

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Kristi Lea Harrington, Circuit Court Judge

RECEIVED
JUL 05 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHARLES CLASTON BROWN,

APPELLANT

APPELLATE CASE NO 2017-001860

RECORD ON APPEAL

TAYLOR D GILLIAM
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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR APPELLANT

INDEX

INDEX	i
TRIAL TRANSCRIPT (Dated August 28-29, 2017)	1
JURY SELECTION	15
PRE-TRIAL MOTIONS	37
OPENING STATEMENT BY MS. STAGGS	53
OPENING STATEMENT BY MS. SAXON	55
TESTIMONY	
TASHA HAUPT	59
JADE CITUK	62
CORPORAL TROY KRAPT	66
SERGEANT JASON STUCKEY	86
MASTER SERGEANT MARTIN THOMAS	98
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	106
TESTIMONY (Continued)	
SPECIAL AGENT DAWN CLAYCOMB	112
DAVID WILLIAMS	130
SERGEANT JASON MALPHRUS	139
JENNIFER NATES	144
CLOSING ARGUMENT BY MS. STAGGS	157
CLOSING ARGUMENT BY MS. SAXON	162
JURY CHARGE	169

VERDICT	183
SENTENCING	187
COURT’S EXHIBIT NO. 1 (Mental Health Evaluation).....	196
COURT’S EXHIBIT NO. 2 (Jury Note)	217
COURT’S EXHIBIT NO. 3 (Jury Note)	218
INDICTMENT	219
CERTIFICATE OF COUNSEL	221

**THE FOLLOWING DOCUMENTS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NOS. 1-32 AND STATE’S EXHIBIT NO. 40**

STATE OF SOUTH CAROLINA
FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NUMBERS 2016-GS-07-01340

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

CHARLES CLASTON BROWN

DEFENDANT

AUGUST 28 AND 29, 2017

TRANSCRIPT OF PRETRIAL AND TRIAL

BEFORE:

HON. KRISTI L. HARRINGTON, JUDGE

AND A JURY

BEAUFORT, SOUTH CAROLINA

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

APPEARANCES

ON BEHALF OF THE STATE:

HON. LEIGH STAGGS
lstaggs@bcgov.net
HON. MARY J. LEMPESIS
mlempesis@bcgov.net
ASSISTANT SOLICITORS
FOURTEENTH JUDICIAL CIRCUIT
POST OFFICE BOX 1880
BLUFFTON, SOUTH CAROLINA 29910-1880
843-255-5880

ON BEHALF OF DEFENDANT
CHARLES CLASTON BROWN:

HON. JESSICA SAXON
BEAUFORT COUNTY PUBLIC DEFENDER
1905 DUKE STREET
SECOND FLOOR, ROOM 210
POST OFFICE BOX 525
BEAUFORT, SOUTH CAROLINA 29901-0525
843-255-5805
jsaxon@bcgov.net

INDEX

DAY ONE, MONDAY

AUGUST 28, 2017

Caption.....	1
Appearances.....	2
Index.....	3
Voir Dire.....	15
Jury Selection.....	29

DAY TWO, TUESDAY

AUGUST 29, 2017

Pretrial Motions.....	36
OFF THE RECORD	
BACK ON THE RECORD	
Jurors Sworn.....	45
General Guidelines for Jury Service.....	46
Opening Statement On Behalf of the State By Ms. Staggs.....	53

Opening Statement	
On Behalf of Defendant	
By Ms. Saxon.....	55

TASHA HAUPT

Direct Examination	
By Ms. Staggs.....	59

JADE CITUK

Direct Examination	
By Ms. Staggs.....	62

Cross-examination	
By Ms. Saxon.....	64

Re-direct Examination	
By Ms. Staggs.....	65

CORPORAL TROY KRAPT

Direct Examination	
By Ms. Staggs.....	66

Cross-examination	
By Ms. Saxon.....	76

Re-direct Examination	
By Ms. Staggs.....	84

SERGEANT JASON STUCKEY

Direct Examination	
By Ms. Staggs.....	86

Cross-examination	
By Ms. Saxon.....	92

MASTER SERGEANT MARTIN THOMAS

Direct Examination	
By Ms. Staggs.....	98

Cross-examination	
By Ms. Saxon.....	103

By the Court.....	105
-------------------	-----

Advising Defendant	
of Rights.....	106

OFF THE RECORD

BACK ON THE RECORD

By the Court.....	106
-------------------	-----

SPECIAL AGENT DAWN CLAYCOMB

Direct Examination	
By Ms. Staggs.....	112

Cross-examination	
By Ms. Saxon.....	125

Re-direct Examination	
By Ms. Staggs.....	129

DAVID WILLIAMS

Direct Examination	
By Ms. Staggs.....	130
Cross-examination	
By Ms. Saxon.....	136
Re-direct Examination	
By Ms. Staggs.....	138

SERGEANT JASON MALPHRUS

Direct Examination	
By Ms. Staggs.....	139
Cross-examination	
By Ms. Saxon.....	142

JENNIFER NATES

Direct Examination	
By Ms. Staggs.....	144
State Rests.....	151
Motions.....	151
Defense Rests.....	154
Motions.....	154
Closing Argument on Behalf of the State	
By Ms. Staggs.....	157

Closing Argument on
 Behalf of Defendant
 By Ms. Saxon.....162

Jury Charge.....169

Exhibits and Verdict
 Form Taken to Jurors
 2:42 P.M.....181

OFF THE RECORD

BACK ON THE RECORD

Note from Jurors.....187

OFF THE RECORD

BACK ON THE RECORD

Verdict.....183

Jurors Polled
 By Madam Clerk.....184

Sentencing.....187

ATTACHMENTS

Certificate of Reporter.....195

EXHIBITS

COURT EXHIBITS:

- 1 Item Identified as
Letter from MUSC, Allison
Floyd, to Jessica Saxon
Dated April 6, 2017, and
Attachment *Criminal*
Responsibility Evaluation.....39
- 2 Item Identified as
First Note from Jurors.....181
- 3 Item Identified as
Note from Jurors.....182

STATE EXHIBITS:

- 1 Item Identified as
C.D. of 911 Call
Admitted as Evidence.....61
- 2 Item Identified as
In-car Video From
Corporal Troy Krapt's
Patrol Vehicle from
Night of Incident
Admitted as Evidence.....71

- 3 Item Identified as
Photograph of Royal
Crown Bag
Admitted as Evidence.....73
- 4 Item Identified as
Photograph of
Residence at Windsor
Admitted as Evidence.....73
- 5 Item Identified as
DVD of In-car Video
From Vehicle of
Sergeant Jason Stuckey
Admitted as Evidence.....89
- 6 Item Identified as
Photograph
Admitted as Evidence.....91
- 7 Item Identified as
Photograph
Admitted as Evidence.....91
- 8 Item Identified as
Photograph
Admitted as Evidence.....101

9	Item Identified as Photograph Admitted as Evidence.....	101
10	Item Identified as Photograph Admitted as Evidence.....	101
11	Item Identified as Photograph Admitted as Evidence.....	101
12	Item Identified as Photograph Admitted as Evidence.....	101
13	Item Identified as Photograph Admitted as Evidence.....	114
14	Item Identified as Photograph Admitted as Evidence.....	114
15	Item Identified as Photograph Admitted as Evidence.....	114
16	Item Identified as Photograph Admitted as Evidence.....	114

- 17 Item Identified as
 Photograph
 Admitted as Evidence.....114
- 18 Item Identified as
 Photograph
 Admitted as Evidence.....114
- 19 Item Identified as
 Photograph
 Admitted as Evidence.....114
- 20 Item Identified as
 Photograph
 Admitted as Evidence.....114
- 21 Item Identified as
 Photograph
 Admitted as Evidence.....114
- 22 Item Identified as
 Photograph
 Admitted as Evidence.....114
- 23 Item Identified as
 Photograph
 Admitted as Evidence.....114
- 24 Item Identified as
 Photograph
 Admitted as Evidence.....114

25	Item Identified as Photograph Admitted as Evidence.....	114
26	Item Identified as Photograph Admitted as Evidence.....	114
27	Item Identified as Photograph Admitted as Evidence.....	114
28	Item Identified as Photograph Admitted as Evidence.....	114
29	Item Identified as Photograph Admitted as Evidence.....	114
30	Item Identified as Photograph Admitted as Evidence.....	114
31	Item Identified as Photograph Admitted as Evidence.....	114
32	Item Identified as Photograph Admitted as Evidence.....	114

- 33 Item Identified as
Revolver
Admitted as Evidence.....121
- 34 Item Identified as
Paper Bag Marked One (1)
Crown Royal Bag
Containing Miscellaneous
Cartridges
Admitted as Evidence.....124
- 35 Items Identified as
53 Cartridge Cases
from Kitchen Trash Can
'REM' Headstamped
Admitted as Evidence.....122
- 36 Items Identified as
50 Cartridge Cases
From Bathroom
Admitted as Evidence.....122
- 37 Items Identified as
Six Cartridge Cases
From Kitchen Trash Can
Headstamped 'F'
Admitted as Evidence.....122

- 38 Items Identified as
 73 Cartridge Cases
 From Kitchen Trash Can
 Headstamped 'Super X'
 Admitted as Evidence.....123
- 39 Item Identified as
 Gunshot Residue Kit
 Admitted as Evidence.....149
- 40 Item Identified as
 Photograph
 Admitted as Evidence.....114

DEFENDANT EXHIBITS:

No defendant exhibits.

8-28-17 STATE V BROWN

VOIR DIRE

1 MONDAY, DAY ONE, AUGUST 28,

2 2017, 2:40 P.M.

3 VOIR DIRE:

4 BAILIFF: Are you ready for the jurors, Judge?

5 THE COURT: I am.

6 BAILIFF: Yes, ma'am.

7 JURORS ENTER COURTROOM 2:41 P.M.

8 THE COURT: You have to fill in the middle
9 section, please. Middle section.

10 BAILIFF: Jury panel's present, your Honor.

11 THE COURT: All right. Good afternoon, ladies
12 and gentlemen. I am Judge Kristi Harrington. I am
13 the resident judge for the Ninth Circuit, which is
14 Berkeley and Charleston County. I have the pleasure
15 this week of being in your county, Beaufort County,
16 and I'm presiding over a term of General Sessions,
17 otherwise known as criminal court.

18 We are now going to select a jury to try my first
19 case on the docket. Ladies and gentlemen, this is the
20 State of South Carolina, County of Beaufort versus
21 Charles Claston Brown. The State alleges in
22 Indictment 2016-GS-07-01340 that in Beaufort County,
23 South Carolina, on or about July 10, 2016, the
24 defendant did present or point a firearm, whether
25 loaded or unloaded, at Corporal Troy Krapf, in

8-28-17 STATE V BROWN

VOIR DIRE

1 violation of Section 16-23-410 of the Code of the Laws
2 of South Carolina.

3 Mr. Brown has pled not guilty to this indictment.
4 Is there any member of the jury panel that knows
5 anything about this, other than what I have just read
6 to you? If so, please stand.

7 Thank you. There are none.

8 Ms. Saxon, if you would please stand, introduce
9 your client, yourself, and any persons who will be
10 assisting you throughout this trial.

11 MS. SAXON: Hello. My name is Jessica Saxon. I
12 am an assistant public defender here in Beaufort
13 County, and I represent Mr. Charles Brown. Sitting
14 with me is James Bell, who is another member of the
15 Public Defender's Office.

16 THE COURT: Thank you. Is there any member of
17 the jury panel related by blood, marriage, close
18 personal friend, have any business, personal,
19 professional dealings or know Mr. Brown in any way?
20 If so, please stand.

21 Thank you. There are none.

22 Is there any member of the jury panel related by
23 blood, marriage, close personal friend, have any
24 business, personal professional dealings or ever been
25 represented by Ms. Saxon? If so, please stand.

8-28-17 STATE V BROWN

VOIR DIRE

1 Thank you. There are none.

2 Ms. Staggs, if you would please stand, introduce
3 yourself and any persons who may be assisting you
4 throughout this trial.

5 MS. STAGGS: Thank you, your Honor. My name is
6 Leigh Staggs. I'm an assistant solicitor at the
7 Fourteenth Circuit Solicitor's Office, in Beaufort
8 County. And this is Mary Jordan Lempesis, another
9 assistant solicitor in our office.

10 THE COURT: Thank you.

11 Is there any member of the jury panel related by
12 blood, marriage, close personal friend, ever have any
13 business, personal, or professional dealings, or know
14 Ms. Staggs in any capacity? If so, please stand.

15 Thank you. None.

16 Any member of the jury panel ever been employed
17 by the Solicitor's Office for Beaufort County? If so,
18 please stand.

19 Thank you. There are none.

20 Any member of the jury panel ever been employed
21 by, or close family member, been employed by Beaufort
22 County Sheriff's Office or South Carolina Law
23 Enforcement Division? If so, please stand.

24 Thank you. There are none.

25 Any member of the jury panel ever previously been

1 employed or a member of your family been employed with
2 a law enforcement agency of any kind in any.
3 litigation? If so, please stand.

4 All right. We'll start over here. Yes, ma'am.

5 JUROR NUMBER 350: My --

6 THE COURT: I need your jury number and name.

7 JUROR NUMBER 350: My name's McKenna Summerfield
8 and my Jury Number is 350.

9 THE COURT: Yes, ma'am.

10 JUROR NUMBER 350: My father is a sergeant at a
11 correctional -- correctional facility in Colorado.

12 THE COURT: Okay. Anything about that that would
13 affect your ability to be fair and impartial in this
14 case?

15 JUROR NUMBER 350: No.

16 THE COURT: And your jury number?

17 JUROR NUMBER 350: 350.

18 THE COURT: Thank you. Yes, sir.

19 JUROR NUMBER 180: Justin Jarrett, 180. I have a
20 brother-in-law that's a police officer in Kansas.

21 THE COURT: All right. Anything about that that
22 would affect your ability to be fair and impartial in
23 this case?

24 JUROR NUMBER 180: No, ma'am.

25 THE COURT: All right, thank you. Yes, ma'am.

8-28-17 STATE V BROWN

VOIR DIRE

1 JUROR NUMBER 121: Eileen Fitzgerald. My father,
2 uncles, and several cousins have been police officers
3 in New York State.

4 THE COURT: All right. Same question to you, Ms.
5 Fitzgerald. Is there anything about that that would
6 affect your ability to be fair and impartial in this
7 case?

8 JUROR NUMBER 121: No, ma'am.

9 THE COURT: All right, Thank you. Yes, ma'am.

10 JUROR NUMBER 357: Rhonda Timmons, Juror 357. My
11 father is a retired police officer in Michigan; and my
12 son is military police in the Army; ex-husband,
13 military police in the Marine Corps.

14 THE COURT: Is there anything about that that
15 would affect your ability to be fair and impartial
16 with this case?

17 JUROR NUMBER 357: No, ma'am.

18 THE COURT: Juror 357; is that correct?

19 JUROR NUMBER 357: Yes, ma'am.

20 THE COURT: Thank you. Yes.

21 JUROR NUMBER 8: Juror Number 8, Davida Alston.
22 My husband formerly worked for Beaufort County as a
23 correctional officer.

24 THE COURT: All right. Do you know Tasha Haupt?

25 JUROR NUMBER 8: No.

8-28-17 STATE V BROWN

VOIR DIRE

1 THE COURT: Do you know Corporal Troy Kragt?
2 JUROR NUMBER 8: No.
3 THE COURT: Do you know Sergeant Jason Stuckey?
4 JUROR NUMBER 8: No.
5 THE COURT: Do you know Sergeant Martin Thomas?
6 JUROR NUMBER 8: No.
7 THE COURT: And do you know Emma Kragt?
8 JUROR NUMBER 8: No.
9 THE COURT: Or Jeremiah Frazier?
10 JUROR NUMBER 8: No.
11 THE COURT: Is there anything about what you
12 shared with us that would affect your ability to be
13 fair and impartial in this case?
14 JUROR NUMBER 8: No.
15 THE COURT: Thank you, Ms. Alston.
16 JUROR NUMBER 219: I'm Juror 219, David Lucas.
17 My dad's a retired law enforcement officer for
18 Lexington County.
19 THE COURT: For Lexington? Okay. Is there
20 anything about that, sir, that would affect your
21 ability to be fair and impartial with this case?
22 JUROR NUMBER 219: Don't think so.
23 THE COURT: And your jury number?
24 JUROR NUMBER 219: 219.
25 THE COURT: And I do that same thing; I say I

8-28-17 STATE V BROWN

VOIR DIRE

1 guess so, I hope so. The answer, I need a yes or a
2 no. Will you be able to listen to the facts from the
3 witness stand, apply the law the Court gives, and
4 render a verdict based only upon those things?

5 JUROR NUMBER 219: Sure.

6 THE COURT: Thank you. You may have a seat.
7 Anyone else? Thank you. There are none. ee
8 Ladies and gentlemen, I've already -- when I was
9 talking to Ms. Alston about a list of potential
10 witnesses, but please listen very carefully. These
11 witnesses may be called to testify in this case.
12 Tasha Haupt. Corporal Troy Krapf. Sergeant Jason
13 Stuckey. Master Sergeant Marvin -- excuse me --
14 Martin Thomas. Dawn Claycomb. Jade Cituk. David
15 Williams, formerly with South Carolina Law Enforcement
16 Division. Jason Malphrus. Jennifer Nates. Emma
17 Krapf. Master Sergeant Jeremiah Frazier.

18 If you are related by blood, marriage, close
19 personal friend to any of those individuals, please
20 stand.

21 Thank you. There are none.

22 Is there any member of the jury panel or a member
23 of your family or close friend who has been a member
24 of any organization that advocates anti-crime, such as
25 MADD, SADD, Child Abuse Prevention Association, or

8-28-17 STATE V BROWN

VOIR DIRE

1 CODA? If so, please stand.

2 Thank you. There are none.

3 BAILIFF: One standing, your Honor.

4 THE COURT: Oh. Thank you.

5 JUROR NUMBER 121: Juror 121, Eileen Fitzgerald.

6 I have been a donator to CODA.

7 THE COURT: All right. Is there anything about
8 that that would affect your ability, Ms. Fitzgerald,
9 to be fair and impartial with this case?

10 JUROR NUMBER 121: No, ma'am.

11 THE COURT: All right. Thank you. Is there any
12 member of the jury panel or a member of your immediate
13 family, or friend, that has ever been the employee of
14 a fire department or an emergency medical service
15 corporation? If so, please stand.

16 Yes, ma'am. Your jury number and name.

17 JUROR NUMBER 57: 57, Linda Canaday. My husband
18 was -- is a retired fire chief in Parris Island.

19 THE COURT: Is there anything about that that
20 would affect your ability to be fair and impartial in
21 this case?

22 JUROR NUMBER 57: No, ma'am.

23 THE COURT: And your jury number.

24 JUROR NUMBER 57: 57.

25 JUROR NUMBER 177: I'm Julianna Iser. My number

8-28-17 STATE V BROWN

VOIR DIRE

1 is 177.

2 THE COURT: Yes, ma'am.

3 JUROR NUMBER 177: My father and my brother are
4 both EMTS and firefighters.

5 THE COURT: Here in Beaufort County or somewhere
6 else?

7 JUROR NUMBER 177: My brother is in Savannah, so
8 Chatham County; and then my dad is in Connecticut.

9 THE COURT: All right. Anything about that that
10 would affect your ability to be fair and impartial in
11 this case?

12 JUROR NUMBER 177: No, ma'am.

13 THE COURT: And your jury number.

14 JUROR NUMBER 177: 177.

15 THE COURT: Thank you. Anyone else. Thank you.
16 There are none.

17 Any member of the jury panel or member of your
18 family or a close friend that has ever been employed
19 by any law enforcement agency as an attorney general
20 or a solicitor's office, or you're in the process of
21 gaining employment? If so, please stand.

22 Thank you. There are none.

23 Any member of the jury panel, a member of your
24 immediately family, or a close friend ever volunteer
25 for a law enforcement agency; participate in a

1 citizens' police academy course; or attended a crime
2 prevention seminar. If so, please stand.

3 Thank you. There are none.

4 Any member of the jury panel belong to or
5 contribute to a group which has as its main purpose
6 the promotion of the use of firearms, such as the
7 National Rifle Association, National Association for
8 Gun Rights, anything with foundations of that nature?
9 If so, please stand.

10 Jury number and name, sir.

11 JUROR NUMBER 219: 219, David Lucas. My wife and
12 I are a member of NRA.

13 THE COURT: All right. Anything about that,
14 based upon what the indictment is based on, that would
15 prevent you from being fair and impartial in this
16 case?

17 JUROR NUMBER 219: No, ma'am.

18 THE COURT: Thank you. Yes, ma'am.

19 JUROR NUMBER 203: My Jury Number 203, Helen
20 Lamarre, and I'm a member of the NRA.

21 THE COURT: Same question to you. Anything about
22 that that would affect your ability to be fair and
23 impartial in this case?

24 JUROR NUMBER 203: No.

25 THE COURT: And your jury number one more time?

8-28-17 STATE V BROWN

VOIR DIRE

1 JUROR NUMBER 203: 203.

2 THE COURT: Thank you. All right, ladies and
3 gentlemen, I have a series of questions that I have
4 determined you need to come forward and speak with me
5 in private concerning your answer. Please listen very
6 carefully. I have a couple of questions.

7 Is there any member of the jury panel or a member
8 of your immediately family or a close friend has ever
9 been the victim of a crime? If that applies to you,
10 I'll need you to come forward at the appropriate time.

11 Is there any member of the jury panel that has a
12 religious, political, or moral belief that prevents
13 the owning of or use of a firearm? If that applies to
14 you, I need you to come forward at the appropriate
15 time.

16 Is there any member of the jury panel that has a
17 strong feeling related to the ownership or use of
18 firearms? If that applies to you, I need you to come
19 forward at the appropriate time.

20 And my final question to you at this time is: I
21 have read to you the indictment. That's merely the
22 allegation. As I indicated to you Mr. Krapt [[sic]
23 has pled not guilty to that indictment, but if, for
24 whatever reason, you feel that this would not be the
25 case for you to be that fair and impartial juror, for

8-28-17 STATE V BROWN

VOIR DIRE

1 whatever reason, based upon any religious, political,
2 or moral belief you may hold, I need you to come
3 forward at the appropriate time. So, if I'm able to
4 assist you, if you need to answer the questions,
5 please stand.

6 BAILIFF: Please line up over here.

7 BAILIFF: Juror Number 180, your Honor.

8 INDIVIDUAL VOIR DIRE:

9 THE COURT: Hi. If you'll -- she's got to hear
10 it.

11 JUROR NUMBER 180: Oh, I'm just -- I'm a gun
12 control advocate. I donated to the Brady Foundation
13 in the past, so.

14 THE COURT: And you've heard just the allegation
15 of what we're doing here. Is there anything about
16 that that would affect your ability to be fair and
17 impartial in this case?

18 JUROR NUMBER 180: No. I don't think so.

19 THE COURT: All right. You'll be able to listen
20 to the facts from the witness stand, apply the law as
21 I give it, and render a verdict based only upon those
22 things?

23 JUROR NUMBER 180: Sure.

24 THE COURT: All right.

25 END INDIVIDUAL VOIR DIRE.

8-28-17 STATE V BROWN

VOIR DIRE

1 THE COURT: Thank you, Mr. Jarrett. You will
2 remain.

3 BAILIFF: This way, sir.

4 BAILIFF: Juror Number 108, your Honor.

5 INDIVIDUAL VOIR DIRE:

6 THE COURT: Hi.

7 JUROR NUMBER 108: I got two issues.

8 THE COURT: Okay.

9 JUROR NUMBER 108: One is, my father, now
10 deceased -- my father, now deceased, was deep under
11 cover for the federal government.

