☐ Set by SCDPPPS:

Attend Voc. Rehab. Or Job Corp. AUG - 8 2017

May Serve W/E beginning

CASE NO

Substance Abuse Counseling

MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SCRandom Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

Recipient:

Fine: \$

\$14-1-206 (Assessments 107.5%) \$

\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100.00

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$

\$56-5-2995 (DUI Assessment) \$12 \$

\$56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Det/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 \$

3% to County (if paid in installments) \$ \$3.75

TOTAL \$128.75

Clerk of Court/Deputy Clerk:

Court Reporter:

K. mills

Ruth Weese

Presiding Judge:

Judge Code:

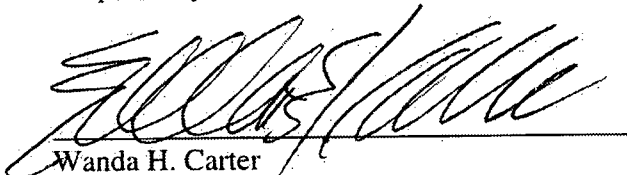
Sentence Date:

John Tracy
2017
8/8/17

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

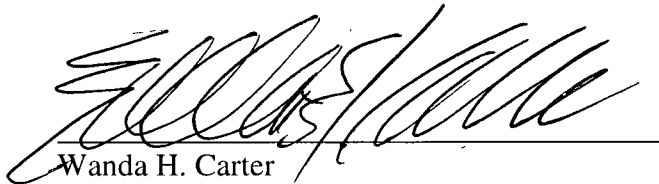
ATTORNEY FOR APPELLANT

This 28th day of September, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 28th day of September, 2018.

RECEIVED
SEP 28 2018
SC Court of Appeals