12 THE COURT: Okay.

13 JUROR NUMBER 108: -- with drug interdiction --

14 THE COURT: Okay.

15 JUROR NUMBER 108: -- taking down the mafia in
16 Detroit. And whether it's relevant, I'm a concealed
17 carry --

18 THE COURT: All right.

19 JUROR NUMBER 108: -- gun holder in several
20 states.

21 THE COURT: All right. Okay. Is there anything
22 about what you shared with us that would affect your
23 ability to be fair and impartial in this case?

24 JUROR NUMBER 108: No. I just want it on the
25 record.

8-28-17 STATE V BROWN

VOIR DIRE

1 THE COURT: Will you be able to listen to the
2 facts from the witness stand, apply the law as I give
3 it, and render a verdict based only upon those things?

4 JUROR NUMBER 108: Yes.

5 END INDIVIDUAL VOIR DIRE.

6 THE COURT: All right. Mr. Elliott will remain.

7 BAILIFF: Juror Number 173, your Honor.

8 INDIVIDUAL VOIR DIRE:

9 THE COURT: Hi.

10 JUROR NUMBER 173: I just -- I have signed
11 several petitions for gun regulation.

12 THE COURT: All right. And you've heard what's
13 contained in the indictment, which is merely the
14 State's allegation. Will you be able to listen to the
15 facts from the witness stand, apply the law as I give
16 it, and render a verdict based only upon those things?

17 JUROR NUMBER 173: Yes.

18 THE COURT: All right.

19 END INDIVIDUAL VOIR DIRE.

20 THE COURT: Juror 173 will remain. Thank you,
21 Ms. Hughes.

22 OFF-THE-RECORD DISCUSSION, THE COURT
23 AND ATTORNEYS.

24 END OFF-THE-RECORD DISCUSSIONS.

25 THE COURT: All right. Madam Clerk, strikes are

8-28-17 STATE V BROWN

JURY SELECTION

1 five and five. We will pick one alternate.

2 MS. SAXON: Your Honor, can we approach briefly?

3 I'm sorry.

4 THE COURT: I'm sorry?

5 MS. SAXON: Can we approach briefly?

6 THE COURT: Okay.

7 OFF-THE-RECORD BENCH CONFERENCE,

8 OUT OF HEARING OF JURORS. PRESENT:

9 THE COURT, MS. STAGGS, MS. LEMPESIS,

10 MS. SAXON, MR. BELL.

11 END BENCH CONFERENCE.

12 JURY SELECTION:

13 THE COURT: Okay. Madam Clerk, we're ready.

14 MADAM CLERK: All right. Ladies and gentlemen,
15 when I call your number and name, please stand until
16 you're either asked to have a seat in the jury box or
17 the attorneys have excused you from the case. Not the
18 day; just this case.

19 Juror Number 180, Justin Jarrett. What says the
20 State?

21 MS. STAGGS: Please present this juror.

22 MADAM CLERK: What says the Defense?

23 MS. SAXON: Please excuse this juror.

24 MADAM CLERK: You can have a seat, sir. Thank
25 you.

8-28-17 STATE V BROWN

JURY SELECTION

1 Juror 27, Julie Bates. What says the State?

2 MS. STAGGS: Please present this juror.

3 MADAM CLERK: What says the Defense?

4 MS. SAXON: Please seat this juror.

5 MADAM CLERK: Ma'am, gather your belongings and
6 come and have a seat.

7 Juror Number 177, Julianna Iser. What says the
8 State?

9 MS. STAGGS: Please present this juror.

10 MADAM CLERK: What says the Defense?

11 MS. SAXON: Please seat this juror.

12 MADAM CLERK: Come join us, ma'am.

13 Juror Number 173, Whitney Hughes. What says the
14 State?

15 MS. STAGGS: Please present this juror.

16 MADAM CLERK: What says the Defense?

17 MS. SAXON: Please seat this juror.

18 MADAM CLERK: Juror 367, Vivian Vega. What says
19 the State?

20 MS. STAGGS: Please present this juror.

21 MADAM CLERK: What says the Defense?

22 MS. SAXON: Please seat this juror.

23 BAILIFF: Come forward, ma'am.

24 MADAM CLERK: Juror 57, Linda Canaday. What says
25 the State?

8-28-17 STATE V BROWN

JURY SELECTION

1 MS. STAGGS: Could you repeat the number?

2 MADAM CLERK: 57.

3 MS. STAGGS: Thank you. Please present this
4 juror.

5 MADAM CLERK: What says Defense?

6 MS. SAXON: Please excuse this juror.

7 MADAM CLERK: Juror 345, Denise Stringer. What
8 says the State?

9 MS. STAGGS: Please present this juror.

10 MADAM CLERK: What says Defense?

11 MS. SAXON: Please seat this juror.

12 MADAM CLERK: Juror 94, Ebin Diaz. What says the
13 State?

14 MS. STAGGS: Please present this juror.

15 MADAM CLERK: What says Defense?

16 MS. SAXON: Please seat this juror.

17 MADAM CLERK: Juror 327, James Simpson. What
18 says the State?

19 MS. STAGGS: Please present this juror.

20 MADAM CLERK: What says Defense?

21 MS. SAXON: Please seat this juror.

22 MADAM CLERK: Juror 139, Elizabeth Green. What
23 says the State?

24 MS. STAGGS: Please present this juror.

25 MADAM CLERK: What says the Defense?

8-28-17 STATE V BROWN

JURY SELECTION

1 MS. SAXON: Please seat this juror.

2 MADAM CLERK: Juror 358, Sandra Toles. What says
3 the State?

4 MS. STAGGS: Please present this juror.

5 MADAM CLERK: What says Defense?

6 MS. SAXON: Please seat this juror.

7 MADAM CLERK: Juror 208, John Larsen. What says
8 the State?

9 MS. STAGGS: Please present this juror.

10 MADAM CLERK: What says Defense?

11 MS. SAXON: Please seat this juror.

12 MADAM CLERK: Juror Number 350, McKenna
13 Summerfield. What says the State?

14 MS. STAGGS: Please present this juror.

15 MADAM CLERK: What says Defense?

16 MS. SAXON: Please excuse this juror.

17 MADAM CLERK: Juror Number 80, Dianne Crowley.
18 What says the State?

19 MS. STAGGS: Please present this juror.

20 MADAM CLERK: What says Defense?

21 MS. SAXON: Please seat this juror.

22 MADAM CLERK: Juror 318, Alice Seabaugh. What
23 says the State?

24 MS. STAGGS: Please present this juror.

25 MADAM CLERK: What says Defense?

8-28-17 STATE V BROWN

JURY SELECTION

1 MS. SAXON: Please seat this juror.

2 MADAM CLERK: Selecting our alternate. Number
3 217, Lance Lowe. What says the State?

4 MS. STAGGS: Please present this juror.

5 MADAM CLERK: What says Defense?

6 MS. SAXON: Please seat this juror.

7 THE COURT: Any motions or matters pertaining to
8 the jury as selected from the State?

9 MS. STAGGS: None from the State, your Honor.

10 THE COURT: From the defendant?

11 MS. SAXON: Just what was noted before, your
12 Honor. I don't know -- I'd rely on -- no other
13 motions.

14 THE COURT: Okay. Thank you.

15 All right, ladies and gentlemen, you have been
16 selected as the jury to try this case. I am selecting
17 juries for the entire week, so we will begin this case
18 at 9:00 a.m. in the morning.

19 So, you will be escorted out. The bailiff will
20 get your phone numbers and give you all particulars on
21 how to report, so that you we can all begin promptly
22 in the morning at 9:00 a.m.

23 Ladies and gentlemen, just my brief admonition.
24 Please do not do any independent investigation
25 regarding this case. You know nothing of this case,

8-28-17 STATE V BROWN

JURY SELECTION

1 other than the general allegations. I will instruct
2 you on the law applicable to this case.

3 Just go home, have a wonderful evening, and I
4 will see you back at 9:00 a.m. in the morning. Please
5 rise for the jury.

6 BAILIFF: Follow me, please.

7 JURORS LEAVE COURTROOM 3:05 P.M.

8 THE COURT: Thank you. Please be seated. To my
9 jury panel, who was protected by Judge Mullen for
10 Thursday and Friday? If you were protected from
11 Thursday and Friday, please stand.

12 JUROR NUMBER 180: For Friday?

13 THE COURT: For Thursday and Friday. If you were
14 protected for Thursday and Friday, please stand and
15 remain standing.

16 JUROR NUMBER 180: Okay.

17 THE COURT: All right. Tell your juror number,
18 sir.

19 JUROR NUMBER 180: 180.

20 THE COURT: All right. Have a seat, 180.

21 Everyone else needs to go back to the jury room.
22 We're selecting a couple more juries. All right?

23 JURORS LEAVE COURTROOM 3:06 P.M.

24 BAILIFF: Jury's clear and the door's closed,
25 your Honor.

8-28-17 STATE V BROWN

JURY SELECTION

1 THE COURT: Mr. Jarrett, you're protected for
2 Friday, so out of an abundance of caution, I'm not
3 putting you back in the pool.

4 JUROR NUMBER 180: Okay.

5 THE COURT: But I'm not going to let you
6 off the hook so easily. So I'm going to have you sit
7 right over there and just observe how our process
8 works.

9 JUROR NUMBER 180: Okay.

10 THE COURT: Can you do that for me?

11 JUROR NUMBER 180: Yes, ma'am. Yes, ma'am.

12 THE COURT: And if I get off the Bench, and I
13 don't give you further instructions, you make sure
14 that I give you further instructions. I don't want
15 you to sit here all night. Okay?

16 JUROR NUMBER 180: Okay. Thank you.

17 THE COURT: All right.

18 THE COURT: Okay, so we are done with Mr. Brown.
19 I'll see you all at 9:00 a.m. in the morning, but
20 don't take him down yet. He needs to attend pretrial
21 motions or matters, but we're done, as I understand
22 it, with the jury. Is that correct?

23 MS. SAXON: Yes, your Honor.

24 MS. STAGGS: Your Honor, the State would like to
25 make a motion to amend the indictment. I believe as

8-29-17 STATE V BROWN

PRETRIAL MOTIONS

1 read it stated July 10 of 2016..

2 THE COURT: Okay. I'm not doing that right now.

3 Thank you. So don't --

4 MS. STAGGS: Thank you, your Honor.

5 THE COURT: I'm just trying to get --

6 MS. STAGGS: Happy to wait. Thank you, your

7 Honor.

8 END DAY ONE.

9 OFF THE RECORD 3:07 P.M.

10 DAY TWO, TUESDAY, AUGUST 29, 2017

11 9:11 A.M.

12 PRETRIAL MOTIONS:

13 THE COURT: Okay. Are you all together?

14 MS. STAGGS: Yes, your Honor, we are together.

15 THE COURT: All right. You're extremely close
16 and I've had -- had a little sleep, so just remind me
17 who you are. Thank you.

18 Good morning, Mr. Cooke [[sic]. How are you?

19 CHARLES CLASTON BROWN: Good morning.

20 MS. SAXON: It's Mr. Brown.

21 THE COURT: Mr. Brown.

22 MS. LEMPESIS: Mr. Brown. And I'm Mary Jordan
23 Lempesis with the State. I'm sitting with Ms. Staggs.
24 She's trying the case.

25 THE COURT: All right. Ms. Saxon.

8-29-17 STATE V BROWN

PRETRIAL MOTIONS

1 MS. SAXON: Yes.

2 THE COURT: Are we ready?

3 MS. SAXON: We are.

4 THE COURT: For your pretrial motions?

5 MS. SAXON: Your Honor, the two uncontested
6 pretrial motions the State has would be *Blair* -- a
7 quick *Blair* hearing.

8 THE COURT: Okay.

9 MS. SAXON: We did have a competency evaluation
10 done, as well as a motion to amend the indictment for
11 a scrivener's error.

12 THE COURT: All right. Where is the indictment,
13 and how do you wish to amend it?

14 MS. LEMPESIS: Your Honor, I believe your law
15 clerk has the indictment.

16 MS. STAGGS: She does.

17 THE COURT: How do you wish to amend it? And you
18 have no objection?

19 MS. SAXON: No, your Honor.

20 MS. STAGGS: Your Honor, the body of the
21 indictment reads July the 10th of 2016. And in fact,
22 this incident occurred after 11:00 p.m., actually, on
23 July the 9th, just before midnight.

24 THE COURT: So, it should --

25 MS. STAGGS: It should read July the 9th, your

1 Honor.

2 THE COURT: And you have no objection?

3 MS. SAXON: None, your Honor.

4 THE COURT: I'll make that amendment. And at
5 this -- at this point, it really doesn't matter,
6 because I don't send the indictment back, but just for
7 the record.

8 MS. STAGGS: For the record, yes, your Honor.

9 And then, your Honor, Ms. Saxon is going to -- is
10 consenting, it's my understanding, to the defendant's
11 competency. I have an order, a proposed order for
12 your Honor, finding the defendant competent; and then,
13 the evaluation that was conducted at MUSC to attach as
14 an exhibit.

15 MS. SAXON: And we do have no objection to that,
16 your Honor. We do consent that Mr. Brown is
17 competent.

18 THE COURT: All right. Mr. Brown, do you know
19 what's going on here today?

20 CHARLES CLASTON BROWN: Yes, your Honor.

21 THE COURT: You're ready to go to trial?

22 CHARLES CLASTON BROWN: Yes, your Honor.

23 MS. STAGGS: If I may pass this up, your Honor.
24 And we need to mark this as a Court's exhibit:

25 ITEM IDENTIFIED AS LETTER FROM

8-29-17 STATE V BROWN

PRETRIAL MOTIONS

1 MUSC, ALLISON FLOYD, TO JESSICA
2 SAXON, DATED APRIL 6, 2017, AND
3 ATTACHMENT, CRIMINAL RESPONSIBILITY
4 EVALUATION
5 MARKED COURT'S EXHIBIT NUMBER 1.

6 MS. SAXON: Your Honor, the other -- I just have
7 two very brief pretrial motions. I mentioned one
8 yesterday to you during jury qualification. So, I
9 just wanted to put on the record my concerns about the
10 jury panel.

11 Your Honor, I understand that that is -- that you
12 have broken down the jury panel in a manner. That's
13 something that you have done before. It's just not
14 something I have ever encountered. And so, just to
15 fully protect Mr. Brown, I wanted to put my concerns
16 on the record.

17 Sorry. I know I talk too fast.

18 THE COURT: I think it's not so much fast as she
19 can't hear you, because there's so much going on.

20 MS. SAXON: So, your Honor, just in regards to
21 that, it is opinion of Defense that Mr. Brown should
22 have the option, under the *Sixth Amendment* right, to
23 pick from the entirety of the jury panel.

24 THE COURT: Do you have any case law on that?

25 MS. SAXON: Your Honor, the case law -- and I --

1 THE COURT: I'll allow you to supplement the
2 record. That this is a procedure that we -- I have
3 done, and nobody has ever challenged it before, but I
4 understand your concern. When something different
5 happens --

6 MS. SAXON: Certainly.

7 THE COURT: -- you just want to place it on the
8 record.

9 MS. SAXON: Yes.

10 THE COURT: Simply what happened is, it was a
11 random pick, just like the regular random pick. And
12 so, we took 30-something from the larger panel and
13 brought them in, so as not to inconvenience the larger
14 panel. So, they were randomly selected as they would
15 have been. Had we brought the entire panel, those
16 would have been probably the random ones picked
17 anyway. All right? Thank you.

18 MS. SAXON: Thank you.

19 THE COURT: And you've had no challenge to the
20 jury as selected.

21 MS. SAXON: No, no, your Honor. Once that was --
22 once we empaneled the jury, they were -- we were fine
23 with the selection process, just that original
24 empaneling of the smaller portion from the jury.

25 THE COURT: It's noted for the record. If you

8-29-17 STATE V BROWN

PRETRIAL MOTIONS

1 have any case law that you wish to mark, just let me
2 know and we'll mark it as a Court's exhibit.

3 MS. SAXON: Thank you, your Honor.

4 THE COURT: All right.

5 MS. SAXON: The other motion I have is in regard
6 -- and I'm going to mispronounce his name -- I think
7 it's Jade Cituk.

8 MS. STAGGS: Is it a she? It is Cituk.

9 MS. SAXON: Cituk. Your Honor, the State intends
10 to call Jade Cituk, who is the individual who placed
11 the 911 call. She is a neighbor of Mr. Brown's.

12 THE COURT: Okay.

13 MS. SAXON: By way of background, she called
14 about shots fired. The next day, she called, I don't
15 know if it was BCSO or SLED, and indicated that a
16 bullet hole had been found in the outside of her
17 trailer that went into the trailer and lodged in her
18 mattress in her bedroom; and that she believed that
19 bullet came from Mr. Brown.

20 Your Honor, I don't have an issue with them
21 calling her to talk about why she called 911 and what
22 she saw that made her call 911, but I think the
23 testimony about that alleged bullet, or that bullet in
24 her mattress, I don't think it's relevant to the
25 question of whether or not Mr. Brown pointed a firearm

1 at Officer Krapf. I think it's nothing but
2 prejudicial under 403, your Honor, to -- and there's
3 nothing probative that it gives the jury that as it
4 goes to no element of the case the State has to prove.

5 And lastly, per the records that I have from
6 SLED, there has been no forensic testing done on that
7 bullet to link it to Mr. Brown or Mr. Brown's gun.
8 And I think that, therefore, for her to testify --

9 THE COURT: So you just want her to be limited to
10 testifying as to what she saw or heard, but she cannot
11 make the statement that that bullet came from your
12 client.

13 MS. SAXON: Right. Your Honor, I would want her
14 testimony to just completely be to block out anything
15 mentioning the bullet, as I don't think it's relevant
16 to the case and whether or not Charles pointed a gun
17 at Officer Krapf, because there were no shots fired at
18 the time that the officers were on the scene from my
19 client. So, there's nothing that would indicate that
20 that bullet would have had any relevance to the issue
21 at hand, which is whether or not he presented the
22 firearm at Officer Krapf. I would just like the
23 testimony limited to the reason that she called 911
24 and --

25 THE COURT: Who are you calling first? Who's

8-29-17 STATE V BROWN

PRETRIAL MOTIONS

1 your first witness?

2 MS. STAGGS: Tasha Haupt, your Honor, from the
3 Beaufort County Sheriff's Office. She's the records
4 custodian, to play the 911 call.

5 THE COURT: Um-hmm. So were shots fired during
6 this incident?

7 MS. STAGGS: Your Honor, the witness Ms. Saxon is
8 referring to is the one who called 911. She's further
9 down my list. But what happened is, she heard shots
10 being fired, didn't know exactly where they were
11 coming from, but towards her neighbor's home; called
12 911; got off the phone; then saw him on his back porch
13 firing. Again, called 911 again. And during this
14 course of events --

15 THE COURT: How are they related?

16 MS. STAGGS: Pardon me?

17 THE COURT: How are the defendant and the witness
18 related?

19 MS. STAGGS: They're next-door neighbors, your
20 Honor.

21 THE COURT: All right.

22 MS. STAGGS: Their homes are a mere few feet --

23 THE COURT: All right, let me -- she's down on
24 the witness list. Don't talk about that part of the
25 testimony that she called about the bullet in the

1 mattress. Let me hear the facts, and then I'll -- so

2 --

3 MS. STAGGS: Rule closer to her testimony?

4 THE COURT: Correct.

5 MS. SAXON: Thank you, your Honor.

6 MS. STAGGS: Thank you, your Honor.

7 THE COURT: All right. Just before you call her,
8 let me know so we can take a short, brief recess.

9 MS. STAGGS: Yes, your Honor. And I was
10 intending to perhaps bump her testimony up closer to
11 the top of the list. She's definitely not number one,
12 but it was -- I was sort of --

13 THE COURT: Well, at least at some point I'll
14 have an understanding of the facts of this case before
15 I make that ruling. Okay?

16 MS. STAGGS: Okay. Thank you.

17 THE COURT: All right. Anything else?

18 MS. STAGGS: That's all we have. That's all from
19 the State, your Honor.

20 THE COURT: And you've again, gone over with your
21 client the potential punishment, what he's facing here
22 today?

23 MS. SAXON: Yes, your Honor.

24 THE COURT: And there was no offer from the
25 State? Is that correct? Ms. Staggs?

8-29-17 STATE V BROWN

PRETRIAL MOTIONS

1 MS. STAGGS: I'm sorry, your Honor.

2 THE COURT: No offer?

3 MS. STAGGS: No. No, your Honor. The original
4 offer was plea as charged. I would recommend five
5 years. So, essentially, no.

6 THE COURT: All right. Thank you.

7 MS. STAGGS: Thank you, your Honor.

8 THE COURT: Everybody's here? All right.

9 BAILIFF: Yes, ma'am.

10 THE COURT: Ms. Vega has been selected has been
11 selected as the foreperson. Anything before we bring
12 in the jury?

13 MS. STAGGS: Your Honor, may I ask for a very
14 short recess, so that I may use the restroom?

15 THE COURT: Okay. Anything else before we bring
16 in the jury?

17 MS. STAGGS: No, your Honor.

18 THE COURT: All right.

19 MS. STAGGS: Thank you.

20 OFF THE RECORD.

21 BACK ON THE RECORD.

22 JURORS SWORN:

23 THE COURT: All right. Everybody ready?

24 MS. STAGGS: Yes. Thank you, your Honor.

25 THE COURT: Madam Clerk, if you could swear in

1 the jury.

2 MADAM CLERK: Yes, ma'am.

3 BAILIFF: The jury is entering the courtroom,
4 your Honor.

5 THE COURT: Please rise for the jury.

6 JURORS ENTER COURTROOM 8:26 A.M.

7 THE COURT: Thank you, and please be seated.
8 Good morning, ladies and gentlemen.

9 RESPONSES FROM JURORS.

10 THE COURT: At this time, we are going to begin
11 the trial. I'm going to administer an oath to you.
12 Madam Clerk?

13 MADAM CLERK: If you all would please stand and
14 raise your right hand, please. Thank you.

15 Do you solemnly swear or affirm that you shall
16 well and truly try, a true deliverance make, between
17 the State of South Carolina and the accused, and a
18 true verdict give, according to the evidence, so help
19 you God?

20 RESPONSES FROM JURORS.

21 MADAM CLERK: Thank you.

22 THE COURT: Thank you..

23 GENERAL GUIDELINES FOR JURY SERVICE:

24 THE COURT: Ladies and gentlemen, I've given you
25 notepads. That means that you may take notes

1 throughout the process of this trial. I caution
2 jurors, some of us are much better note-takers than
3 others. So one juror's notes may be more correct or
4 accurate than the juror's notes. So you may write
5 notes if you wish to. You may choose not to.

6 If, during your deliberations, you need to hear
7 any testimony played back, we'll simply play that
8 testimony. It's an audio recording. We don't have
9 the capability to do realtime transcripts, like you
10 may see on television. So, we'll just simply play
11 that audio back. So, don't think you have to write
12 down word-for-word what's happening, but I do find
13 that jurors do like to take notes throughout the
14 progress of this trial. I will allow you to take
15 those notes with you during your deliberations.
16 During any breaks, we will lock those up for you, so
17 don't worry about anybody looking at those notes.
18 We'll make sure that they are secure.

19 Ms. Vega, you have been selected as the
20 foreperson to try this case, and what that simply
21 means is you are the jury's spokesperson. So, that is
22 your assigned seat. And Mr. Lowe, that is your
23 assigned seat. The rest of you come in, and please
24 take your seat.

25 You may have noticed when you came in, the

1 attorneys and the parties involved in this case were
2 standing. This is out of respect for your new
3 position as judges of the facts. So, please come in,
4 everyone will remain seated until all thirteen -- or
5 standing until all thirteen of you are seated.

6 Ladies and gentlemen, there will be some exhibits
7 admitted into the trial of this case. Please don't
8 worry if you don't have an opportunity to see and read
9 those exhibits at the time they're introduced. All
10 those exhibits that are introduced into evidence will
11 go back with you into your room when you retire to
12 consider your verdict.

13 Madam Foreperson, you are responsible for writing
14 the verdict, but I'll give you further information
15 regarding that when I instruct you during the charge
16 of the case.

17 Ladies and gentlemen, we are about to begin this
18 case of State versus Charles Brown. Mr. Brown is
19 charged by indictment filed in this court with the
20 crime of pointing a firearm at a person. I will
21 explain those elements of that crime to you at another
22 time. The indictment is simply the charge by which
23 this case is brought into court. It is not in any
24 sense evidence of the allegations it contains.

25 The defendant has pled not guilty to this

1 indictment. The State has the burden of proving each
2 element of this indictment beyond a reasonable doubt.
3 It is your duty to decide whether the State has met
4 that burden. Your purpose as jurors is to find and
5 determine the facts. You are the sole judges of the
6 facts of this case. If, at any time, I make a comment
7 regarding the facts, you must disregard it. You are
8 to determine the facts from the testimony you hear and
9 the other evidence that is introduced in court. It is
10 up to you to determine the inference which you feel
11 may be properly found from the evidence.

12 It is important that you perform your duty in
13 determining the facts diligently and conscientiously,
14 because, ordinarily, there is no way to correct an
15 erroneous determination of the facts by the jury. On
16 the other hand, and with equal emphasis, the same law
17 that makes you the judges of the facts makes me the
18 judge of the law. The law that's given by this court
19 is the only law you may consider. You must accept it
20 and follow it, even though you may disagree with it.
21 I cannot tell you what I think the facts are, and you
22 cannot disagree with me about what the law is or what
23 the law should be. Your job is to take the law as I
24 give it to you, apply it to the facts you find through
25 the testimony of the witnesses, and the other evidence

1 that is introduced. And after doing that, you will
2 render your verdict under the solemn oath that you
3 just took.

4 Until I advise you to begin your deliberations,
5 you must not discuss this case with anyone. That
6 includes your fellow jurors, your friends, your family
7 members, or anyone else. You may not do any
8 independent investigations. You may not read, watch,
9 listen to any news accounts or articles on this case.
10 Simply put, you may not discuss this case with anyone
11 in any fashion until I tell you otherwise.

12 Ladies and gentlemen, it is important that you
13 keep an open mind and not decide any issue in this
14 case until all the evidence has been presented, the
15 parties have made their closing arguments, and I have
16 instructed you on the law applicable to this case. It
17 is your solemn responsibility to determine the guilt
18 or innocence of the defendant, and your verdict must
19 be based solely on the evidence as it is presented to
20 you in this trial and on the law as I instruct you
21 during the close of the trial.

22 In just a moment, the Solicitor is going to make
23 to you what's called an opening statement in which the
24 Solicitor is going to explain to you the issues in the
25 case, or at least what she believes the issues to be.

1 The attorney for the defendant may also make an
2 opening statement, although the defendant is not
3 required to do so at this time.

4 Please remember, what the attorneys tell you in
5 their opening statements, as well as in their closing
6 arguments, is not evidence in this case. It's merely
7 their contention as to what the evidence will show
8 you. The evidence in this case will be presented to
9 you from the testimony of sworn witnesses from the
10 witness stand and the exhibits that will be made part
11 of the record in this case. From time to time, you
12 may hear one of the attorneys state an objection or
13 ask to approach the Bench, or I might find it
14 necessary to excuse you from the courtroom. If I do
15 have the attorneys come up, it's kind of an awkward
16 setting up here, but if I do have them come up, please
17 do not try to overhear us or read our lips. And if I
18 do have to excuse you from the courtroom, please do
19 not think we're trying to hide anything from you. The
20 reason that I do this is because sometimes it is
21 necessary for me to make a comment on the facts in
22 order to issue a ruling on the law. So, I might
23 excuse you for a short while, so that in no way
24 anything that I say or do throughout the progress of
25 this trial has any influence upon you as to your

1 finding of the facts. This is solely a matter for you
2 to determine.

3 In determining what the facts are of this case,
4 you must decide whether or not the testimony you hear
5 is believable. It is my responsibility to rule as a
6 matter of law as to whether certain testimony is
7 admissible, but once it is admitted, whether or not
8 you believe it is solely for you to determine. In
9 deciding whether to believe a witness, you do have the
10 right to consider the interest of a witness, the bias
11 of a witness, the prejudice of a witness, the
12 opportunity for the witness to have seen the matters
13 and things about which the witness testifies, as well
14 as the way the witness acts on the witness stand. You
15 have a right to consider anything in the record that I
16 help you evaluate the testimony of the witness. That
17 means it's your duty to pay close attention. Please
18 do not let your thoughts wander, so at the end of the
19 testimony, after you have heard all of the testimony,
20 the closing arguments by counsel, and I have
21 instructed you on the law applicable to this case, you
22 will be in a position to determine what the facts are,
23 and to apply the law to those facts, rendering a
24 verdict.

25 Ladies and gentlemen, please give your attention

8-29-17 STATE V BROWN

OPENING STATEMENT STATE

1 to Madam Solicitor.

2 MS. STAGGS: Thank you, your Honor. May it
3 please the Court?

4 THE COURT: Yes, ma'am.

5 OPENING STATEMENT ON BEHALF OF

6 THE STATE, BY MS. STAGGS:

7 MS. STAGGS: Good morning, ladies and gentlemen.
8 Thank you for being here. The defendant, Charles
9 Claston Brown, is charged with pointing and presenting
10 a firearm at a person. As Judge Harrington said,
11 she's going to talk to you about the law and explain
12 that to you, but what I will tell you is that it is
13 unlawful for a person to point a firearm, whether
14 loaded or unloaded, at someone. And that is exactly
15 what the defendant did. It's not very complicated.
16 But just because it's not complicated, doesn't mean
17 it's not important.

18 The defendant pointed a loaded firearm at a
19 Beaufort County Sheriff's deputy while he was doing
20 his job. That's what the evidence is going to show
21 you. That on July 9th of 2016, the defendant's
22 neighbor heard gunshots from inside her home. She
23 called 911, because she was concerned. The shots
24 didn't stop, they got louder. She looked outside of
25 her window, and she saw the defendant firing his gun

8-29-17 STATE V BROWN

OPENING STATEMENT STATE

1 into his back yard. She called 911 again.

2 Sergeant Stuckey with the Beaufort County
3 Sheriff's Office responded to the scene. He parked
4 his patrol car in front of her home, got out and heard
5 shots. So, he took cover behind a tree for his own
6 safety and called for backup. At that point, Corporal
7 Krapf, with the Beaufort County Sheriff's Office,
8 showed up as his backup. Corporal Krapf parked his
9 car in front of the defendant's home. They're next-
10 door neighbors. He got out and started walking to
11 where he believed Sergeant Stuckey was. It was dark.
12 And then he heard shots. So he took cover behind a
13 brick wall that's right at the end of the defendant's
14 driveway, facing his front door. They ordered the
15 defendant to come outside, put his gun down, and put
16 his hands up, but he did not listen. He came to the
17 door, gun in hand, and he raised his hand, and he
18 pointed it at Corporal Krapf. At that point, Corporal
19 Krapf fired one shot. It traveled through the door
20 frame and through the defendant's left hand, gun in
21 his right. He went back inside, he put the gun down,
22 and he eventually complied with the commands of law
23 enforcement to come out with his hands up, and then he
24 was detained.

25 After that happened, law enforcement went into

STATE V BROWN

OPENING STATEMENT DEFENSE

1 his home. They found that gun. They found it on the
2 edge of a sofa, right next to the door, where he was
3 standing when he pointed it at Corporal Krapf, and it
4 was fully loaded. They also found 186 spent shell
5 casings inside of his home, and they found a Crown
6 Royal bag full of 126 unfired bullets in his pocket.
7 He was ready. That's what the evidence is going to
8 show you today. And at the end of this case, you will
9 be convinced beyond a reasonable doubt that the
10 defendant, Charles Brown, pointed his gun at Corporal
11 Krapf of the Beaufort County Sheriff's Office. And I
12 am going to come back in front of you and ask you to
13 render the only appropriate verdict in this case,
14 which is guilty. Thank you.

15 THE COURT: Ms. Saxon.

16 MS. SAXON: May it please the Court?

17 OPENING STATEMENT ON BEHALF OF

18 THE DEFENDANT, BY MS. SAXON:

19 MS. SAXON: Everything the solicitor just told
20 you is almost completely true. And what I mean by
21 that is, for the most part, we agree about the facts
22 in this case. In truth, there's really only one issue
23 or one point of contention, and that's this: did
24 Charles point a firearm at Officer Krapf on the
25 evening of July 9th? The State, as you heard, wants

STATE V BROWN

OPENING STATEMENT DEFENSE

1 you to believe the answer to that question is yes,
2 that he did do that. But ladies and gentlemen, as we
3 go through the course of this case, you're going to
4 realize that the answer to that question is no.

5 When it's all said and done, what this case is
6 really going to boil down to is perception. What
7 someone perceived, or believe they perceived, and
8 whether that perception was accurate.

9 By pleading not guilty, Charles has told you that
10 he absolutely did not point a gun at Officer Krapf on
11 that evening. However, when Officer Krapf takes the
12 stand, he will testify that Charles did point a gun at
13 him, and he -- that's his perception of what happened
14 that evening. And he definitely clings to that
15 perception, because it justifies his actions that
16 evening.

17 But as we go through this, the weight of the
18 evidence, of the testimony, of the forensics, all of
19 that, that will be presented to you, will show you
20 that Officer Krapf was mistaken that evening.

21 This is going to be a quick case, and evidence is
22 going to come at you in a relatively fast fashion. So
23 I'm going to ask you to pay attention to a couple of
24 things in particular. The first thing I want you to
25 really pay attention to is the overall scene that

STATE V BROWN

OPENING STATEMENT DEFENSE

1 evening: the adrenaline; the nerves; the light; what
2 they felt that they were walking into; what they were
3 worrying might be happening; and how that would affect
4 both officers' perception.

5 I want you pay very close attention to where and
6 how the gun was placed, and where it was found inside
7 the home; and also, any forensic or lack of forensic
8 evidence that around the gun that may be presented to
9 you. Please pay attention to the officer testi -- or
10 the testimony of Officer Stuckey, who was the other
11 officer on-scene that evening, and what his actions
12 were and were not.

13 And lastly, I want you to pay attention to where
14 Charles was shot and where he was standing when he was
15 shot. Today, Charles sits before you as an innocent
16 man. And he remains innocent unless the State can
17 prove beyond a reasonable doubt that he is guilty of
18 the crime that he is charged with.

19 At the end of the case, the judge will talk to
20 you and tell you a legal definition of reasonable
21 doubt is, but I always like to tell my juries to think
22 of it as a brick wall. It's a brick wall of
23 protection standing in front of Charles that bars the
24 State from taking away his liberty, unless they can
25 take every brick down. Ladies and gentlemen, they

STATE V BROWN

OPENING STATEMENT DEFENSE

1 will not be able to remove the bricks in that wall.
2 You just took your oath to true and fairly try
3 this case, which means that you are the only ones who
4 can decide the facts, that can decide the truth, and
5 apply and uphold the law as it is given to you. You
6 are the only ones in this courtroom that get to decide
7 Charles' fate. And so, we picked you thoughtfully,
8 and we picked you because we believe that you can
9 listen to all of the facts and to all of the evidence,
10 and do the hard work of a jury, and make sure justice
11 is reached.

12 Charles has placed his liberty in your hands, and
13 that is no small matter. He has placed his faith in
14 you to listen, and to reach the only logical
15 conclusion that can come out of this case, which is
16 that he is not guilty of pointing a gun at Officer
17 Krapf.

18 THE COURT: Call your first witness.

19 MS. STAGGS: Thank you, your Honor. The State
20 Calls Tasha Haupt.

21 THE COURT: Please come forward to be sworn in.

22 MADAM CLERK: Would you please place your left
23 arm -- hand on the *Bible* and raise your right hand.
24 Do you solemnly swear or affirm to truthfully answer
25 all questions asked of you by this court, so help you

8-29-17 STATE V BROWN

HAUPT - DIRECT

1 God?

2 TASHA HAUPT: Yes, I do.

3 MADAM CLERK: Thank you, ma'am.

4 BAILIFF: Please watch your step, and speak
5 directly into the microphone.

6 TASHA HAUPT

7 DIRECT EXAMINATION BY MS. STAGGS:

8 Q Good morning, Ms. Haupt. Where are you employed?

9 A Beaufort County Sheriff's Office.

10 Q And what is your job with the Beaufort County
11 Sheriff's Office?

12 A Currently, I'm the NCIC tech. I was the records
13 custodian.

14 Q And how long were the records custodian?

15 A About three years.

16 Q Were you the records custodian as of July 9th of
17 2016?

18 A Yes, ma'am.

19 Q And what are your job duties as records
20 custodian?

21 A To respond to requests from the public, and
22 internally, for 911 tapes.

23 Q Okay.

24 MS. STAGGS: Your Honor, may I approach the
25 witness?

8-29-17 STATE V BROWN

HAUPT - DIRECT

1 THE COURT: You may.

2 MS. STAGGS: Thank you.

3 BY MS. STAGGS:

4 Q I'm handing you what's been marked as State's
5 Exhibit 1. Do you recognize that item?

6 A Yes, ma'am.

7 Q And what is it?

8 A It's a copy of the 911 Calls.

9 Q At my request, did you review that disc?

10 A Yes, ma'am.

11 Q And did you make any markings on that disc to
12 show that you had reviewed it?

13 A Yes, ma'am. My initials and the date.

14 Q Did you determine that it's an accurate copy of
15 the original 911 call in this case?

16 A Yes, ma'am.

17 Q Has it been altered in any way?

18 A Not to my knowledge.

19 MS. STAGGS: Your Honor, may I approach the
20 witness?

21 THE COURT: You may. You have continued
22 permission.

23 MS. STAGGS: Thank you. Your Honor, the State
24 moves to admit State's Exhibit 1 into evidence.

25 THE COURT: Any objection?

8-29-17 STATE V BROWN

HAUPT - DIRECT

1 MS. SAXON: No objection, your Honor.

2 THE COURT: State's 1 into evidence, without
3 objection.

4 ITEM IDENTIFIED AS C.D. OF 911 CALL
5 MARKED STATE'S EXHIBIT NUMBER 1,
6 ADMITTED AS EVIDENCE.

7 MS. STAGGS: Permission to publish to the jury,
8 your Honor?

9 THE COURT: You may.

10 MS. STAGGS: Thank you. Court's indulgence, your
11 Honor.

12 PLAYING STATE'S EXHIBIT NUMBER 1,
13 C.D. OF 911 CALL.

14 MS. STAGGS: I have no further questions, your
15 Honor.

16 MS. SAXON: No questions for this witness, your
17 Honor.

18 THE COURT: You may step down. Thank you. Call
19 your next witness.

20 MS. STAGGS: Your Honor, may we approach?

21 THE COURT: You may.

22 OFF-THE-RECORD BENCH CONFERENCE, OUT
23 OF HEARING OF JURORS. PRESENT: THE
24 COURT, MS. STAGGS, AND MS. SAXON.
25 END BENCH CONFERENCE.

8-29-17 STATE V BROWN

DIRECT - CITUK

1 THE COURT: Call your next witness.

2 MS. STAGGS: The State Calls Jade Cituk.

3 THE COURT: Please come forward and be sworn in.

4 MADAM CLERK: Will you please place your left
5 hand on the *Bible*, and raise your right hand. Do you
6 solemnly swear or affirm to truthfully answer all
7 questions asked of you by this Court, so help you God?

8 JADE CITUK: So help me. Yes, ma'am.

9 THE COURT: Thank you. :

10 BAILIFF: Please watch your step. And speak
11 directly into the microphone.

12 JADE CITUK: Yes, ma'am.

13 JADE CITUK

14 DIRECT EXAMINATION BY MS. STAGGS:

15 Q Good morning, Ms. Cituk.

16 A Good morning.

17 Q Where do you live?

18 A Windsor Road, Beaufort, South Carolina,
19 29906.

20 Q And is that located here in Beaufort County?

21 A Yes, ma'am.

22 Q Did you live there on July 9th of 2016?

23 A Yes, ma'am.

24 Q And on that day, why did you call 911?

25 A I was hearing -- at first it sounded like

8-29-17 STATE V BROWN

DIRECT - CITUK

1 firecrackers going off, and then I listened further,
2 and it wasn't firecrackers. It actually sounded like
3 shots being fired.

4 Q Did you call more than once?

5 A Yes.

6 Q Why did you call the second time?

7 A Because I heard even more shots being fired, so I
8 decided -- curiosity got the best of me, and I decided
9 to look outside my window.

10 Q What did you see when you looked out your window?

11 A I saw my neighbor Charles standing outside on his
12 back porch.

13 Q And do you see your neighbor here in the
14 courtroom today?

15 A Yes, ma'am.

16 Q Can you point him out for me, please?

17 A He's sitting right over there, ma'am.

18 MS. STAGGS: Your Honor, let the record reflect
19 that she has I.D.'d the defendant.

20 THE COURT: Could you give me a little more of
21 over there? Can you tell me what he's wearing?

22 A He's wearing a white and blue striped shirt with
23 -- I don't know what color tie it is. A polka-dotted
24 tie, it looks like.

25 THE COURT: All right. The record will reflect

1 she's identified the defendant. Thank you.

2 MS. STAGGS: I have no further questions, your
3 Honor.

4 THE COURT: Ms. Staggs? Ms. Saxon, I'm sorry.

5 JADE CITUK

6 CROSS-EXAMINATION BY MS. SAXON:

7 Q And I'm sorry, I've been told your name a few
8 times, but I keep pronouncing it wrong. Is it Cituk.

9 A It's Cituk.

10 Q I don't know why I can't remember that.

11 A It's okay.

12 Q Okay. Thank you, Ms. Cituk. I just want to
13 clarify a couple of things. I understand you called
14 911 because you heard shots fired, correct?

15 A Yes, ma'am.

16 Q You never saw anything?

17 A No, ma'am.

18 Q Okay. And when you looked out the window and you
19 said you saw Mr. Brown in back of his home? Is that
20 correct?

21 A Yes, ma'am.

22 Q And when you say the porch, are you talking -- is
23 it just a stoop?

24 A No, it -- it's just steps, but --

25 Q Okay. So just steps down out of the trailer?

8-29-17 STATE V BROWN

CITUK - RE-DIRECT

1 A Yes, ma'am.

2 Q Okay. And then, once police arrived on the
3 scene, did you -- you didn't witness anything else,
4 did you?

5 A I actually had two shots fired at my house, and
6 one entered inside of my house and into my bed.

7 MS. SAXON: Your Honor, this is --

8 THE COURT: She's your witness.

9 BY MS. SAXON:

10 Q This is -- witness anything that evening?

11 A The two shots into my bed.

12 Q You -- I --

13 MS. SAXON: One moment, your Honor.

14 THE COURT: Take your time.

15 MS. SAXON: That's all I have, your Honor.

16 THE COURT: Re-direct?

17 MS. STAGGS: Yes, your Honor. Thank you.

18 THE COURT: All right. Counsel approach.

19 OFF-THE-RECORD BENCH CONFERENCE, OUT

20 OF HEARING OF JURORS. PRESENT: THE

21 COURT, MS. STAGGS, AND MS. SAXON.

22 END BENCH CONFERENCE.

23 JADE CITUK

24 RE-DIRECT EXAMINATION BY MS. STAGGS:

25 Q Prior to calling 911 the second time, you said

8-29-17 STATE V BROWN

KRAPF - DIRECT

1 that you saw Mr. Brown on his back stoop firing his
2 weapon?

3 A Yes.

4 Q And you did -- you did see and hear him as that -
5 - as that was happening?

6 A Yes, ma'am.

7 MS. STAGGS: No further questions, your Honor.

8 THE COURT: Re-cross?

9 MS. SAXON: Nothing, your Honor.

10 THE COURT: You may step down. Thank you. Call
11 your next witness.

12 MS. STAGGS: The State Calls Troy Krapf.

13 BAILIFF: Right this way to be sworn in.

14 MADAM CLERK: Can you place your left hand on the
15 Bible and raise your right hand? Do you solemnly
16 swear or affirm to truthfully answer all questions
17 asked of you by this court, so help you God?

18 CORPORAL TROY KRAPF: Yes, ma'am, I do.

19 MADAM CLERK: Thank you.

20 BAILIFF: Please watch your step, and speak
21 directly into the microphone.

22 CORPORAL TROY KRAPF

23 DIRECT EXAMINATION BY MS. STAGGS:

24 Q Good morning, Corporal Krapf.

25 A Good morning.

8-29-17 STATE V BROWN

KRAPT - DIRECT

1 Q Where do you work?

2 A Beaufort County Sheriff's Office.

3 Q And how long have you worked there?

4 A This past June made nine years.

5 Q Were you working on July the 9th of 2016?

6 A Yes, ma'am, I was.

7 Q Will you tell us what happened that evening, when
8 you were on duty?

9 A I was on a call. Sergeant Stuckey was on a call
10 in the area of Windsor Road, which is in the Burton
11 area of Beaufort County. It was a shots-fired call.
12 Sergeant Stuckey had requested additional officers. I
13 left the call I was on, and I was -- I responded to
14 the area of Windsor Road.

15 As I drove down Windsor Road, I located Sergeant
16 Stuckey's patrol vehicle parked in the roadway. I
17 ended up parking my patrol vehicle on the roadway
18 right in front of Number Windsor Road. I exited
19 my vehicle, and as soon as I exited, I heard five to
20 ten gunshots. They were coming from the direction of

21 They were either coming from inside the
22 residence or directly behind that residence.

23 The closest thing in front of me was a brick
24 wall, because I had been walking toward Sergeant
25 Stuckey. He was located behind a tree in the yard

8-29-17 STATE V BROWN

KRAPT - DIRECT

1 next door, to the right, if you're looking at
2 Windsor. I moved to that brick wall, and got down
3 behind it. There are two brick walls on either side
4 of the driveway, right in front of Number I was
5 behind the brick wall on the left side.

6 Several times after I took cover there, I peered
7 out to the right side of the wall, and also popped my
8 head up over top, and initially I didn't see anybody.
9 But after a few seconds, the front door of Windsor
10 swung open, and the defendant, Charles Brown, was
11 standing in the -- in the -- in the doorway. From
12 where I'm at behind that wall, it's almost directly in
13 front of the doorway as you're looking at it. You're
14 looking at the doorway pretty -- pretty straight on.

15 I recall the interior lights on the inside of the
16 residence being turned on, and I also had the
17 defendant illuminated with my flashlight as I was
18 leaning and looking around the right side of that --
19 that brick wall. I could clearly see that the
20 defendant was holding a -- a handgun in his right
21 hand, and myself and Sergeant Stuckey began yelling
22 verbal commands for him to drop the gun, show us his
23 hands, put the weapon down. I did identify ourselves
24 as Sheriff's Office to ensure that he understood that
25 we were law enforcement. And we gave many commands

8-29-17 STATE V BROWN

KRAPT - DIRECT

1 for him to show us his hands and put the weapon down,
2 which he did not comply. He did raise the weapon
3 toward me and point the gun at me, and at that point,
4 I fired one round. As soon as I fired that one shot,
5 the defendant disappeared to my right, behind the
6 wall, still inside the residence. So, at that point,
7 I couldn't see him. Then, after continuing to give
8 verbal commands, he began appearing in the -- in the --
9 -- in the doorway, and eventually he complied and came
10 out of the residence without the weapon.

11 I gave him instructions to walk backward to my
12 location, and at that point, I handcuffed him and
13 began searching his -- his person. Partway through
14 that search, myself and other officers decided to --
15 to move the defendant to a safer, more secure
16 location, because no officers had been in the house
17 yet, and we didn't know if anybody else was in there.
18 So we walked him back to another officer's patrol
19 vehicle, and I continued that search.

20 Q And what did the search yield?

21 A A Crown Royal bag --

22 Q Okay.

23 A -- came out of his left pocket.

24 Q All right. Do you see the man who pointed that
25 firearm at you in the courtroom today?

8-29-17 STATE V BROWN

KRAPT - DIRECT

1 A Yes, ma'am, I do.

2 Q Would you point him out for me, please?

3 A He's sitting right there.

4 Q Could you be a little more specific?

5 A The gentleman in the white shirt, the black male
6 sitting in the center at that table.

7 Q Thank you.

8 MS. STAGGS: Your Honor, can the record please
9 reflect that the witness has identified the defendant?

10 THE COURT: It will. Thank you.

11 BY MS. STAGGS:

12 Q During this incident, you were able to clearly
13 see that the defendant had a gun in his hand in the
14 doorway.

15 A Yes, ma'am, I could.

16 Q And you were certain of that fact?

17 A Absolutely, one hundred percent certain.

18 MS. STAGGS: Your Honor, may I approach the
19 witness?

20 THE COURT: You may.

21 BY MS. STAGGS:

22 Q I'm handing you what's been marked as State's
23 Exhibit 2. Do you recognize that item?

24 A Yes, ma'am, I do.

25 Q And what is it?

8-29-17 STATE V BROWN

KRAPT - DIRECT

1 A It's the in-car video from my patrol vehicle on
2 the night of the incident.

3 Q At my request, did you review that disc?

4 A Yes, ma'am, I did.

5 Q And did you make any markings to show that you
6 had reviewed it?

7 A Yes, ma'am. After I reviewed it, I marked my
8 initials on the disc itself, and also the white paper
9 covering of the disc.

10 Q Did you determine that it's an accurate copy of
11 your in-car video from the night of July the 9th of
12 2016?

13 A Yes, ma'am, it is.

14 Q Was it altered in any way?

15 A No, ma'am.

16 MS. STAGGS: Your Honor, the State moves to admit
17 Exhibit -- State's Exhibit 2 into evidence.

18 THE COURT: Any objection?

19 MS. SAXON: No objection.

20 THE COURT: State's 2 into evidence, without
21 objection.

22 ITEM IDENTIFIED AS IN-CAR VIDEO
23 FROM CORPORAL TROY KRAPT'S PATROL
24 VEHICLE FROM NIGHT OF INCIDENT
25 MARKED STATE'S EXHIBIT NUMBER 2,

1 ADMITTED INTO EVIDENCE.

2 MS. STAGGS: Permission to publish to the jury,
3 your Honor.

4 THE COURT: You may.

5 STATE'S EXHIBIT NUMBER 2, IN-CAR

6 VIDEO FROM CORPORAL TROY KRAPT'S

7 PATROL VEHICLE FROM NIGHT OF

8 INCIDENT, PLAYING.

9 END PLAYING STATE'S EXHIBIT NUMBER 2.

10 BY MS. STAGGS:

11 Q Corporal Krapf, the loudest voice we hear in that
12 video, is that your voice?

13 A Yes, ma'am, it is.

14 Q And at the conclusion of that video, that's when
15 the defendant was detained?

16 A Yes, ma'am.

17 MS. STAGGS: Your Honor, may I approach the
18 witness?

19 THE COURT: You may.

20 BY MS. STAGGS:

21 Q Corporal Krapf, I'm handing you what's been
22 marked as State's Exhibits 3 and 4. Do you recognize
23 those?

24 A Yes, ma'am, I do.

25 Q And how do you -- what are they?

8-29-17 STATE V BROWN

KRAPT - DIRECT

1 A Number 3 is Crown --

2 Q You can just look at them.

3 A Okay.

4 Q Thank you.

5 A Number 3 is a Crown Royal bag that I removed from
6 the defendant's pocket. And Number 4 is of the
7 residence at Windsor. The photograph shows both
8 brick walls on either side of the driveway, and to
9 include the one on the left that I was behind.

10 Q Those photos are a fair and accurate depiction of
11 what happened, what you took from pocket and the scene
12 at Windsor Road?

13 A Yes, ma'am. Yes, ma'am, they are.

14 MS. STAGGS: Your Honor, the state moves to admit
15 State's Exhibits 3 and 4 into evidence.

16 MS. SAXON: No objection, your Honor.

17 THE COURT: State's 3 and 4 into evidence,
18 without objection.

19 ITEM IDENTIFIED AS PHOTOGRAPH OF

20 CROWN ROYAL BAG

21 MARKED STATE'S EXHIBIT NUMBER 3

22 ADMITTED AS EVIDENCE.

23 ITEM IDENTIFIED AS PHOTOGRAPH OF

24 RESIDENCE AT WINDSOR

25 MARKED STATE'S EXHIBIT NUMBER 4

1 ADMITTED INTO EVIDENCE.

2 MS. STAGGS: Permission to publish to the jury?

3 THE COURT: Very good.

4 BY MS. STAGGS:

5 Q So, Corporal Krapf --

6 MS. STAGGS: Your Honor, may Corporal Krapf step
7 down, so that he can see the photograph? Or if we may
8 have the Court's indulgence for a moment?

9 THE COURT: All right. Solicitor, you want him
10 to step down and you're going to do, like, the
11 photographs?

12 MS. STAGGS: Just so that he can identify the
13 elements of the photograph, your Honor, where he was
14 standing.

15 THE COURT: You may step down.

16 CORPORAL TROY KRAPF: Yes, Judge.

17 BY MS. STAGGS:

18 Q Corporal Krapf, would you please identify where
19 you were standing when this incident took place?

20 A Yes, ma'am. You see the -- the wall on the left
21 side, if you're looking at it. I was peering out
22 around the right side of that left -- that left wall.

23 Q Okay. And that's an accurate depiction of the
24 view you would have had of the defendant's doorway?

25 A Yes, ma'am. Possibly the angle of the photograph

8-29-17 STATE V BROWN

KRAPT - DIRECT

1 may be slightly more left, but yes, that's -- that's
2 very, very close.

3 Q Okay. If you will just stay there for one
4 moment, please. And will you please tell the jury
5 what that photograph is of?

6 A That's the Crown Royal bag that, following the
7 incident, I removed from the left pocket of the
8 defendant's pants during a search of his person.

9 Q Thank you. If you'll please take your seat.

10 A Yes, ma'am.

11 Q At the conclusion of this incident, what happened
12 as far as you were concerned?

13 A That -- that very night, after this -- the search
14 incident to --

15 Q And ongoing, as a Beaufort County Sheriff's
16 Deputy.

17 A The South Carolina Law Enforcement Division,
18 SLED, was contacted. They responded to the scene of
19 the incident. As an outside agency, they investigated
20 the incident. They cleared me of any -- any
21 wrongdoing, and they are the ones that made the charge
22 against the defendant.

23 Q At any time, did you go into the defendant's
24 home?

25 A I personally did not.

8-29-17 STATE V BROWN

KRAPF - CROSS

1 Q Okay. And during the SLED investigation, were
2 you on active duty?

3 A Immediately following that -- that incident, I
4 was placed on administrative leave, pending the
5 findings of SLED'S investigation. And I was on
6 administrative leave for six weeks, and then cleared
7 back to full duty.

8 Q So, you took no part in the investigation of this
9 incident?

10 A No.

11 Q And you were not involved in charging the
12 defendant?

13 A I was not.

14 Q Thank you.

15 MS. STAGGS: No further questions, your Honor.

16 THE COURT: Ms. Saxon?

17 MS. SAXON: Thank you, your Honor.

18 CORPORAL TROY KRAPF

19 CROSS-EXAMINATION BY MS. SAXON:

20 Q Good morning, Corporal Krapf.

21 A Good morning.

22 Q I just want to break down a couple of the things.
23 You kind of went through it a good clip, so just want
24 to go over a few moments.

25 The original call was for shots fired, correct?

8-29-17 STATE V BROWN

KRAPT - CROSS

1 A Yes, ma'am.

2 Q And so, driving into that, you didn't really know
3 what to expect at the residence when you got there,
4 correct?

5 A I did not.

6 Q Okay. And when you arrive on-scene, as we heard
7 in the video, you do hear some shots fired. Is that
8 correct?

9 A Yes, ma'am.

10 Q And you took that to be gunshots?

11 A Yes, ma'am.

12 Q So, as soon as you arrived, you were pretty much
13 on alert and took cover. Is that correct?

14 A Correct.

15 Q Okay. Now, the cover that you took behind that
16 wall that we were just looking at in the photo, per
17 your report, you said it was about 25 to 30 feet away
18 from the front door? Would that be accurate?

19 A I have never measured it, but that was my -- my
20 best guess.

21 Q Okay. So, in other words you eyeballed it, about
22 25 or 30 feet away?

23 A Twenty-five yards, maybe. Give or take.

24 Q Okay. Now, there were no -- there were no street
25 lights or anything of that nature in that front yard,

8-29-17 STATE V BROWN

KRAPT - CROSS

1 correct?

2 A I don't recall. Not that I recall. Out --
3 outside in the yard, not that I recall.

4 Q Okay. So the main sources of light were the
5 small light above the porch door. And if you need to
6 see the photo again.

7 MS. SAXON: Your Honor, may I approach?

8 THE COURT: You may.

9 BY MS. SAXON:

10 Q You would say that the small light in front of
11 the front door, the light that was coming from the
12 interior, and then any light that you or Officer
13 Stuckey was placing on the defendant?

14 A Correct. Our flashlights, the light on the
15 interior, and I see a -- see the light outside
16 illuminated on the photograph. I don't -- I don't
17 recall looking at that light at that time. But the
18 inside was on, and my flashlight illuminated.

19 Q Okay.

20 A My flashlight illuminated.

21 Q So, and just to clarify, the reason the picture
22 is so well lit here, the scene is so well lit, is
23 partly because there's a flash on this camera,
24 correct?

25 A I personally would assume. I didn't take the

8-29-17 STATE V BROWN

KRAPT - CROSS

1 photograph, so I don't know.

2 Q My apologies. Okay.

3 A I don't know.

4 Q So, when you arrived, Officer Stuckey was already
5 on the scene, correct?

6 A Yes, ma'am.

7 Q And he was positioned to the up and right of you.
8 Is that correct?

9 A As you're looking at the residence, he -- he was
10 in the yard, just to my right. That's correct.

11 Q Okay. And in your report you believe -- you
12 stated that you believe you heard him say, drop the
13 gun; when you came on-scene, that was the first thing
14 you heard him say?

15 A The first thing that I heard was -- was the
16 gunshots. Then I took cover. As far as who said what
17 exactly first, I don't have a report in front of me.
18 I -- I don't -- I don't recall. I know we were both
19 giving verbal commands to drop the gun.

20 Q Now, there is an amount of time that passes, and
21 obviously, because just the way the video is turned
22 out, we can't see what's happening in front of us.
23 But there's a lot of shouting that's going on,
24 correct?

25 A Yes, ma'am.

8-29-17 STATE V BROWN

KRAPF - CROSS

1 Q During that time, you and Officer Stuckey, would
2 you say, were giving I guess what I would term many
3 typical police commands in that situation, show your
4 hands; et cetera; come to the door; drop any weapons;
5 that kind of thing?

6 A Yes, ma'am.

7 Q Okay. And Mr. Charles Brown is shouting back at
8 you; is he not?

9 A Yes, ma'am.

10 Q And the only thing he said to you that evening
11 during the incident was, go home? He just kept
12 repeating that over and over?

13 A That's correct.

14 Q Now, when you fired your service weapon, it --
15 you're saying that Mr. Brown was raising the gun
16 towards you. So, when you fired your service weapon,
17 you're aware of where the bullet traveled. Is that
18 correct?

19 A Yes, ma'am. I -- I was aiming it toward the
20 defendant in order to stop the threat of imminent
21 death or great bodily harm that I was facing.

22 Q Okay. And you know he was -- the bullet traveled
23 through his palm and struck him in his chest?

24 A That --

25 Q After --

8-29-17 STATE V BROWN

KRAPT - CROSS

1 A That's what I learned after the incident.

2 Q Okay. Now, you say after the shot was fired, you
3 heard a thud?

4 A Yes, ma'am.

5 Q But that's not a -- you didn't identify what that
6 noise was at any point? You were not able to discern
7 where it came from?

8 A I have never known exactly what the thud was. I
9 could only speculate. But I felt the thud occurred
10 once he left the doorway, and I couldn't -- couldn't
11 see through the wall after he had left the doorway.

12 Q Okay. And after the shot, you say that Mr. Brown
13 moved to the left in his home? Is that correct? It
14 would have been your right, his left?

15 A There -- yeah, my -- when he disappeared from the
16 -- from the doorway, he moved to my right.

17 Q Okay.

18 A Which would be his left, yes, ma'am.

19 Q Okay. So, his left?

20 A Yes, ma'am.

21 Q All right. When all of this was occurring, Mr.
22 Brown was either in or right behind the doorway of his
23 home at all times. Is that correct? He was never
24 fully out on the front stoop?

25 A That's correct.

8-29-17 STATE V BROWN

KRAPT - CROSS

1 Q And then, after Mr. Brown -- after everything's
2 happened, you're continuing to call him back. And
3 that part I want to clarify a little bit. You
4 continue to ask him to put something down or to drop
5 anything in his hands, is what you're doing in the
6 video, right?

7 A Yes, ma'am.

8 Q It turned out that his hand didn't have anything
9 in it. Is that correct? It was just closed because
10 that's where the wound was?

11 A After the initial part of the incident where I
12 fired my weapon, after he pointed the gun at me, once
13 we got him back into view of the doorway, through
14 verbal commands, we were trying to get him to show us
15 empty hands to ensure nothing was in it. At that
16 point, he was making a fist with his left hand, which
17 is the hand that was injured.

18 Q Okay. And except for the time that he's
19 obviously behind a wall, because there's no X ray
20 vision, you were watching him the entire time that we
21 listen to through the video? Your eyes were on him?
22 When he was visible, I should say.

23 A When he was visible, I was watching him the whole
24 time. When he was visible from -- from the exterior,
25 yes.

8-29-17 STATE V BROWN

KRAPT - CROSS

1 Q Okay. And it sounds like there is some issue as
2 he is being called down to. Is he, in fact, walking
3 backwards to you. Or is he walking facing you?

4 A He was walking backwards. Obviously, we're
5 giving him verbal commands, and I'm trying to make him
6 understand what my instructions are. At one point, as
7 you heard in the video, I asked him to reach back over
8 his shoulder and lift his shirt, and turn a complete
9 circle, just to -- just to show that it doesn't appear
10 that there's any weapons in his waistband or anything
11 that would be visible; and then, continue walking
12 backward toward the sound of my voice until -- until
13 I'm close enough that I can put handcuffs on him.

14 Q Do you recall the tropical -- that the defendant
15 was wearing a tropical shirt when you took him into
16 custody?

17 A I'm sorry. I don't --

18 Q Don't recall?

19 A I don't recall his -- his clothing.

20 Q The items that you took off of Mr. Brown included
21 that Crown Royal bag, correct?

22 A Correct.

23 Q And there were other smaller items in his pocket,
24 as well. There was, I believe, a cell phone and, I
25 think, like a small, like, folding knife in his

8-29-17 STATE V BROWN

KRAPF - RE-DIRECT

1 pocket? Is that correct as well?

2 A Yes, ma'am. Some sort of pocket knife.

3 Q Okay. Officer Krapf, in your nine years in law
4 enforcement, have you had to fire your duty weapon
5 before?

6 A Not in a -- any situation other than putting down
7 a sick or ill or wounded animal.

8 Q Okay.

9 MS. SAXON: Court's indulgence.

10 MS. SAXON: No further questions, your Honor.

11 THE COURT: Re-direct?

12 MS. STAGGS: Thank you, your Honor.

13 CORPORAL TROY KRAPF

14 RE-DIRECT EXAMINATION BY MS. STAGGS:

15 Q Corporal Krapf, even though the defendant was not
16 on the porch, he was inside the home, in the doorway
17 when this incident occurred; your view of him was not
18 obstructed, correct? The door was open?

19 A Not at all. The door was fully open.

20 Q He was visible. Okay. And after you fired your
21 one shot, did you still see the gun in the defendant's
22 hand?

23 A After I fired the one shot, he discuss --
24 disappeared behind the wall. Much of the -- once --
25 once he re-appeared in the doorway, much of the

8-29-17 STATE V BROWN

KRAPT - RE-DIRECT

1 confusion that had to be sorted out to ensure that he
2 had no weapons, was that he was initially -- I'm sorry
3 to say this -- this is the doorway right here, and
4 this is the wall where I can't see him -- showing one
5 -- one hand, then the other. A lot of these verbal
6 commands that you heard is getting him to fully come
7 into view.

8 Q Okay. And several minutes went by before he did
9 comply and come out. He was inside of his home for a
10 little while, as we heard on the video, correct?

11 A Yes, ma'am.

12 Q Okay. Thank you.

13 MS. STAGGS: No further questions, your Honor.

14 MS. SAXON: Nothing on re-direct, your Honor.

15 THE COURT: You may step down. Call your next
16 witness.

17 CORPORAL TROY KRAPF: Thank you, Judge.

18 MS. STAGGS: The State Calls Jason Stuckey.

19 BAILIFF: Please come forward to be sworn in.

20 MADAM CLERK: Can you please place your left hand
21 on the *Bible* and raise your right hand? Do you
22 solemnly swear or affirm to truthfully answer all
23 questions asked of you by this court, so help you God?

24 SERGEANT JASON STUCKEY: Yes, ma'am.

25 MADAM CLERK: Thank you.

8-29-17 STATE V BROWN

STUCKEY - DIRECT

1 BAILIFF: Please watch your step, and speak
2 directly into the microphone:

3 SERGEANT JASON STUCKEY

4 DIRECT EXAMINATION BY MS. STAGGS:

5 Q Good morning, Sergeant Stuckey.

6 A Good morning.

7 Q Where do you work?

8 A Beaufort County Sheriff's Office.

9 Q And how long have you worked for the Sheriff's
10 Office?

11 A A little over twelve years.

12 Q Okay. Were you working on July 9th of 2016?

13 A Yes, ma'am.

14 Q And did you respond to Windsor Road?

15 A Yes, ma'am.

16 Q And what county is that in?

17 A The county of Beaufort.

18 Q Why did you respond to that residence?

19 A We had a report of shots fired.

20 Q And when you got there, what did you do?

21 A I was checking the area, and in that process, I
22 heard multiple shots. I ended up locating the shots
23 at I called for backup. An additional deputy
24 responded. I took a position of cover, hearing the
25 shots.

8-29-17 STATE V BROWN

STUCKEY - DIRECT

1 Q Where was your position of cover?

2 A I think was a large oak -- I think it was a pine
3 tree, to the right of the residence.

4 Q If you were facing the residence?

5 A If you were facing, yes.

6 Q And who else responded as backup?

7 A Corporal Krapf and Staff Sergeant Thomas, and
8 multiple deputies after.

9 Q After Krapf responded, what happened at that
10 point?

11 A The gentleman stepped out of the residence. I
12 gave him loud verbal commands. Corporal Krapf took a
13 position of cover behind a brick -- brick column, I
14 think, in the front yard, directly in front of the
15 residence. We gave loud verbal commands, and in the
16 process I could see a object in his hand, unknown what
17 it was. It was a dark object. I could not make a
18 determination whether it was a gun or not, but after
19 hearing the shots inside the residence and around the
20 neighborhood, or inside the or back yard, I assumed
21 that it was a gun; but I could not clearly make out
22 that it was a gun, so I did not fire.

23 Q All right. Were you able to illuminate the
24 defendant? Did you have a flashlight?

25 A I did have a flashlight. My flashlight was

8-29-17 STATE V BROWN

STUCKEY - DIRECT

1 working properly at the beginning. About 30 seconds
2 into it, my flashlight malfunctioned, and I couldn't
3 see. It was very dark in that area, and I could not
4 get my flashlight to work.

5 Q But you were able to have a view of the defendant
6 from the side --

7 A I could --

8 Q -- but not a direct view, due to your
9 positioning?

10 A Correct?

11 Q Did you see him raise his arm?

12 A He did raise his right hand. He did have
13 something in it, something dark. I couldn't make out
14 exactly what it was.

15 Q And what happened after that?

16 A Corporal Krapf fired the one round. At that
17 time, the suspect went back into the residence, or in
18 that general area. And then, after just a few
19 minutes, after more loud verbal commands, the suspect
20 was arrested and detained at that point, after the
21 verbal commands.

22 MS. STAGGS: Your Honor, may I approach the
23 witness?

24 THE COURT: You may.

25 BY MS. STAGGS:

8-29-17 STATE V BROWN

STUCKEY - DIRECT

1 Q I'm handing you what's been marked as State's
2 Exhibit 5. Do you recognize that item?

3 A Yes, ma'am.

4 Q And what it is?

5 A That's my in-car video.

6 Q At my request, did you review that disc?

7 A I did.

8 Q And did you make any markings on the disc to show
9 that you had reviewed it?

10 A I did. My signature, my initials.

11 Q Did you determine it's an accurate copy of your
12 in-car video from July 9th of 2016?

13 A Yes, ma'am.

14 Q And has it been altered?

15 A No, ma'am.

16 Q Thank you.

17 MS. STAGGS: Your Honor, the State moves to admit
18 State's Exhibit 5 into evidence.

19 THE COURT: Any objection?

20 MS. SAXON: No objection, your Honor.

21 THE COURT: State's 5 in evidence, without
22 objection.

23 ITEM IDENTIFIED AS DVD OF IN-CAR
24 VIDEO FROM VEHICLE OF SERGEANT
25 JASON STUCKEY

8-29-17 STATE V BROWN

STUCKEY - DIRECT

1 MARKED STATE'S EXHIBIT NUMBER 5

2 ADMITTED AS EVIDENCE.

3 MS. STAGGS: Permission to publish to the jury,
4 your Honor.

5 THE COURT: You may.

6 PLAYING STATE'S EXHIBIT NUMBER 5,
7 DVD OF IN-CAR VIDEO OF VEHICLE OF
8 SERGEANT JASON STUCKEY.

9 END DVD PLAYING STATE'S EXHIBIT
10 NUMBER 5, DVD OF IN-CAR VIDEO OF
11 VEHICLE OF SERGEANT JASON STUCKEY.

12 BY MS. STAGGS:

13 Q Sergeant Stuckey, the loudest voice we hear in
14 that video, is that your voice?

15 A Yes, ma'am.

16 Q And at the conclusion of that video is when the
17 defendant was detained?

18 A Yes, ma'am.

19 MS. STAGGS: May I approach the witness?

20 THE COURT: You may.

21 BY MS. STAGGS:

22 Q I'm handing you what's been marked as State's
23 Exhibits 6 and 7. Do you recognize those?

24 A Yes, ma'am.

25 Q What are they?

8-29-17 STATE V BROWN

STUCKEY - DIRECT

1 A They are the residence that we were at that
2 night,

3 Q And that's a fair depiction of the scene as it
4 was that night of July 9, 2016?

5 A Yes, ma'am.

6 MS. STAGGS: Your Honor, the State moves to admit
7 Exhibits 6 and 7 into evidence.

8 MS. SAXON: No objection, your Honor.

9 THE COURT: State's 6 and 7 into evidence,
10 without objection. You may publish.

11 MS. STAGGS: Thank you, your Honor.

12 ITEM IDENTIFIED AS PHOTOGRAPH
13 MARKED STATE'S EXHIBIT NUMBER 6
14 ADMITTED AS EVIDENCE.

15 ITEM IDENTIFIED AS PHOTOGRAPH
16 MARKED STATE'S EXHIBIT NUMBER 7
17 ADMITTED AS EVIDENCE.

18 MS. STAGGS: May I ask the witness to step, so
19 that he can be in view of the screen?

20 THE COURT: You may step down.

21 BY MS. STAGGS:

22 Q Just so you can see the screen right here,
23 please. Will you please describe for the jury where
24 you were standing with this -- where this incident
25 occurred? if it can be seen on this photo.

8-29-17 STATE V BROWN

STUCKEY - CROSS

1 A It cannot be seen. There's another tree. That's
2 the brick column, or the -- one of them. The one to
3 the left is where Corporal Krapf was, directly on at
4 the trailer. I was -- there's another tree just to
5 the right, outside of that photo, and that's where I
6 was.

7 Q Okay.

8 A That large tree. Should be one more.

9 Q One more to the right?

10 A To the right.

11 Q Okay. You can take your seat. And based on the
12 photos you just saw, you were out of frame of either
13 one of those.

14 A Yes.

15 Q So, you did not have a direct view of the --

16 A No, ma'am.

17 Q -- of the defendant's doorway?

18 A No, ma'am.

19 Q But from your viewpoint, you were able to see
20 something in his hand?

21 A I was, yes.

22 Q Thank you.

23 MS. STAGGS: No further questions, your Honor.

24 SERGEANT JASON STUCKEY

25 CROSS-EXAMINATION BY MS. SAXON:

8-29-17 STATE V BROWN

STUCKEY - CROSS

1 Q Good morning, Sergeant Stuckey.

2 A Good morning.

3 Q So, I think we all thought you were behind that
4 first tree. So what you're telling us is that there's
5 another tree outside of the frame of the pictures that
6 have been placed into evidence?

7 A There is, yes.

8 Q And roughly, could you estimate how far away it
9 was from the tree that we can see in the pictures?

10 A The tree that's in the picture?

11 Q Um-hmm.

12 A Twenty-five yards, maybe. Something to that
13 effect.

14 Q Okay. And that's from where you were positioned?

15 A I was a little further back. Probably another
16 ten or fifteen feet, there's another tree in that
17 yard.

18 Q Okay.

19 A Just to the right.

20 Q And that's maybe 25 yards from the front of the
21 trailer. Is that what you're saying?

22 A The first tree, yes.

23 Q Okay. Sorry for the confusion.

24 A All right.

25 Q Okay. So that's where you were taking cover?

8-29-17 STATE V BROWN

STUCKEY - CROSS

1 A Right.

2 Q So you weren't directly on, correct?

3 A Correct.

4 Q But you could see the doorway.

5 A I could.

6 Q And you could see things that were happening as
7 if they were coming out of the doorway or into the
8 doorway, or you could see him, correct?

9 A Correct.

10 Q Okay. And again, you arrived first on the scene,
11 and heard the shots, and took cover immediately?

12 A Correct.

13 Q So it's fair to say this was a pretty intense
14 situation for all involved?

15 A Correct.

16 Q And it was a fairly -- we saw from your video, it
17 was a fairly dark area.

18 A Correct.

19 Q And so, the light that was available was Officer
20 -- excuse me -- Corporal Krapf's flashlight, your
21 flashlight, which, did you say in the video it started
22 to Mess up?

23 A It malfunctioned, yeah.

24 Q Okay. And then, any light that was coming from
25 the trailer.

8-29-17 STATE V BROWN

STUCKEY - CROSS

1 A Right.

2 Q Okay. Now, when you arrived on-scene, based on
3 the reports that you gave later, in the report you
4 wrote and the report that also gave to SLED, you
5 stated that the commands that you gave were to show
6 your hands and to put down any weapons. Is that
7 correct?

8 A Yes.

9 Q And your commands evolved as the situation
10 evolved. Then you said to put down the weapon. Is
11 that correct?

12 A Um-hmm.

13 Q And then, finally, put down the gun. And were
14 you --

15 COURT REPORTER: I'm so sorry, he's not
16 answering.

17 A Yes. Sorry.

18 COURT REPORTER: You need to back up a couple of
19 questions.

20 MS. SAXON: Okay. Sorry.

21 BY MS. SAXON:

22 Q Your commands evolved so that they then became
23 put down the weapon. Is that correct?

24 A Correct.

25 Q And then, put down the gun. Is that correct?

8-29-17 STATE V BROWN

STUCKEY - CROSS

1 A Yes.

2 Q But again, from your position, you could not see
3 what was allegedly in Mr. Brown's hand, correct?

4 A Correct.

5 Q Okay. So, your commands evolved based on what
6 you were hearing from Corporal Stuckey -- I mean from
7 Corporal Krapf. Sorry.

8 A Correct. And the shots I heard out back and
9 inside the residence.

10 Q Okay. And that's another thing that I wanted to
11 talk to you about, from the shots. You were saying
12 that you heard them, but you didn't know where they
13 were coming from.

14 A I could not tell because of the way the trailers
15 were.

16 Q Okay.

17 A Actually, when I originally got on the scene, I
18 actually drove from around the square block, to
19 the other side; at which time I heard additional shots
20 over the first set of shots there, which told me I
21 needed to go back around, and that's where I took the
22 position where I parked.

23 Q Okay.

24 A And then, when I exited my vehicle, that's --
25 heard additional shots, took position of cover, and

8-29-17 STATE V BROWN

STUCKEY - CROSS

1 waited for backup.

2 Q So, as your commands were evolving as the
3 situation was evolving, that is when Officer Krapf
4 fired -- I'm sorry I keep confusing you two -- Officer
5 Krapf fired because he says he saw Mr. Brown raise a
6 gun, correct?

7 A Correct.

8 Q And you said you saw him raise his hand. Is that
9 correct?

10 A His hand with something in it.

11 Q Okay. With something in it.

12 A I could not tell -- I could not tell one hundred
13 percent what that meant. I knew a dark object was in
14 his hand.

15 Q Okay. And in your report, you said it was a
16 possible -- it was something dark, possibly a small
17 handgun. Something small and dark, essentially. Is
18 that what you saw?

19 A Correct.

20 Q Okay. And then, based on what you saw in your
21 position, you obviously did not fire your weapon.

22 A I did not.

23 Q Because you did not think your actions would be
24 justified at that point, correct?

25 A Correct.

8-29-17 STATE V BROWN

THOMAS - DIRECT

1 MS. SAXON: Court's indulgence.

2 THE COURT: Take your time.

3 MS. SAXON: That's all I have, your Honor.

4 THE COURT: Re-direct?

5 MS. STAGGS: No further questions, your Honor.

6 THE COURT: You may step down. Thank you.

7 SERGEANT JASON STUCKEY: Thank you, ma'am.

8 THE COURT: Call your next witness.

9 MS. STAGGS: State Calls Martin Thomas.

10 BAILIFF: Right this way to be sworn in.

11 MADAM CLERK: Will you please place your left
12 hand on the *Bible* and raise your right hand, please?
13 Do you solemnly swear or affirm to truthfully answer
14 all questions asked of you by this court, so help you
15 God?

16 MASTER SERGEANT MARTIN THOMAS: I do.

17 MADAM CLERK: Thank you.

18 BAILIFF: Please watch your step, and speak
19 directly into the microphone.

20 MASTER SERGEANT MARTIN THOMAS

21 DIRECT EXAMINATION BY MS. STAGGS:

22 Q Good morning Master Sergeant Thomas.

23 A Good morning.

24 Q Where do you work?

25 A Beaufort County Sheriff's Office.

8-29-17 STATE V BROWN

THOMAS - DIRECT

1 Q And how long have you been there?

2 A Paid, about 16 years. I was a Reserve officer
3 first.

4 Q Okay. Were you working on the night of July 9th
5 of 2016?

6 A I was.

7 Q And did you respond to Windsor Road in
8 Beaufort County?

9 A I did.

10 Q What did you do when you arrived on-scene?

11 A Besides take cover?

12 Q After that, yes, sir.

13 A I was the shift supervisor. I was the staff
14 sergeant on duty that night.

15 Q Okay. At any time, did you enter the residence?

16 A I did.

17 Q And what was the purpose of that?

18 A I believe it was to do a secondary sweep, a
19 protective sweep, after the suspect had been detained,
20 to make sure there was no one else in the residence.

21 Q And what were the results of that sweep?

22 A There was no one else in the residence.

23 Q And what did you observe when you entered the
24 residence?

25 A There was a black handgun on the arm of a couch,

8-29-17 STATE V BROWN

THOMAS - DIRECT

1 I believe.

2 Q And did you observe anything else?

3 A There was blood all over the floor. There was a
4 lot of rounds on the floor.

5 Q Okay.

6 MS. STAGGS: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 BY MS. STAGGS:

10 Q I'm handing you what's been previously marked as
11 State's Exhibit 8, 9, 10, 11, and 12. Do you
12 recognize those?

13 A Yes, ma'am.

14 Q And what are they?

15 A Photographs of the incident location.

16 Q And how do you recognize them?

17 A Because I was there.

18 Q Are they a fair and accurate depiction of
19 Windsor Road?

20 A Yes, ma'am, it is.

21 MS. STAGGS: Your Honor, the State moves to admit
22 Exhibits 8 through 12 into evidence.

23 THE COURT: Any objection?

24 MS. SAXON: No objection, your Honor.

25 THE COURT: 8 through 12 into evidence, without

8-29-17 STATE V BROWN

THOMAS - DIRECT

1 objection. You may publish.

2 MS. STAGGS: Thank you, your Honor.

3 May I ask Master Sergeant Thomas to take the view
4 of the screen?

5 THE COURT: You may step down. Thank you.

6 ITEM IDENTIFIED AS PHOTOGRAPH

7 MARKED STATE'S EXHIBIT NUMBER 8

8 ADMITTED AS EVIDENCE.

9 ITEM IDENTIFIED AS PHOTOGRAPH

10 MARKED STATE'S EXHIBIT NUMBER 9

11 ADMITTED AS EVIDENCE.

12 ITEM IDENTIFIED AS PHOTOGRAPH

13 MARKED STATE'S EXHIBIT NUMBER 10

14 ADMITTED AS EVIDENCE.

15 ITEM IDENTIFIED AS PHOTOGRAPH

16 MARKED STATE'S EXHIBIT NUMBER 11

17 ADMITTED AS EVIDENCE.

18 ITEM IDENTIFIED AS PHOTOGRAPH

19 MARKED STATE'S EXHIBIT NUMBER 12

20 ADMITTED AS EVIDENCE.

21 BY MS. STAGGS:

22 Q Just to see the view of the screen, please,
23 Master Sergeant. Will you please describe that photo
24 for me.

25 A That's going to be the front door.

8-29-17 STATE V BROWN

THOMAS - DIRECT

1 THE COURT: Please don't touch the Bar. Thank
2 you.

3 A I'm sorry.

4 THE COURT: Please don't touch the jury's Bar.
5 Thank you.

6 A Oh, yes, ma'am.

7 BY MS. STAGGS:

8 A That's going to be the front door of Windsor.

9 Q Okay.

10 A Again, that's the front door of Windsor.

11 Q Okay. And that one?

12 A Again, that's actually looking in the front door
13 of Windsor.

14 Q And what can you see there?

15 A You can see the revolver or the handgun, that's
16 on the armrest of, it's either a couch or a chair. I
17 don't remember which.

18 Q Okay. And that photograph?

19 A Same as the other, just a little bit close --
20 it's a closeup. It's going to be, as you walk through
21 the door, I believe the couch was on the left, and
22 there's the handgun.

23 Q And what does this photograph show?

24 A That's going to be looking out the front door of
25 the residence, towards the road. Towards -- which

8-29-17 STATE V BROWN

THOMAS - CROSS

1 would be the -- looking out of the front door, towards
2 the road.

3 Q Thank you. If you'll please take your seat.

4 Will you please tell me, what agency would
5 investigate an officer-involved shooting here in
6 Beaufort County?

7 A SLED would.

8 Q Beaufort County would not conduct that
9 investigation?

10 A No, ma'am.

11 Q Thank you.

12 MS. STAGGS: No further questions, your Honor.

13 THE COURT: Ms. Saxon?

14 MS. SAXON: Thank you, your Honor.

15 MASTER SERGEANT MARTIN THOMAS

16 CROSS-EXAMINATION BY MS. SAXON:

17 Q I just have a few very brief questions, Master
18 Sergeant Thomas. Were you either the first one into
19 the trailer, or the first of the set of officers who
20 cleared the trailer initially?

21 A I believe I was one of the first, because I
22 believe I instructed for no one to touch the firearm.

23 Q Okay. And you, as we've seen in the photos just
24 now, the firearm was found -- excuse me -- thank you
25 -- as it's depicted in this picture, correct? It was

8-29-17 STATE V BROWN

THOMAS - CROSS

1 sitting just like this, on the arm of the sofa?

2 A Yes, ma'am, I believe it is.

3 Q Okay. As far as just what else you observed in
4 the -- in the apart -- excuse me -- trailer, you said
5 there was blood everywhere; there was a lot of blood
6 on the floor and other places in the trailer. Is that
7 correct?

8 A I just remember it in the immediate area when you
9 walked in. I believe that there was some in the
10 kitchen, which would have been to the right. I don't
11 recall too much in the back bedrooms or anything, just
12 in the -- in the immediate area, all over the floor.

13 Q When you cleared the home, you did not find any
14 other weapons, correct? That would --

15 A No weapons were in plain view. No, ma'am.

16 Q Okay. And then -- and what we've seen from the
17 footage, and just to reiterate this again, it was --
18 there wasn't a whole lot of external lighting that
19 wasn't coming from officers that evening, was there?

20 A Pardon?

21 Q When you were on the scene.

22 A I'm sorry, say that again.

23 Q There wasn't a lot of extra lighting from other
24 lighting sources, other than from the officers, or
25 from the trailer itself.

8-29-17 STATE V BROWN

BY THE COURT

1 A I just remember it being very dark. I don't
2 remember it being, like, well lit.

3 MS. SAXON: Court's indulgence.

4 THE COURT: Take your time.

5 MS. SAXON: That's all I have. Thank you.

6 THE COURT: Re-direct?

7 MS. STAGGS: I have no further questions, your
8 Honor.

9 BY THE COURT:

10 THE COURT: You may step down. Thank you. Call
11 your next witness.

12 MS. STAGGS: May we approach, your Honor?

13 THE COURT: You may. Do you all need a comfort
14 break?

15 Please remember all my admonitions. You may take
16 your notepads with you or leave them in your chair.
17 Please rise for the jury.

18 BAILIFF: Why don't you leave your notepads in
19 your chair, please, and then, come back to those.

20 JURORS LEAVE COURTROOM 11:11 A.M.

21 THE COURT: Thank you. Be seated.

22 MS. STAGGS: Your Honor, I was simply going to
23 let the Court know that my next witness might be a
24 little lengthy, and was going to ask for a short
25 recess.

8-29-17 STATE V BROWN

BY THE COURT

1 THE COURT: And is that your last witness? How
2 many more witnesses?

3 MS. STAGGS: No, your Honor. I have four
4 witnesses remaining. She will be the lengthiest of
5 those, this next one.

6 MS. SAXON: And your Honor, just knowing the
7 State's witness is calling, I can tell you I probably
8 only have subsequent questions for two of those
9 witnesses.

10 THE COURT: Okay.

11 MS. SAXON: I wouldn't take any amount of time.

12 THE COURT: And do you have any witnesses?

13 MS. SAXON: Your Honor, the only person that
14 would testify would be Mr. Brown, and we'll review
15 those rights with him whenever you want to.

16 ADVISING DEFENDANT OF RIGHTS:

17 THE COURT: I'm going to go ahead at this break
18 and advise your client of his right to testify.

19 MS. SAXON: Certainly.

20 THE COURT: Just place him under oath.

21 MADAM CLERK: Will you please raise your right
22 hand. Do you solemnly swear or affirm that to
23 truthfully answer all questions asked of you by this
24 Court, so help you God?

25 CHARLES CLASTON BROWN: Yes, I do.

8-29-17 STATE V BROWN

BY THE COURT

1 THE COURT: At this time I'm going to explain to
2 you certain rights. If you don't understand anything
3 that I say to you, please let me know; and if you need
4 me to explain anything any further, please let me
5 know. Do you understand that?

6 CHARLES CLASTON BROWN: Yes, I do.

7 THE COURT: So we're on a comfort break right
8 now, but the State only has a few more witnesses. And
9 then, at that time, you will be able to present your
10 defense. Do you understand?

11 CHARLES CLASTON BROWN: Yes.

12 THE COURT: Okay. So, when we get to that stage,
13 I'm going to ask you whether or not you wish to
14 testify. But I'm going to go ahead and advise you of
15 all the benefits and the consequences to you under the
16 *Constitution*. Do you understand?

17 CHARLES CLASTON BROWN: Yes.

18 THE COURT: You have the right to claim the
19 protections given to you by the *Fifth Amendment* to the
20 *Constitution of the United States*. This amendment
21 states in part that no person shall be compelled in
22 any criminal case to be a witness against himself.
23 This means that you cannot be required to testify in
24 this case. You do have the right to testify on your
25 own behalf. No one can make you testify. This is a

1 personal right, and no one can waive this right except
2 for you.

3 If you decide to testify, you will be subject to
4 the same rules that govern other witnesses, and you
5 may be examined and cross-examined on any relevant
6 issue in this case. If you have any convictions
7 involving dishonesty or false statement, or for crimes
8 punishable by imprisonment for more than one year, and
9 I determine that the probative value of admitting
10 those convictions outweighs its prejudicial effect to
11 you, I will allow the solicitor to introduce your
12 record to attack your credibility.

13 Madam Solicitor, does he have convictions you
14 plan to use?

15 MS. STAGGS: Yes, your Honor. I have -- I do
16 have that.

17 THE COURT: All right. We'll get back to that.
18 If you decide to testify, this decision on your part
19 must be freely, voluntarily, and intelligently made,
20 with knowledge of the protections given to you by the
21 *Fifth Amendment*, and the consequences of your decision
22 to testify.

23 If you decide not to testify, I will instruct the
24 jury that they cannot give the fact that you did not
25 testify any consideration whatsoever; and furthermore,

8-29-17 STATE V BROWN

BY THE COURT

1 there is to be absolutely no prejudice to you because
2 you did not testify.

3 It is left entirely up to you whether or not you
4 testify. You may talk to your attorney, your friends,
5 anyone else, but the final decision is left entirely
6 up to you. Do you understand what I've explained to
7 you?

8 CHARLES CLASTON BROWN: Yes, your Honor.

9 THE COURT: Do you have any questions about what
10 I've explained to you?

11 CHARLES CLASTON BROWN: No, your Honor.

12 THE COURT: Ms. Saxon, have you gone over with
13 your client what you believe his prior record to be?

14 MS. SAXON: Yes, your Honor.

15 THE COURT: And do you believe that there are
16 convictions to -- that the Solicitor will be allowed
17 to use to impeach?

18 MS. SAXON: I would -- believe there may be one.

19 THE COURT: All right.

20 MS. SAXON: But I would argue with the others.

21 THE COURT: Madam Solicitors?

22 MS. STAGGS: Yes, your Honor. He has an armed
23 robbery conviction from 1998.

24 THE COURT: What did he receive?

25 MS. SAXON: Ten years, your Honor.

8-29-17 STATE V BROWN

BY THE COURT

1 MS. STAGGS: It was a ten-year sentence, your
2 Honor. He does have an assault and battery second
3 degree from 2015 as well, your Honor.

4 THE COURT: You know that you have those two
5 convictions?

6 CHARLES CLASTON BROWN: Yes, your Honor.

7 THE COURT: Okay. So, potentially, they could be
8 used to impeach you, you understand.

9 CHARLES CLASTON BROWN: Yes, your Honor.

10 THE COURT: Have you spoken with your attorney
11 whether or not you will testify?

12 CHARLES CLASTON BROWN: I have.

13 THE COURT: All right. Prior to, so this won't
14 -- this wasn't new to you.

15 CHARLES CLASTON BROWN: Right.

16 THE COURT: All right. All right. We'll take
17 ten minutes.

18 MS. STAGGS: Thank you, your Honor.

19 BAILIFF: All rise, please.

20 OFF THE RECORD 11:16 A.M.

21 BACK ON THE RECORD 11:30 A.M.

22 BY THE COURT:

23 THE COURT: Please be seated. Anything before we
24 bring in the jury? From the State?

25 MS. STAGGS: Your Honor, just a quick update. I

8-29-17 STATE V BROWN

BY THE COURT

1 did speak with my last witness that I intend to call,
2 and she should be here at five after 12:00, which is
3 only 30 minutes from now. So I anticipate that we
4 will not have a problem.

5 THE COURT: Okay. Great. Anything before we
6 bring in the jury?

7 MS. SAXON: Your Honor, I have spoken with my
8 client. If you want to address that now, we can.

9 THE COURT: Let's wait at the appropriate time.

10 MS. SAXON: Okay. Certainly.

11 THE COURT: Are you going to testify? I'll ask
12 you again.

13 CHARLES CLASTON BROWN: No, ma'am, I won't.

14 THE COURT: All right.

15 MS. SAXON: Thank you.

16 BAILIFF: Are you ready?

17 THE COURT: I am, thank you.

18 BAILIFF: The jury is entering the courtroom,
19 your Honor.

20 JURORS ENTER COURTROOM 11:32 A.M.

21 THE COURT: Thank you. Be seated. Call your
22 next witness.

23 MS. STAGGS: The State Calls Dawn Claycomb.

24 THE COURT: Right this way to be sworn in.

25 MADAM CLERK: Will you please place your left

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 hand on the *Bible* and raise your right hand, please.
2 Do you solemnly swear or affirm to truthfully answer
3 all questions asked of you by this court, so help you
4 God?

5 SPECIAL AGENT DAWN CLAYCOMB: I do.

6 MADAM CLERK: Thank you.

7 BAILIFF: Please watch your step. And you can
8 move the microphone, please speak directly into it.

9 SPECIAL AGENT DAWN CLAYCOMB

10 DIRECT EXAMINATION BY MS. STAGGS:

11 Q Good morning, Ms. Claycomb.

12 A Good morning.

13 Q Where do you work?

14 A South Carolina Law Enforcement Division, also
15 known as SLED.

16 Q And what do you do for SLED?

17 A I'm a crime scene agent.

18 Q Okay. How long have you been in that position?

19 A It'll be five years in October.

20 Q Did you respond to Windsor Road on July the
21 9th^h of 2016?

22 A Yes, ma'am, I did.

23 Q And what did you do --

24 A Basically --

25 Q. -- at that crime scene?

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 A Basically, we respond to crime scene Calls; and
2 we photograph, document, collect, and preserve
3 evidence at a scene.

4 Q What evidence did you collect from inside that
5 home, if you recall?

6 A Yes. There was numerous items of evidence that
7 included eleven handgun cartridge cases, unfired
8 cartridge cases, and several other items.

9 Q Okay.

10 MS. STAGGS: Your Honor, may I approach the
11 witness?

12 THE COURT: You may.

13 BY MS. STAGGS:

14 Q I'm handing you what has been previously marked
15 as State's Exhibits 13 --

16 MS. STAGGS: I'm sorry, your Honor. Excuse me
17 for one moment. I beg the Court's indulgence.

18 BY MS. STAGGS:

19 Q I'm handing you what's been previously marked as
20 State's Exhibits 13 through 32, and also Number 40.
21 Do you recognize those?

22 A Yes, ma'am, I do. These are photographs that
23 were taken at the scene.

24 Q Did you take those photos?

25 A Yes, ma'am.

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 Q Are they a fair and accurate depiction of the
2 scene at Windsor Road as it was on July the 9th of
3 2016?

4 A Yes, ma'am.

5 MS. STAGGS: Your Honor, the State moves to admit
6 Exhibits --

7 BY MS. STAGGS:

8 Q I'm going to take those from you.

9 MS. STAGGS: -- 13 through 32 and 40 into
10 evidence.

11 THE COURT: Any objection.

12 MS. SAXON: No objection, your Honor.

13 THE COURT: Okay. It's 13 through 32 and 40 into
14 evidence, without objection.

15 ITEMS IDENTIFIED AS PHOTOGRAPHS
16 MARKED STATE'S EXHIBIT NUMBERS 13,
17 14, 15, 16, 17, 18, 19, 20, 21, 22,
18 23, 24, 25, 26, 27, 28, 29, 30, 31,
19 32, AND 40,

20 ADMITTED AS EVIDENCE.

21 MS. STAGGS: Permission to publish these to the
22 jury, your Honor?

23 THE COURT: You may.

24 MS. STAGGS: Thank you. And if I may again ask
25 the witness --

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 THE COURT: It's actually working.

2 MS. STAGGS: Oh. That's great.

3 THE COURT: Yes, it's working now.

4 MS. STAGGS: Great, thank you. That does make it
5 easier.

6 BY MS. STAGGS:

7 Q Ms. Claycomb, please describe what this photo
8 depicts.

9 A Yes, ma'am. That's a photo of a -- it's a Crown
10 Royal bag containing unfired cartridges.

11 Q Okay. Thank you. And this one?

12 A That's an overall picture of the roadway in front
13 of the residence at

14 Q And these markers?

15 A Yes, ma'am. There's Marker 1 on the left, and
16 Marker 3 on the right, which is behind the patrol
17 vehicle in the roadway.

18 Q Okay.

19 A That is a mid-range photo of -- on the left, you
20 see a mailbox; you can see part of a mailbox. At the
21 end of the roadway you can see Marker 1, and Marker 2
22 within the driveway of the residence.

23 Q Thank you. And this one.

24 A This is a close-up photo of Marker 1. It's
25 marking a cartridge case.

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 Q Okay.

2 A This is another close-up photo of Marker 2, which
3 is also a cartridge case. Close-up photo of Marker 3,
4 another cartridge case.

5 Q And this photo, please.

6 A And that is a mid-range photo of -- that's from
7 inside the residence, and there you can see, behind
8 Marker 4 is the front door of the residence. That's
9 Marker 4 on the edge of the couch there. It was a
10 handgun. And on the floor is Marker 5, near the front
11 door, and that was marking a projectile.

12 This is a close-up photo of the handgun, the
13 revolver, that was located at Marker 4. And that's
14 just a close-up photo of a serial number on the butt
15 of the -- the handgun.

16 Q Thank you.

17 A That's another close-up photograph with the
18 cylinder out, and that is the nine unfired cartridges
19 that we located within the gun.

20 Q And that's the state it was in when it was
21 collected?

22 A Yes, ma'am.

23 Q And this one?

24 A And that's another close-up photograph. That's
25 where we're about to remove the -- the unfired

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 cartridges from the actual cylinder.

2 That's a mid-range photograph standing inside the
3 residence, near the front door. And there, Marker 5
4 again, you can see is a -- marking a projectile.

5 That's standing in between the kitchen and the
6 living room of the residence. And on the right you
7 see the corner of the refrigerator and is Marker 6
8 that was marking the cartridge cases.

9 Q Okay. Thank you.

10 A That's an overall photograph looking into the
11 trash can that was within the kitchen. And you can
12 see several fired cartridge cases within the trash
13 can.

14 Q Thank you.

15 A That is Marker 9, which is located in the bedroom
16 of the residence, in the cabinet, and it's marking a
17 ammunition locks.

18 Q Okay.

19 A That's a photograph standing within the living
20 room, pointed towards the kitchen. And Marker 10
21 there on the left is marking a projectile.

22 Q Thank you. Just a couple more.

23 A That's an overall photograph standing next to the
24 kitchen table, and showing the defects that we located
25 on the kitchen wall, above the sink, and within the

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 cabinet and counter, within the kitchen.

2 Q Would you describe what you mean by defect?

3 A Suspected bullet defects.

4 Q Thank you.

5 A This is standing outside of the residence, on the
6 left side of the residence, and it's an overall
7 photograph of a side containing additional defects
8 from the other side of that kitchen wall.

9 That's an overall photograph standing at the
10 front corner of the residence. On the left, that's
11 Windsor, and to the right you can see the side of,
12 I believe, it was Windsor. And that's in between
13 the houses.

14 This is standing at the back, west side of the
15 residence. And pointing towards the roadway. You can
16 see part of the patrol vehicle within the roadway.

17 This is an overall photograph from the roadway,
18 pointing towards the residence. there is the
19 first residence on the left, and you can see the
20 additional residence -- residences to the right.

21 This is the diagram that I prepared once the
22 scene was completed, and that I included in my report.

23 Q Okay. And in that diagram, will you describe the
24 layout of the home, and where the various items were
25 found, as they pertain to the front door?

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 A Yes, ma'am. At the very bottom of the diagram,
2 you can see Marker 3 and 1 that's in the roadway, and
3 the patrol vehicle, which is Marker A, or I label it
4 as Car A. That is the roadway right there at the
5 bottom. On the -- that's the driveway coming from the
6 roadway. You can see Reference Point 1 and 2. Those
7 are the brick walls that lined the west side of the
8 driveway. And Marker 2, you can see there, was at the
9 edge of the driveway, in between the brick walls. And
10 as you get closer to the residence, the patio leads up
11 into the front door, which enters into the living
12 room, where you see Marker 4 and 5. To the -- to your
13 right would be the kitchen. Where you see Markers 6,
14 7, and 10 was in between the kitchen and living room
15 area.

16 If you went to the left, that leads back -- that
17 hall leads back to a -- there was a bedroom to the
18 right; a bathroom further back; and then another
19 bedroom towards the back of the residence.

20 Q Okay. And in the photo where you described the
21 defects that we previously mentioned?

22 A Yes, ma'am.

23 Q Where were those?

24 A Those are towards -- if you go in the front door
25 and turn to your right, the kitchen -- if you go

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 straight into the kitchen, the kitchen table, you can
2 see in the middle of the kitchen, and the sink, right
3 there in that area, is where the suspected bullet
4 defects were.

5 Q Okay. Thank you.

6 MS. STAGGS: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 BY MS. STAGGS:

10 Q I'm handing you what's previously been marked as
11 State's Exhibit 33.

12 A Yes, ma'am.

13 Q If you'll remove it from the box, please. The
14 con --

15 A You want just this container and the --

16 Q No, what's inside the box, please. Do you
17 recognize what I've handed to you?

18 A Yes, ma'am. This is the revolver that was
19 located at Marker 4 on the couch, on the arm of the
20 couch.

21 Q Has it been tampered with?

22 A No, ma'am, not to my knowledge.

23 Q And that is the revolver that you collected from
24 Marker Number 4 at Windsor Road?

25 A Yes, ma'am.

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 MS. STAGGS: Your Honor, the State moves to admit
2 State's Exhibit 33 into evidence.

3 MS. SAXON: No objection.

4 THE COURT: State's 33 into evidence, without
5 objection.

6 ITEM IDENTIFIED AS REVOLVER

7 MARKED STATE'S EXHIBIT NUMBER 33

8 ADMITTED AS EVIDENCE.

9 BY MS. STAGGS:

10 Q I'm handing you what's previously been marked as
11 State's Exhibits 35, 36, 37, and 38. Do you recognize
12 those items?

13 A Yes, ma'am. These three boxes here, this first
14 box is labeled 53 cartridge cases from kitchen trash
15 can, head stamped REM. There were 53 cartridge cases
16 that we located within the kitchen trash can with that
17 particular head stamped.

18 Exhibit 36 labeled 50 cartridge cases from
19 bathroom trash can, head stamped Super X.

20 State's Exhibit 38, 73 cartridge cases from
21 kitchen trash can, head stamped Super X.

22 State's Exhibit 37, six cartridge cases head
23 stamped F, from kitchen trash can.

24 Q And how do you know those are the cartridge cases
25 collected from Windsor Road, Windsor Road?

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 A Basically, once we collect evidence, it gets
2 packaged, and my initials and date goes on the
3 packaging, once I seal it.

4 Q And have those been tampered with?

5 A No, ma'am.

6 MS. STAGGS: Your Honor, the State moves to admit
7 State's Exhibits 35, 36, 37, and 38 into evidence.

8 THE COURT: Any objection?

9 MS. SAXON: No objection.

10 THE COURT: State's 35 through 38 into evidence,
11 without objection.

12 ITEM IDENTIFIED AS 53 CARTRIDGES
13 CASES LOCATED WITHIN KITCHEN
14 TRASH CAN STAMPED REM
15 MARKED STATE'S EXHIBIT NUMBER 35
16 ADMITTED AS EVIDENCE.

17 ITEM IDENTIFIED AS 50 CARTRIDGE
18 CASE BATHROOM TRASH CAN STAMPED
19 SUPER X

20 MARKED STATE'S EXHIBIT NUMBER 36
21 ADMITTED AS EVIDENCE.

22 ITEM IDENTIFIED AS SIX CARTRIDGES
23 CASE FROM KITCHEN TRASH CAN
24 HEAD STAMPED F
25 MARKED STATE'S EXHIBIT NUMBER 37

8-29-17 STATE V BROWN

CLAYCOMB - DIRECT

1 ADMITTED AS EVIDENCE.
2 ITEM IDENTIFIED AS 73 CARTRIDGE
3 CASES FROM KITCHEN TRASH CANS
4 HEAD STAMPED SUPER X
5 MARKED STATE'S EXHIBIT NUMBER 38
6 ADMITTED AS EVIDENCE.

7 BY MS. STAGGS:

8 Q I'm handing you what's been previously marked as
9 State's Exhibit Number 34. Do you recognize that
10 item?

11 A Yes, ma'am. It's a paper bag labeled one Crown
12 Royal bag containing miscellaneous cartridges.

13 Q Okay. And how do you know it was the cartridges
14 that were collected from Windsor Road?

15 A As I said before, it contains the item number, my
16 initials, and then once I seal it, it contains the
17 date I sealed it and my initials as well.

18 Q And has that been tampered with?

19 A No, ma'am.

20 Q Will you please open up that bag.

21 MS. STAGGS: Your Honor, the State moves to admit
22 State's Exhibit 34 into evidence.

23 THE COURT: Any objection?

24 MS. SAXON: No objection, your Honor.

25 THE COURT: Thank you. 34 into evidence, without

1 objection.

2 ITEM IDENTIFIED AS BROWN PAPER
3 BAG CONTAINING 129 UNFIRED CARTRIDGES
4 IN CROWN ROYAL BAG
5 MARKED STATE'S EXHIBIT NUMBER 34
6 ADMITTED AS EVIDENCE.

7 BY MS. STAGGS:

8 Q And will you please describe that item.

9 A Yes, ma'am. It's the Crown Royal bag containing
10 -- there's numerous unfired cartridges within this bag
11 here.

12 Q Do you know how many unfired cartridges are
13 inside that bag?

14 A Yes, ma'am. I believe once we got it to the lab
15 and counted, there were approximately 129 cartridges.

16 Q Okay. Thank you. And do you know how many fired
17 cartridges were collected from inside the home in
18 total?

19 A Yes. We found approximately 132. That was just
20 within the kitchen trash can. Within the bathroom
21 trash can, we found 50 fired cartridge cases. And
22 then, actually on the kitchen floor and the living
23 room floor, there were a total of 40 cartridge cases.

24 Q Thank you.

25 MS. STAGGS: I have no further questions, your

8-29-17 STATE V BROWN

CLAYCOMB - CROSS

1 Honor.

2 SPECIAL AGENT DAWN CLAYCOMB

3 CROSS-EXAMINATION BY MS. SAXON:

4 Q Is it Special Agent Claycomb?

5 A Yes, ma'am.

6 Q Okay. I just want to make sure I have the proper
7 title.

8 Special Agent, you stated that you took the
9 photos that have been admitted into evidence thus far?

10 A Both -- it was -- we respond in pairs. So it was
11 myself and Agent Miller that responded to the scene.
12 She was in training at the time, so we both completed
13 photos at the scene.

14 Q Okay. But you took some, so you knew --

15 A Yes.

16 Q -- how they would be taken. Is that correct?

17 A Correct.

18 Q And it did occur at evening, correct?

19 A Yes. It was dark when we arrived on-scene.

20 Q So did you -- excuse me -- did you utilize a
21 flash in the photographs that you took?

22 A Yes, ma'am, we did.

23 Q Okay. So would it be fair to say they're an
24 accurate image of what is depicted, but not
25 necessarily the lighting?

8-29-17 STATE V BROWN

CLAYCOMB - CROSS

1 A The lighting, we actually had to change the
2 settings on the camera to be able to see within the
3 entire scene. The lighting was low, so there are
4 settings on the camera that we have to change. That's
5 on top of just using the flash in order to lighten up
6 the photos to be able to even see anything.

7 Q And the other things that you said you did, other
8 than the taking photos, was collection of evidence,
9 correct?

10 A Yes, ma'am.

11 Q Okay. Some of the items that you collected I
12 just want to go over. You collected some items that
13 were taken off of Mr. Brown. Is that correct?

14 A Yes. That's what I was -- reported to me. Yes,
15 ma'am.

16 Q Okay. And they were the Crown Royal bag, which
17 has been shown.

18 A Yes, ma'am.

19 Q And a cell phone and a folding knife. Is that
20 correct?

21 A The cell phone and the folding knife was actually
22 located on the west side brick wall near the driveway
23 when we arrived on-scene.

24 Q Okay. And it was understanding those had
25 previously been on Mr. Brown?

8-29-17 STATE V BROWN

CLAYCOMB - CROSS

1 A Yes. It was reported that it was taken --
2 removed from Mr. Brown; when he was taken into
3 custody.

4 Q All right. The next thing that -- one of the
5 next big things that I would say you collected was the
6 gun that was found on the couch.

7 A Yes, ma'am.

8 Q That gun was sitting on the couch exactly as it's
9 been depicted in the pictures when you arrived,
10 correct?

11 A Yes, ma'am.

12 Q And so, it was barrel facing towards the doorway,
13 correct?

14 A If I recall correctly, yes, ma'am.

15 Q Okay. And sitting on the arm of the couch, not
16 in the cushion or anything of that nature?

17 A Correct.

18 Q Okay. And when you lift up that revolver, it's
19 not a balanced weapon, is it? I would say that the
20 back end is heavier than the front?

21 A Overall, it's a heavy weapon. As far as the
22 weight of it, it -- it's a heavy weapon, somewhat.

23 Q And -- excuse me -- from the place on the couch
24 where the revolver was collected, there wasn't any --
25 excuse me -- there wasn't any blood or blood spatter

8-29-17 STATE V BROWN

CLAYCOMB - CROSS

1 on the sofa or on the cushions around the sofa; it was
2 all in the floor. Is that correct?

3 A Well, the sofa was a dark in color to the visible
4 eye, that I observed. I didn't observe any visible
5 blood on that sofa. But like I said, it was dark in
6 color. The small chair on the other side of the
7 living room, there was blood -- looked like suspected
8 blood on it. And the -- the other drops of suspected
9 blood were within the living room and the kitchen
10 area.

11 Q In the home, you searched, I guess, the entire
12 home for evidence. So you viewed all of it, correct?

13 A Yes, ma'am.

14 Q In your report, you reference the back door to
15 the trailer. Do you recall how it was closed with a
16 two-by-four, per your report, and blocked in with
17 items?

18 A Yes, ma'am. There was a two-by-four kind of
19 placed within the doorframe of the back door, and I
20 believe there might have been a level leaning up
21 against the doorframe, as well.

22 Q In the diagram that you prepared that was --
23 still up there, fantastic -- in the diagram that is up
24 there, the reference point where Officer Stuckey would
25 have been located, that's not shown. Is that correct?

8-29-17 STATE V BROWN

RE-DIRECT - CLAYCOMB

1 A I'm -- I'm not aware of Officer Stuckey's
2 location.

3 Q Okay.

4 A I just can say where the brick walls were and the
5 reference points, how I labeled them.

6 Q Okay.

7 MS. SAXON: If I could beg the Court's indulgence
8 one moment. Those are all the questions that I have.
9 Thank you, Special Agent.

10 THE COURT: Re-direct?

11 MS. STAGGS: Thank you, your Honor.

12 SPECIAL AGENT DAWN CLAYCOMB

13 RE-DIRECT EXAMINATION BY. MS. STAGGS:

14 Q So, though there was no blood visible to the
15 naked eye on the sofa where the gun was located, did
16 you conduct any special testing to determine if there
17 was blood on that sofa?

18 A No, ma'am.

19 Q Thank you.

20 MS. STAGGS: No further questions, your Honor.

21 MS. SAXON: Nothing, your Honor.

22 THE COURT: You may step down. Thank you.

23 SPECIAL AGENT DAWN CLAYCOMB: Thank you.

24 THE COURT: Call your next witness.

25 MS. STAGGS: The State Calls David Williams.

1 MADAM CLERK: Your left hand on the *Bible*, and
2 raise your right hand, please. Do you solemnly swear
3 or affirm to truthfully answer all questions asked of
4 you by this court, so help you God?

5 DAVID WILLIAMS: I do.

6 MADAM CLERK: Thank you, sir.

7 BAILIFF: Please watch your step. You can adjust
8 the microphone. Please speak directly into it.

9 DAVID WILLIAMS

10 DIRECT EXAMINATION, BY MS. STAGGS:

11 Q Agent Williams, where are you employed now?

12 A I'm retired. I retired in June from the South
13 Carolina Law Enforcement Division, commonly known as
14 SLED.

15 Q And how long did you work for SLED.

16 A A little over eleven years.

17 Q And what did you do in your career before you
18 worked for SLED?

19 A I was a -- I retired from the Drug Enforcement
20 Administration after 20 years as a federal drug
21 agency. Prior to that, I was a Charleston, South
22 Carolina policeman for about seven years.

23 Q And were you working for SLED on July the 9th of
24 2016?

25 A Yes, ma'am, I was.

8-29-17 STATE V BROWN

WILLIAMS - DIRECT

1 Q And did you respond to Windsor Road?

2 A Yes, ma'am.

3 Q Why did you respond to that scene?

4 A There had -- we had got a request -- SLED had
5 gotten a request from the Beaufort County Sheriff's
6 Department that there had been an officer-involved
7 shooting. Generally, SLED investigates all office-
8 involved shootings in the state, with the exception of
9 Richland County.

10 Q Okay. At what point during the events of that
11 evening did you arrive?

12 A I arrived probably a little after midnight on the
13 10th.

14 Q And what did you do when you got there?

15 A First, I talked to the supervisors that were on-
16 scene to determine -- just give us an overall of what
17 happened. Once I figured that out, the -- we
18 determined who was the officers that were involved
19 with the actual shooting, which was only one officer
20 actually fired. That was Corporal Krapf. I contacted
21 Crime Scene. There was other agents that responded
22 with me to do interviews from neighbors, and just
23 generally start an investigation into the incident.

24 Q Did you ever go inside the house during your
25 investigation?

8-29-17 STATE V BROWN

WILLIAMS - DIRECT

1 A Yes, ma'am, I did.

2 Q What did you see?

3 A I went in after Crime Scene had processed the
4 scene. Just being the case agent, I usually go in,
5 just to see what the scene looks like for myself,
6 instead of relying on photographs, so I can actually
7 see it. When you come into the front door, there was
8 a couch on the left-hand side. There was a gun laying
9 on the arm of the chair. There was blood drops
10 throughout the living room and the kitchen area, and
11 there was also shell casings on the floor, kind of
12 littered around the area.

13 Q And what did -- what were the results of your
14 investigation?

15 A The results of our investigation, it was two-
16 fold. First, we generally only investigate the
17 officer-involved shooting part of the -- of the
18 incident. On this night, the Beaufort County
19 Sheriff's Department also wanted us to handle any
20 criminal charges that may have stemmed from the
21 incident.

22 Q So that night, Charles Brown was placed under
23 arrest for pointing and presenting a firearm.

24 Q And your investigation --

25 A The investigation as far as the officer-involved

8-29-17 STATE V BROWN

WILLIAMS - DIRECT

1 shooting, after we complete our report, get all of the
2 results back from the lab from the crime scene, that
3 report is written and turned over to the Solicitor's
4 Office. We discuss the facts of the case with the
5 Solicitor's Office, and in this instance, the
6 Solicitor issued a letter stating that the shooting by
7 Corporal Krapf was justified.

8 Q And do you see Charles Brown here in the
9 courtroom today?

10 A Yes, ma'am, I do.

11 Q Will you point him out, please.

12 A He is the gentleman at the Defense table, sitting
13 in the middle. He has a white shirt with blue
14 stripes, wearing a tie.

15 MS. STAGGS: Your Honor, I'd ask that the record
16 reflect that he has I.D.'d the defendant.

17 THE COURT: It will.

18 MS. STAGGS: Thank you.

19 BY MS. STAGGS:

20 Q I'd like to show you a few photos, Agent
21 Williams. If you will please just tell me, this is
22 what's previously been admitted as State's Exhibit 14,
23 what you see there.

24 A That's just the -- the street, Windsor Road, in
25 the trailer park area, in the vicinity of

8-29-17 STATE V BROWN

WILLIAMS - DIRECT

1 Q Okay. And what's previously been admitted as
2 State's Exhibit 11?

3 A That's if you come through the -- the front door,
4 if you look right to your left, there's the couch with
5 the revolver. And then, you can see the blood
6 droppings on the floor, or what appeared to be blood
7 on the floor.

8 Q What's previously been admitted as State's
9 Exhibit 19?

10 A That's just another viewpoint. You're standing
11 inside the residence, looking towards the front door.
12 The front door is directly behind the placard that's
13 marked 4, which is marked where the revolver was
14 located. Placard 5 is a slug.

15 Q What's previously been admitted as State's
16 Exhibit 27?

17 A That's just the kitchen area that would be to
18 your right that shows what appears to be blood drops.

19 Q What's previously been admitted as State's
20 Exhibit 28?

21 A That's, again, if you come in the front door and
22 go directly to your right, that's the kitchen area.
23 That's the end of the kitchen. The kitchen sink.

24 Q Okay. And the last one?

25 A That's on the outside, directly behind the

8-29-17 STATE V BROWN

WILLIAMS - DIRECT

1 kitchen. If the front window is where the kitchen
2 sink is located, that is the outside of standing
3 in the yard, or right next to Windsor Road.

4 Q Thank you. And in that last photo, those
5 markings that you saw, what were those?

6 A They appear to be gunshot bullet holes.

7 Q Could you determine if they were entering or
8 exiting?

9 A They appear to be shot from the inside, out.

10 Q And on the scene when you walked in, based on the
11 location of the gun and the blood on the floor, could
12 you determine where the defendant traveled inside?

13 A Yes, ma'am. After he was shot, it appeared that
14 he was in the kitchen area and in the living room
15 area.

16 Q And did your investigation determine where the
17 defendant was hit when he was shot?

18 A Yes, ma'am. The -- when Corporal Krapf fired his
19 weapon, he fired one shot. It hit the door frame on
20 -- if you were looking outside of the house towards
21 the street, it would have been the doorframe on the
22 left. There was one hole, an entrance, coming in from
23 the outside. There was an exit on the inside of the
24 trailer. Charles Brown was shot in his left hand. I
25 believe that the bullet went -- that he had his hand

8-29-17 STATE V BROWN

WILLIAMS - CROSS

1 against the -- the doorpost. The bullet traveled
2 through the doorpost, through his hand, and then
3 struck him in the chest. It did not penetrate. It
4 left a bruise, but that was just -- the bullet that
5 was laying on the floor that was shown in that photo.
6 The slug.

7 MS. STAGGS: I beg the Court's indulgence. Thank
8 you, your Honor. I have no further questions.

9 THE COURT: Ms. Saxon?

10 MS. SAXON: Thank you, your Honor.

11 DAVID WILLIAMS

12 CROSS-EXAMINATION BY MS. SAXON:

13 Q Do I still call you Special Agent Williams?

14 A You can call me whatever you want.

15 Q Okay. Special Agent Williams, I just have a few
16 questions. Without getting into the substance of what
17 was discussed, was an interview taken of Mr. Brown?

18 A Yes, ma'am.

19 Q Was he cooperative with you during the interview?

20 A Yes, ma'am.

21 Q And he gave a statement of events. Not saying
22 what they were, but he did give a statement of events?

23 A Yes, ma'am.

24 Q And would it be fair to say that some of his
25 statements were different from some of Officer Krapf

8-29-17 STATE V BROWN

WILLIAMS - CROSS

1 and Officer Stuckey's statements?

2 A Yes, ma'am. That would be a correct assumption.

3 Q Thank you. The shot -- and you just talked about
4 this, so the shot that was fired by Corporal Krapf.

5 As you said, it went through the outer doorframe,
6 which was on the left of the home. Is that correct?

7 A Yes, ma'am.

8 Q Okay. So out through the left, and then through
9 what we believe to be the palm of his hand. It came
10 all the way through his hand, correct?

11 A That's correct.

12 Q And then, struck him on his chest, roughly to the
13 right side?

14 A Yes, ma'am.

15 Q Okay. And it would've probably -- would it be
16 fair to say it didn't penetrate his chest because it
17 already traveled through two other items?

18 A That was my conclusion.

19 Q You said something on direct that I was curious
20 about. That when you did the investigation into the
21 officer-involved shooting, correct?

22 A Yes, ma'am.

23 Q But the Solicitor is the individual who makes the
24 final determination of justification?

25 A At that time, yes, ma'am.

8-29-17 STATE V BROWN

WILLIAMS - RE-DIRECT

1 Q Okay. Other than that, again, you saw the
2 revolver on the arm of the couch. Is that correct?

3 A That's correct.

4 Q And it was -- the butt was facing the cushions,
5 the barrel facing the door. Is that correct?

6 A That's correct.

7 Q And to your eye, you could not see any blood on
8 the couch cushions or on the arm of the couch, but
9 just around the area?

10 A I didn't notice anything but on the floor.

11 MS. SAXON: Court's indulgence. I don't have
12 anything else, your Honor.

13 THE COURT: Re-direct?

14 MS. STAGGS: Just -- I beg the Court's indulgence
15 for just one moment.

16 THE COURT: Take your time.

17 MS. STAGGS: Thank you.

18 DAVID WILLIAMS

19 RE-DIRECT EXAMINATION BY MS. STAGGS:

20 Q Agent Williams, was Charles Brown charged before
21 in this case before the conclusion of the
22 investigation into Corporal Krapf?

23 A Yes, ma'am, he was.

24 Q Thank you.

25 MS. STAGGS: No further questions, your Honor.

8-29-17 STATE V BROWN

MALPHRUS - DIRECT

1 THE COURT: Any re-cross?

2 MS. SAXON: Nothing, your Honor.

3 THE COURT: Thank you. You may step down. Call
4 your next witness.

5 MS. STAGGS: The State calls Jason Malphrus.

6 THE COURT: Right this way to be sworn in.

7 MADAM CLERK: Place your left hand on the *Bible*,
8 and raise your right, please. Do you solemnly swear
9 or affirm to truthfully answer all questions asked of
10 you by this court, so help you God?

11 JASON MALPHRUS: I do.

12 MADAM CLERK: Thank you.

13 BAILIFF: Please watch your step. You can adjust
14 the microphone. Please speak directly into the
15 microphone.

16 SERGEANT JASON MALPHRUS

17 DIRECT EXAMINATION BY MS. STAGGS:

18 Q Good afternoon. Investigator Malphrus, where do
19 you work?

20 A Beaufort County Sheriff's Office.

21 Q And what do you do there?

22 A I'm currently assigned to Criminal Investigations
23 Division.

24 Q Okay. How long have you worked for the Beaufort
25 County Sheriff's Office?

8-29-17 STATE V BROWN

MALPHRUS - DIRECT

1 A Roughly nine years.

2 Q Were you working on July the 9th of 2016?

3 A I was.

4 Q And on that day, did you respond to Beaufort
5 Memorial Hospital?

6 A I did.

7 Q Why did you respond to that location?

8 A On July 9, 2016, I was contacted by my
9 supervisor, and I was told there was an officer-
10 involved shooting; and the suspect in the case had
11 been transferred to the hospital; and I was asked to
12 go to the hospital to assist in the investigation.

13 Q And what did you do when you were there at the
14 hospital?

15 A When I arrived at the hospital, Mr. Brown had
16 already arrived. When I had walked in the room, he
17 was getting treated. He had sustained what looked
18 like a gunshot wound to the left hand. He appeared to
19 be very uncomfortable. I believe he may have had some
20 pain medication administered by the hospital. I
21 processed his hands for gunshot residue. I
22 photographed Mr. Brown and his wounds, and I collected
23 his clothing, and the items were submitted to our
24 Evidence Division.

25 Q Okay.

8-29-17 STATE V BROWN

MALPHRUS - DIRECT

1 MS. STAGGS: Your Honor, may I approach the
2 witness?

3 THE COURT: You may.

4 BY MS. STAGGS:

5 Q I'm handing you what's previously been marked as
6 State's Exhibit Number 39. Do you recognize what I
7 handed you?

8 A Yes, ma'am. This is a gunshot residue collection
9 kit.

10 Q Okay. And how do you recognize it?

11 A This is the one I use. I have my initials and my
12 badge number here on the back.

13 Q So you collected that item.

14 A Yes, ma'am.

15 Q And did you package it?

16 A I did.

17 Q Did you seal it?

18 A Yes, ma'am.

19 Q And did you mark it in some way to indicate that
20 it was sealed?

21 A I did. It was sealed with evidence tape. And
22 here, it has my badge number, my initials, and the
23 date, July 9, 2016.

24 Q And then, what did you do with that item?

25 A This item was turned in to our evidence division

8-29-17 STATE V BROWN

MALPHRUS - CROSS

1 of the Sheriff's Office.

2 Q Okay. While that was in your custody, did you
3 tamper with it in any way?

4 A No, ma'am.

5 Q And did you maintain the integrity of that item?

6 A I did.

7 Q How do you know that it wasn't altered or
8 tampered with?

9 A It remained in my -- it remained in my custody.
10 I'm trying to look here. You can read the chain of
11 command. It went from me, to our evidence division,
12 on the bag. It wasn't transferred to anyone else.

13 Q And so, where did you take that?

14 A To our temporary storage locker at the Law
15 Enforcement Division.

16 MS. STAGGS: I beg the Court's indulgence. I
17 have no further questions for this witness, your
18 Honor.

19 SERGEANT JASON MALPHRUS

20 CROSS-EXAMINATION BY MS. SAXON:

21 Q Is it Sergeant Malphrus?

22 A Yes, ma'am.

23 Q Okay. Sergeant Malphrus, just a few quick
24 questions. You did respond to the hospital, and
25 photographed the injuries to Mr. Brown. Is that

8-29-17 STATE V BROWN

MALPHRUS - CROSS

1 correct?

2 A I did. I took photographs of him.

3 Q Okay. And then, just to clarify, the bullet
4 wound went through about the top knuckle of his left
5 hand?

6 A Looking at my report, I put down he had one
7 apparent gunshot wound to his left hand.

8 Q Okay. And did you also photograph the small
9 abrasion on his chest?

10 A Yes, ma'am.

11 Q And you also said you collected his clothing that
12 evening. Do you recall the clothing that he was
13 wearing?

14 A Yes, ma'am. One second. This is our property
15 receipt. Whenever we submit something into evidence,
16 this property receipt's generated as a record of that.
17 And I have here, as far as Mr. Brown's clothing, it
18 was one red shirt, two brown shoes, and a pair of
19 black socks.

20 MS. SAXON: Court's indulgence. That's all I
21 have, your Honor. Thank you, Sergeant Malphrus.

22 THE COURT: Re-direct?

23 MS. STAGGS: I have no further questions, your
24 Honor.

25 THE COURT: You may step down. Thank you.

1 SERGEANT JASON MALPHRUS: Thank you.

2 THE COURT: Call your next witness.

3 MS. STAGGS: May we approach briefly, your Honor?

4 THE COURT: You may.

5 OFF-THE-RECORD BENCH CONFERENCE, OUT

6 OF HEARING OF JURORS. PRESENT: THE

7 COURT, MS. STAGGS, AND MS. SAXON.

8 END BENCH CONFERENCE.

9 MS. STAGGS: The State calls Jennifer Nates.

10 THE COURT: Right this way to be sworn in.

11 MADAM CLERK: Can you place your left hand on the

12 *Bible* and raise your right hand, ma'am. Do you

13 solemnly swear or affirm to truthfully answer all

14 questions asked of you by this court, so help you God?

15 JENNIFER NATES: I do.

16 MADAM CLERK: Thank you.

17 BAILIFF: Please watch your step. You can adjust

18 the microphone. Please speak directly into the

19 microphone.

20 JENNIFER NATES: Thank you.

21 JENNIFER NATES

22 DIRECT EXAMINATION BY MS. STAGGS:

23 Q Good morning.

24 A Good morning.

25 Q Ms. Nates, where do you work?

8-29-17 STATE V BROWN

NATED - DIRECT

1 A For the South Carolina Law Enforcement Division.

2 Q And what do you do there?

3 A I work in the trace evidence section of the
4 forensic department. SLED is divided up into, like,
5 an investigations unit and the forensics unit. The
6 trace section of the forensic unit is responsible for
7 analysis of gunshot residue, paint, fibers, glass,
8 explosives, fire debris, tape, and evidence.

9 Q Can you please tell the Court about your
10 education and training in that field.

11 A I received a bachelor of science degree in
12 chemistry in 1997, from a small state school in
13 Pennsylvania. It is California University of
14 Pennsylvania. Once I received my degree, I performed
15 an internship at SLED, in the drug analysis
16 department. At the completion of that internship, I
17 was hired in the drug lab. I went through the
18 criminal justice academy and the drug training
19 program, where I successfully completed all the
20 requirements. And then, I performed drug analysis for
21 a year. Once that year was up, I transferred to trace
22 evidence, and began the training program there. The
23 training program was a three- to four-year program
24 where I trained under the supervisor and the senior
25 analyst in that department. I also took classes at

8-29-17 STATE V BROWN

NATED - DIRECT

1 colleges and at different conferences that dealt with
2 the type of analyses we performed and the type of
3 instrumentation used.

4 Q And how long have you been a forensic analyst?

5 A I have been at SLED for 20 years..

6 Q Have you ever been qualified as an expert during
7 that time?

8 A I have been.

9 Q Do you know about how many times?

10 A I think 105.

11 Q And over that period of time, do you know about
12 how many gunshot residue tests you've performed?

13 A Approximately 75. Or I'm sorry, 75 testimonies.
14 But gunshot residue tests?

15 Q Yes.

16 A In excess of 5,000.

17 Q Thank you.

18 MS. STAGGS: Your Honor, the State would request
19 that Ms. Nates be qualified as an expert in forensic
20 analysis, especially in trace evidence testing.

21 THE COURT: Any objection?

22 MS. SAXON: No objection, your Honor.

23 THE COURT: Ladies and gentlemen, normally a
24 person cannot give opinion testimony. Typically when
25 they testify, they must testify as to what they either

8-29-17 STATE V BROWN

NATED - DIRECT

1 heard or saw or sensed by smell or something of that
2 nature. There is an exception in our law if someone
3 is qualified because of their education or experience.
4 They are permitted then to give their opinion in
5 certain areas. I am qualifying this witness in the
6 area of forensic analysis, specifically trace
7 evidence, to give opinion testimony in that area.
8 That does not mean that you must accept the opinion.
9 It is simply evidence for you to use in any way that
10 you see fit, and give it the weight and credibility
11 you believe is appropriate.

12 MS. STAGGS: Your Honor, may I approach the
13 witness.

14 THE COURT: You may.

15 BY MS. STAGGS:

16 Q I'm handing you what's previously been marked as
17 State's Exhibit Number 39. Do you recognize that
18 item?

19 A I do. This is one of our evidence bags that we
20 use for basically storage of evidence or submission of
21 evidence. Whenever an item is logged into the SLED
22 laboratory, it's assigned a unique laboratory number
23 that we use for tracking, in addition to an item
24 number. So, each item, in a certain case, will have
25 the same lab number. In this case, it is Lab Number

1 L169627, and it was Item Number 35 that was submitted
2 in this container.

3 Q And that's how you're able to identify that
4 package.

5 A I can identify it by that, and also, I have
6 initials on it from when I sealed the evidence after
7 my analysis. And my initials are also on the inside,
8 on the GSR kit, on which I performed the analysis.

9 Q And how is that item submitted to your
10 laboratory?

11 A The items are submitted -- in this case, it was
12 submitted by one of our crime scene agents. It was
13 Dawn Claycomb. Evidence can come into SLED one of two
14 ways. They can come in from an outside police agency,
15 a coroner's office, or from the internal crime scene
16 at SLED.

17 Q Was the package tampered with in any way?

18 A It was not. On our note sheets, we have
19 documentation that we document if evidence is tampered
20 with, or if it's not sealed, not initialed, or if
21 there was a problem with the evidence. And I don't
22 have any documentation of that sort in this case.

23 Q Okay. So the item was sealed when you received
24 it.

25 A Yes.

8-29-17 STATE V BROWN

NATED - DIRECT

1 Q Would you test an item if the package was not
2 sealed?

3 A It would depend on how it was not sealed. If I
4 received this item and the outer package was not
5 sealed, but the inner package was, I would document
6 it, and I would still test it. If the package was not
7 sealed in such a manner that the evidence could have
8 been tampered with, I would not perform the analysis.

9 Q But in this case, it was sealed?

10 A It was.

11 Q And who tested those items?

12 A I did.

13 Q Okay.

14 MS. STAGGS: Your Honor, the State moves to admit
15 State's Exhibit Number 39 into evidence.

16 THE COURT: Any objection?

17 MS. SAXON: No objection, your Honor.

18 THE COURT: State's 39 into evidence, without
19 objection.

20 MS. STAGGS: Thank you, your Honor.

21 ITEM IDENTIFIED AS GUNSHOT RESIDUE KIT

22 MARKED STATE'S EXHIBIT NUMBER 39

23 ADMITTED AS EVIDENCE.

24 BY MS. STAGGS:

25 Q You prepared a report after you tested this

8-29-17 STATE V BROWN

NATED - DIRECT

1 evidence?

2 A I did.

3 Q What were your findings?

4 A In the report from the GSR kit submitted for this
5 case, it was a gunshot residue kit submitted from
6 Charles Brown, Jr. I found particles of gunshot
7 residue, and the wording in the report is:

8 *Gunshot residue can come from*
9 *discharging a firearm, being in the*
10 *vicinity to the discharge of a firearm,*
11 *or coming into contact with a surface that*
12 *has gunshot residue on it.*

13 MS. STAGGS: I beg the Court's indulgence for
14 just one moment.

15 BY MS. STAGGS:

16 Q And so, you just -- you were able to positively
17 identify that gunshot residue was present?

18 A I was.

19 Q Thank you.

20 MS. STAGGS: I have no further questions.

21 MS. SAXON: I have no questions for this witness,
22 your Honor.

23 THE COURT: Thank you. You may step down.

24 JENNIFER NATES: Thank you.

25 BAILIFF: Please watch your step.

8-29-17 STATE V BROWN

MOTIONS

1 THE COURT: Call your next witness.

2 MS. STAGGS: I beg the Court's indulgence for one
3 moment.

4 THE COURT: Yes, ma'am.

5 MS. STAGGS: The State rests, your Honor.

6 STATE RESTS.

7 THE COURT: Ladies and gentlemen, that indicates
8 to the Court there's a matter of law that I must take
9 up outside of your presence. Leave your notepads
10 right where they are, and please remember all my
11 admonitions. Please rise for the jury.

12 BAILIFF: Leave your notebooks, follow me.

13 JURORS LEAVE COURTROOM 12:20 P.M.

14 MOTIONS:

15 THE COURT: Thank you. Please be seated. Any
16 motions or matters, Ms. Saxon?

17 MS. SAXON: Yes, your Honor. At this time, I
18 would renew any previous motions or objections I have
19 made up to this point, and also make a motion for a
20 directed verdict at this time, if it is appropriate.
21 Your Honor, I would just argue that the only testimony
22 here was from Officer Krapf that there was definitely
23 a gun in Mr. Brown's hand at that time. All other
24 testimony is either contradictory or unsure. We feel
25 that that would not be enough for this case to proceed

8-29-17 STATE V BROWN

MOTIONS

1 to the jury, and we would ask your Honor to direct a
2 verdict in favor of Mr. Brown.

3 THE COURT: Okay.

4 MS. STAGGS: Your Honor, there is an issue of
5 fact.

6 THE COURT: How I like for the State to do it is
7 to go through the elements of the charge and tell me
8 what testimony has been presented that meets each of
9 those elements.

10 MS. STAGGS: Absolutely, your Honor. So,
11 pointing and presenting a firearm, as your Honor is
12 aware, simply requires that a firearm be presented or
13 pointed at another person, whether loaded or unloaded.
14 The State has presented testimony today from Corporal
15 Krapf, where he saw the defendant point a firearm at
16 him. Sergeant Stuckey corroborates his testimony.
17 There is a sufficient, I think, finding of fact for
18 the jury in this case to determine whether or not that
19 the firearm was pointed at Mr. -- or at Corporal Krapf
20 by Mr. Brown.

21 THE COURT: At this time, the State has met its
22 burden. I deny your motion for a directed verdict.
23 Any other motions or matters? Do you have any
24 witnesses? I'm going to ask your client one more
25 time, but you have no additional witnesses?

8-29-17 STATE V BROWN

MOTIONS

1 MS. SAXON: Correct, your Honor, no additional
2 witnesses from the Defense.

3 THE COURT: Please stand. I remind you that
4 you're still under oath. We've now really reached the
5 stage where you may present your defense. Have you
6 made a decision on whether or not you will testify?

7 CHARLES CLASTON BROWN: I will not testify.

8 THE COURT: Do you need any additional time to
9 meet with your attorneys before you make that your
10 final answer?

11 CHARLES CLASTON BROWN: No, your Honor.

12 THE COURT: You have decided not to testify.

13 CHARLES CLASTON BROWN: Yes, your Honor.

14 THE COURT: All right. Thank you. All right.
15 So now let's -- you all just approach for scheduling.

16 OFF-THE-RECORD BENCH CONFERENCE, OUT
17 OF PRESENCE OF THE JURY. PRESENT:
18 THE COURT AND ALL ATTORNEYS.
19 END BENCH CONFERENCE.

20 THE COURT: All right. Let's bring them back in.

21 BAILIFF: Yes, ma'am.

22 BAILIFF: The jury is entering the courtroom,
23 your Honor.

24 JURORS ENTER COURTROOM AT 12:26 P.M.

25 THE COURT: Thank you. Please be seated. Ms.

1 Saxon?

2 DEFENSE RESTS.

3 MS. SAXON: Thank you, your Honor. At this time,
4 the Defense would also rest.

5 BY THE COURT:

6 THE COURT: Okay. Thank you.

7 Ladies and gentlemen, you have now heard all the
8 testimony that you will hear in this case and received
9 into evidence all the exhibits that have been made
10 part of the record in this case. It is an appropriate
11 time for us to take our lunch break, and so, we are
12 going to do that at this time. When you return, you
13 will hear closing arguments on behalf of Counsel, and
14 then I will instruct you on the law applicable to this
15 case.

16 Ladies and gentlemen, you are now going to be
17 allowed to leave the courthouse. And so, I don't know
18 what your plans are for lunch or whom you may speak
19 with, but I do know that you cannot talk about this
20 case. So, please remember all of my admonitions. Do
21 not go to the scene where any of the alleged events
22 were alleged to have taken place. Do not do any
23 independent investigations. Do not discuss this case
24 with anyone in any format. You may not text about
25 this case, make any postings on social media. Ladies

8-29-17 STATE V BROWN

MOTIONS

1 and gentlemen, simply put, do not talk about this case
2 in any form or format until I tell you otherwise.
3 We're utilizing this clock. Please be back and ready
4 to begin promptly at 2:00 p.m. At 2:00 p.m. Please
5 rise for the jury.

6 BAILIFF: Please leave your notebooks.

7 THE COURT: And we're going to have those
8 notebooks locked up, and have them back for you.

9 JURORS LEAVE COURTROOM 12:28 P.M.

10 MOTIONS:

11 THE COURT: Thank you. Please be seated.
12 Anything before you take your lunch break? From the
13 State?

14 MS. STAGGS: Nothing from the State, your Honor.

15 MS. SAXON: As a matter of form, we would once
16 again renew all objections, motions, and our directed
17 verdict motion, your Honor.

18 THE COURT: And I haven't heard anything that
19 would make me change my rulings from the previous
20 rulings. So I will stand by all the previous rulings,
21 but they are noted for the record.

22 MS. SAXON: Thank you.

23 THE COURT: We will -- are there any just --
24 there's no lesser includeds and any unusual charges?

25 MS. STAGGS: No, your Honor.

8-29-17 STATE V BROWN

MOTIONS

1 MS. SAXON: No, your Honor.

2 THE COURT: I think it's pretty standard. All
3 right. And the verdict form is just not guilty or
4 guilty. Okay. We'll see you back at 2:00. Thank
5 you.

6 MS. SAXON: Thank you, your Honor.

7 MS. STAGGS: Thank you, your Honor.

8 THE COURT: Please make sure -- I'm not used to
9 letting that evidence stay on your table.

10 MS. STAGGS: Sure. We'll be happy to --

11 THE COURT: Let's go ahead and box it up. Will
12 you box that, make sure, before anybody leaves? Don't
13 leave until I have all the evidence in that box.

14 OFF THE RECORD

15 BACK ON THE RECORD 2:08 P.M.

16 THE COURT: We're ready.

17 BAILIFF: Yes, ma'am.

18 BAILIFF: The jury is entering the courtroom,
19 your Honor.

20 JURORS ENTER COURTROOM 2:09 P.M.

21 THE COURT: Thank you. Please be seated. If
22 you've complied with my instructions over the lunch
23 hour, if you did what I told you to do, please raise
24 your right hand. Thank you. All thirteen jurors
25 followed the Court's instructions.

8-29-17 STATE V BROWN

CLOSING ARGUMENT STATE

1 Ladies and gentlemen, as I indicated to you, we
2 have reached the stage of the trial where you will
3 hear closing arguments on behalf of Counsel. In this
4 case, the Solicitor will go first with her closing
5 argument, and then we will hear closing arguments on
6 behalf of the defendant. Please remember, what the
7 attorneys tell you in their closing arguments is not
8 evidence; it's merely their contention as to what the
9 evidence has shown you. After you have heard from the
10 defendant, I will instruct you on the law applicable
11 to this case.

12 Please give your strict attention to the
13 Solicitor and the defendant's closing arguments.
14 Madam Solicitor?

15 CLOSING ARGUMENT ON BEHALF OF THE
16 STATE BY MS. STAGGS:

17 MS. STAGGS: Thank you, your Honor. May it
18 please the Court? Good afternoon.

19 RESPONSES FROM JURORS.

20 MS. STAGGS: Thank you for your attention during
21 this trial. As I told you earlier today, this wasn't
22 a long case, and there wasn't a lot of complicated
23 information. But again, just because it's not a long
24 case does not mean it's not serious and does not mean
25 that it's not important. All of you have an extremely

8-29-17 STATE V BROWN

CLOSING ARGUMENT STATE

1 important job to do at this phase. You've heard all
2 the testimony, you've seen all of the evidence; you've
3 seen the videos, the pictures, the 911 call. You saw
4 the gun, the shell casings, both fired and unfired,
5 and the evidence regarding the gunshot residue. You
6 heard witness testimony from the people that were
7 there, the people that investigated this case.

8 The judge is going to tell you about the burden
9 that the State bears. It's not a burden I take
10 lightly, and I'm going to ask you to carefully review
11 all of the evidence that's been presented to you
12 today. After you have done that, you will find that
13 the State has met that burden, and you will not
14 hesitate to find the defendant, Charles Claston Brown,
15 guilty of pointing and presenting a firearm.

16 The evidence in this case proves his guilt. You
17 heard the 911 call. You know why the officers
18 responded to Windsor Road that night. You heard
19 from the neighbor who made that call. She saw and
20 heard the defendant firing his gun. You heard
21 testimony from both Corporal Krapf and Sergeant
22 Stuckey, the first two people to arrive that night,
23 and you saw their in-car videos. Their videos
24 corroborate all of the testimony that they gave.

25 You can see Corporal Krapf on one of those videos

8-29-17 STATE V BROWN

CLOSING ARGUMENT STATE

1 with his flashlight. You can hear the shots that were
2 fired. You can hear the commands that law enforcement
3 gave to the defendant. Sergeant Stuckey and Corporal
4 Krapf gave clear verbal commands to the defendant.
5 They identified themselves as law enforcement. You
6 can hear Corporal Krapf say on that video over and
7 over, Sheriff's Office; and you can hear the defendant
8 say, go home, go home, go home. He didn't want the
9 Sheriff's Department on his property, so when he came
10 to that gun -- to that door, he had the gun in his
11 hand, and he pointed it at Corporal Krapf.

12 Corporal Krapf and Sergeant Stuckey's accounts of
13 the events of that night match perfectly with their
14 in-car camera videos. Corporal Krapf had his
15 flashlight. He told you that he's a hundred percent
16 certain that there was a gun in the defendant's hand.
17 You even heard him on the video say, right after it
18 happened, he pointed the gun at me.

19 Sergeant Stuckey was also going to tell you that,
20 even though he was further away, he saw something in
21 the defendant's hand. He didn't have as clear of a
22 view as Corporal Krapf, but he was certain that
23 Charles Brown had something dark in his hand, and he
24 was certain he saw him point whatever that was at
25 Corporal Krapf.

8-29-17 STATE V BROWN

CLOSING ARGUMENT STATE

1 You also heard from Master Sergeant Thomas. He
2 arrived on-scene, and he told you nobody else was in
3 that house, just Charles Brown. He was one of the
4 first officers who entered the house, and he saw the
5 gun where it was later located by the crime scene
6 analyst, on the arm of that sofa.

7 The SLED crime scene analyst described that scene
8 for you. She created a mock-up of his home so you
9 could see where all of the evidence was. You saw her
10 photos where the gun was found, right by the door,
11 right where Charles Brown pointed it at Corporal
12 Krapf. You saw all of the fired and unfired
13 cartridges. He had 129 unfired cartridges on his
14 person, and he had a gun full of bullets. He was
15 ready to load and reload.

16 And Agent Williams testified and told you why he
17 investigated this incident. It was an officer-
18 involved shooting, and Corporal Krapf was cleared of
19 any wrongdoing in that shooting. The procedure in
20 this case is the procedure for every officer-involved
21 shooting that takes place here in Beaufort County.

22 Corporal Krapf showed remarkable restraint that
23 night. He fired only one shot after having a gun
24 pointed at him, when he already had heard the
25 defendant fire shot after shot after shot from inside

8-29-17 STATE V BROWN

CLOSING ARGUMENT STATE

1 his home. And Agent Williams made the decision to
2 charge and arrest the defendant for pointing and
3 presenting his firearm well before Corporal Krapf was
4 cleared in that shooting.

5 Finally, you heard from Sergeant Malphrus and
6 Jennifer Nates about the gunshot residue. The
7 defendant had gunshot residue on his hands. He had it
8 there because he had been shooting his gun. That's
9 not a huge surprise, but it does confirm that he is
10 the person that was shooting that gun over and over,
11 and he still had that gun in his hand, just as he had
12 for most of the evening, when he got to the doorway,
13 when Corporal Krapf and Sergeant Stuckey arrived.

14 The Defense told you that this case is about
15 perception. Ms. Saxon told you that Corporal Krapf's
16 perception might be influenced by the overall scene
17 that night, but here's what we know that Corporal
18 Krapf perceived. He was responding to a shots-fired
19 call. He arrived on the scene, and he heard more
20 shots being fired, and he took cover. He saw a man
21 standing in the doorway of Windsor Road. He and
22 Sergeant Stuckey instructed that man to come out of
23 the house, and told him repeatedly that they were
24 Sheriff's Deputies. He had his flashlight shining on
25 that man. That man was Charles Brown. And he saw

1 clearly, with a hundred percent certainty, that there
2 was a gun in Charles Brown's hand. He saw him raise
3 that gun and point it at him, and then he fired one
4 round.

5 Officer Krapf's perception that night was clear.
6 It was clear, and it has been confirmed by all the
7 evidence that you've seen and heard today. Corporal
8 Krapf was the victim in this case. He was the victim
9 of Charles Brown, and he's the victim of the crime of
10 pointing and presenting a firearm. Charles Brown
11 committed that crime. And just as I told you I would
12 at the beginning of this case, I'm asking you to find
13 him guilty. Thank you.

14 THE COURT: Ms. Saxon?

15 MS. SAXON: Thank you, your Honor.

16 CLOSING ARGUMENT ON BEHALF OF THE

17 DEFENSE BY MS. SAXON:

18 MS. SAXON: One issue, one question. Did Charles
19 point a gun at Corporal Krapf on the night of July 9,
20 2016? Everything else is window dressing; it's just
21 noise. The shell casings, the unfired bullets, the
22 fired bullets, the bullet holes in Mr. Brown's
23 trailer, the GSR kit, none of it is probative to the
24 question at issue. None of it sheds light on whether
25 or not he had a gun in his hand when he walked to the

1 front door. The only reason it is there is to crowd
2 the main issue and to shape your perspective from that
3 question -- did he point the gun at Officer Krapf.

4 Charles has never contested that he had a gun or
5 bullets. He's never contested that he fired that gun
6 prior to police arriving on-scene and announcing
7 themselves. In fact, the only thing that Charles ever
8 contested was that he had a gun in his hand when he
9 walked to his door, and that he pointed that gun at
10 Officer Krapf. That is the only question that is
11 before you. That is the only thing that you have to
12 decide. Nothing else matters.

13 So, let's review the testimony and the evidence
14 that you heard. You heard from Corporal Krapf; and he
15 responded to a shots-fired call; and as he gets on-
16 scene, he hears more gunshots. Immediately, this is a
17 tense situation for all involved. There's adrenaline,
18 there are nerves. He's in a position 25 to 30 yards
19 away from where Mr. Brown is.

20 I'm a visual person, so to understand that
21 distance for me, I have to think of a football field,
22 or laying 30 yardsticks end to end to end to
23 understand how far away that is. He is far away and
24 in a poorly-lit area. An area that Master Sergeant
25 Thomas described as very dark. He's under a

1 tremendous amount of stress, and he's presented with
2 the idea possibly having to fire his service weapon at
3 another person for the first time... I can't imagine
4 the stress that he was under that night, from far
5 away, in a dark area. Knowing that place where
6 bullets had been fired, where there was a weapon on
7 the scene. And he says he saw that gun, and so he
8 fired that shot. And then, Mr. Brown stepped back and
9 to the left, away from the sofa, and then they started
10 to call him out: come out, keep your hands up, let me
11 see your hands. And still the question of does he
12 have a gun, I can't tell if he has a gun, we heard it
13 all on the video. Uncertainty. All of this, all of
14 that was going on that evening affects his perception.
15 It has to be weighted evaluating his testimony.

16 Sergeant Stuckey also testified. He was the
17 first on-scene. Again, gets there, hears gunshots.
18 It is a high-stress situation in a dark area. And he
19 said, again, he was 25 to 30 yards away from the
20 trailer, possibly more, and at an angle. He gave the
21 standard commands to Mr. Brown: show your hands, drop
22 any weapons. These are commands that they would give
23 to ensure officer safety. Only after hearing Corporal
24 Krapf say to drop the gun does Corporal -- Sergeant
25 Stuckey begin using those words, to drop the gun."

8-29-17 STATE V BROWN

CLOSING ARGUMENT DEFENSE

1 Because Corporal Stuckey testified he didn't know what
2 was in Charles' hand. He saw something dark and
3 small, but he didn't tell you that it was a gun. And
4 that's important, because those are two different
5 perceptions of what happened that night. And again,
6 he said there's something small in his hands,
7 something small and dark.

8 Ladies and gentlemen, you get to see that gun.
9 It's not a small weapon. You know what other small
10 things there were that night? There was that Crown
11 Royal bag. It was pretty small. There's testimony
12 that Charles had a cell phone. That's pretty small.
13 There's also a black pocket knife that he had. That
14 was small.

15 Finally, we had testimony from Special Agent
16 Claycomb, and she talked about what she did on the
17 scene, evidence that she collected. The big thing we
18 got from her was a lot of great photographs. The
19 first thing to remember about those photographs is
20 that they've been brightened with a flash. What
21 you're seeing, while it is depicting the scene, it is
22 not depicting the lighting, and that's important;
23 because again, we're talking about a very far distance
24 at a very dark time.

25 Also recall that she testified she had to

1 actually change the camera setting in order to be able
2 to take the photographs. And then, she told us how
3 they found the revolver sitting on the arm of the
4 sofa. A revolver sitting, if I am standing in the
5 doorway, with the butt of the gun facing the doorway,
6 facing out, and the barrel facing towards me. Look at
7 the photos of the gun. Look how it's placed on the
8 arm of the couch. That wasn't thrown there or dropped
9 there in urgency. That was placed there. It was
10 balanced there carefully. That gun is heavy in the
11 back than in the front, and you can feel the weight.
12 It had to be deliberately set on the arm of the couch.
13 And if it was deliberately sat on the arm of a couch
14 by an individual who had just had a bullet go through
15 his other hand, then why isn't there blood on it? Why
16 isn't there blood on the sofa? It is dark. It is a
17 dark sofa, but you would see the bright red blood.
18 Look at the photos. All of that evidence is there.

19 When you take all of this together, what do we
20 have? Well, we have officers that are far away, under
21 extreme intense pressure, in a very dark area, with
22 conflicting perceptions. One who swears there was a
23 gun, swears it; and one who doesn't know, who saw
24 something small and dark. You've got a gun balanced
25 -- balanced on the arm of a sofa, but there's no blood

1 on it or the sofa. And you have Charles in his home,
2 who stepped back and to the left of the door frame,
3 away from where the couch was, with a bleeding left
4 hand and an empty right one. And consider that wound,
5 that bullet wound, that traveled through the left side
6 of the doorframe, and through his palm, and then
7 struck him on the right side of the chest. Consider
8 it more likely that he was raising something to fire,
9 or was he simply bringing up his hands, and he had
10 something in them?

11 Ladies and gentlemen, I'm not trying to fault
12 Officer Krapf. I fully believe that was an incredibly
13 tense situation for him, and that he was under
14 enormous pressure. I believe that he fully believes
15 that Charles had a gun that night, and that he
16 believes -- and that he feels justified in his
17 actions. But he is the only individual with that
18 perception, and the evidence does not support that.

19 One of the things that we all benefit from by
20 living in this country is the right to a jury trial,
21 and the right to be presumed innocent, and the right
22 to have an impartial and fair jury determine -- not
23 convict unless a determination has been made; that
24 evidence has been presented; and that evidence goes
25 over the burden of reasonable doubt.

1 When we talked about reasonable doubt earlier I
2 told you that I like to think of it as that brick
3 wall, and it stands to protect anyone who's accused of
4 a crime. When your Honor speak here momentarily, she
5 might tell you -- frame it as the kind of doubt that
6 causes a reasonable person to hesitate to act. There
7 are a lot of times in our day-to-day life when we make
8 decisions: what am I going to wear; what do I eat for
9 lunch; what should I buy for dinner tonight. Those
10 are every-day decisions. There are also times in our
11 life when we make big decisions: should I get
12 married; should we have kids; should I buy a house.
13 But when we decide not to do something, something big,
14 it's because we hesitate. We look at the brick wall,
15 and we say no, there are too many reasons to not do
16 it.

17 Today your decision is so important, because it's
18 not dealing with a home or a car or a house; it's
19 dealing with someone else's liberty. You're talking
20 about Charles' freedom, and so hesitation today means
21 not guilty. Hesitation today means that you've looked
22 at what the State has presented to you and said, I
23 can't; it's not enough; I'm not comfortable saying
24 guilty when that's all they have.

25 Last thing I want to say is that, sometimes in

8-29-17 STATE V BROWN

JURY CHARGE

1 life, people can't agree on matters. That is true in
2 a courtroom, and that is certainly true in the jury
3 deliberation. But in order to convict Charles of
4 pointing and presenting a firearm at another
5 individual, you all have to be in total agreement.
6 That is not to say that one voice is more powerful
7 than another, and that is not to say that you all must
8 speak with one voice; because you are all individuals,
9 and you all have to make up your own mind. Don't let
10 go of your individual vote. Be sure of what your vote
11 is, and hold onto it carefully and conscientiously.
12 Our faith is in you to bring back a verdict that is
13 true to the law and the facts in this case, a verdict
14 that speaks not enough, not comfortable, hesitation.
15 A verdict that speaks not guilty.

JURY CHARGE:

16
17 THE COURT: Ladies and gentlemen, I remind you
18 that, during this trial, you and I have had certain
19 duties to perform. As a trial judge, it is my
20 responsibility to preside over the trial of this case,
21 and I also have the duty to rule on the admissibility
22 of the evidence that has been offered before you. You
23 are to consider only the competent evidence before
24 you. You must disregard any testimony that was
25 ordered stricken from the record. You are to consider

1 only the testimony that has been presented from the
2 witness stand, and any exhibits that have been made
3 part of the record in this case.

4 I have the additional duty to charge you on the
5 law applicable to this case. As the presiding judge,
6 I am the sole judge on the law in this case. It is
7 your duty as jurors to accept it and apply the law
8 exactly as I state it to you now. If you already have
9 any idea as to what the law is or what the law ought
10 to be, and it does not agree with what I'm about to
11 tell you, you must abandon your own idea, because you
12 are sworn to accept the law and apply the law exactly
13 as I state it to you now.

14 In every case tried in this court before a jury,
15 the jury becomes the sole and exclusive judge of the
16 facts. A trial judge may never make any comment
17 regarding the facts in this case. You, the jury, are
18 the sole judges of the facts of this case. You are
19 not to infer from anything I have said or done
20 throughout the progress of this trial that I have any
21 opinion about the facts in this case. The law does
22 not allow me to have an opinion about the facts in
23 this case. This is a matter solely for you to
24 determine. It is your duty as jurors to determine the
25 effect, value, and weight of the evidence presented

8-29-17 STATE V BROWN

JURY CHARGE

1 during this trial.

2 The indictment charges the defendant with
3 pointing a firearm at a person. I remind you that the
4 fact that the defendant was arrested, charged, and
5 indicted in this case is not evidence in this case,
6 and cannot be considered by you as evidence of guilt
7 in this case, nor does it create any presumption or
8 inference of guilt. The indictment is simply the
9 formal, written instrument which contains the charge
10 made against the defendant. It is the formal document
11 in which this case is brought into court.

12 The defendant has pled not guilty to this
13 indictment. A person charged with committing a
14 criminal offense in South Carolina is never required
15 to prove himself innocent. I charge you, it is an
16 important rule of law that a defendant in a criminal
17 trial, no matter what the seriousness of the charge
18 may be, will always be presumed to be innocent of the
19 crime for which the indictment was issued, unless
20 guilt has been proved by evidence satisfying you of
21 that guilt beyond a reasonable doubt. This
22 presumption of innocence does not end when you begin
23 your deliberations, but it accompanies the defendant
24 throughout the trial, until you reach a verdict of
25 guilt, based upon the evidence, satisfying you of that

1 guilt beyond a reasonable doubt.

2 The State has the burden of proving the defendant
3 guilty beyond a reasonable doubt. Some of you may
4 have served as jurors in civil cases where you were
5 told that it was only necessary to prove that a fact
6 was more likely true than not true, such as by a
7 greater weight, or a preponderance, of the evidence.
8 In criminal cases, the State's proof must be more
9 powerful than that. It must be proof beyond a
10 reasonable doubt. Proof beyond a reasonable doubt is
11 proof that leaves you firmly convinced of the
12 defendant's guilt.

13 There are very few things that we do know in this
14 world with absolute certainty, and in criminal cases
15 the law does not require proof that overcomes every
16 possible doubt. If, based upon your consideration of
17 the evidence, you are firmly convinced that the
18 defendant is guilty of the crime charged, you must
19 find the defendant guilty. If, on the other hand, you
20 think there's a real possibility that the defendant is
21 not guilty, you must give the defendant the benefit of
22 the doubt, and find him not guilty.

23 There are two types of evidence which are
24 generally presented during a trial: direct evidence
25 and circumstantial evidence. Direct evidence directly

8-29-17 STATE V BROWN

JURY CHARGE

1 proves the existence of a fact, and does not require
2 deduction. Circumstantial evidence is proof of a
3 chain of facts and circumstances indicating the
4 existence of a fact. Crimes may be proven by
5 circumstantial evidence. The law makes absolutely no
6 distinction between the weight or value to be given to
7 either direct or circumstantial evidence. However, to
8 the extent the State relies on circumstantial
9 evidence, all of the circumstances must be consistent
10 with each other, and when taken together, point
11 conclusively to the guilt of the accused beyond a
12 reasonable doubt. If these circumstances merely
13 portray the defendant's behavior as suspicious, the
14 proof has failed.

15 The State has the burden of proving the defendant
16 guilty beyond a reasonable doubt. This burden rests
17 with the State, regardless of whether the State relies
18 on direct evidence, circumstantial evidence, or a
19 combination of the two. Necessarily, you must
20 determine the credibility of the witnesses who have
21 testified in this case. Credibility simply means
22 believability. It becomes your duty as jurors to
23 analyze and to evaluate the evidence, and determine
24 which evidence convinces you. In determining the
25 believability of the witnesses who have testified in

1 this case, you may believe one witness over several
2 witnesses, or several witnesses over one witness. You
3 may believe a part of the testimony of a witness and
4 reject the remaining part of the testimony of that
5 same witness. You may believe the testimony of a
6 witness in its entirety, or reject the testimony of a
7 witness in its entirety. You may consider whether any
8 witness has exhibited to you any interest, bias,
9 prejudice, or other motive in this case. You may also
10 consider the appearance and manner of a witness while
11 that witness was on the witness stand.

12 As I indicated to you earlier, the rules of
13 evidence ordinarily do not permit witnesses to testify
14 to opinions or to conclusions. An exception to this
15 rule exists for witnesses we call expert witnesses. A
16 witness who, by education and experience, has become
17 expert in some art, science, or professional calling
18 may state an opinion as to a relevant and material
19 matter in which the witness does claim to be an
20 expert, and may also state the reasons for that
21 opinion. You should consider any expert opinion
22 received into evidence in this case like any other
23 evidence. Give it the weight you think it deserves.
24 If you decide that the opinion of an expert witness is
25 not based on sufficient education or experience, or if

8-29-17 STATE V BROWN

JURY CHARGE

1 you conclude that the reasons given in support of the
2 opinion are not sound, or that the opinion is
3 outweighed by other evidence, you may disregard that
4 opinion entirely. An expert witness's testimony
5 should be given no greater weight than that of any
6 other witness, simply because the witness is an
7 expert.

8 Further, you are not required to accept an
9 expert's opinion, even though it is not contradicted.
10 In order to establish criminal liability, criminal
11 intent is required. For example, the minimum state
12 [[sic] required to be proven by the State for a
13 particular crime might be purpose, intent, knowledge,
14 recklessness, or negligence. Criminal intent must be
15 proven by the State beyond a reasonable doubt.
16 Criminal intent is always a matter that must be
17 determined by you, the jury, from the circumstances
18 surrounding the situation. There is no way to prove
19 intent to a mathematical certainty. There is no way
20 medical science can dissect a person's brain and
21 determine what the person had in mind. So, the law
22 says that criminal intent may be inferred from the
23 circumstances shown to have existed.

24 This is how you make a determination of whether
25 or not the element requiring intent was present. It

8-29-17 STATE V BROWN

JURY CHARGE

1 is not necessary to establish intent by direct and
2 positive evidence; but intent may be established by
3 inference, in the same way as any other fact, by
4 taking into consideration the acts of the parties, and
5 all the facts and circumstances of this case.

6 Criminal intent is a mental state. It is conscious
7 wrongdoing. It is up to you to determine whether the
8 defendant intended to do, based upon the circumstances
9 shown to have existed. Criminal intent can arise from
10 action or a failure act. It may arise from
11 negligence, recklessness, or indifference to duty; or
12 to consequences that is considered by the law to be
13 the equivalent of criminal intent. The defendant is
14 charged with pointing and presenting a firearm. The
15 State must prove beyond a reasonable doubt that the
16 defendant presented or pointed a loaded or unloaded
17 firearm at another person. Under the law in South
18 Carolina, to present means to offer to view in a
19 threatening manner, or to show in a threatening
20 manner.

21 I instruct you and emphasize that the fact that
22 the defendant did not testify is not a factor to be
23 considered by you in any way in your deliberation, and
24 in your consideration on the question of the guilt or
25 the innocence of the defendant. It must not be

8-29-17 STATE V BROWN

JURY CHARGE

1 considered by you in any manner whatsoever. A
2 defendant has the constitutional right to remain
3 silent, and the assertion of this right must not be
4 considered by you in your deliberations. I repeat,
5 under your oath, you are to draw no conclusion
6 whatsoever from the fact that the defendant in this
7 case did not testify.

8 Madam Foreperson, the fact that the defendant did
9 not testify should not even be discussed in the jury
10 room. The burden of proof, as I have stated to you,
11 is on the State. The defendant is not required to
12 prove his innocence. The burden of proof remains on
13 the State to prove guilt beyond a reasonable doubt.

14 Ladies and gentlemen, I'm now going to go over
15 the verdict form with you. There's absolutely no
16 significance in the way that I placed it on the paper.
17 And Madam Foreperson, you are responsible for
18 completing this verdict form.

19 *State of South Carolina, County of*
20 *Beaufort versus Charles Brown. We, the jury,*
21 *find the defendant not guilty; or we, the*
22 *jury, find the defendant guilty of pointing*
23 *a firearm at a person.*

24 Ladies and gentlemen, once you have reached a
25 unanimous decision, you will sign it, Madam

8-29-17 STATE V BROWN

JURY CHARGE

1 Foreperson, and date at the bottom, indicating you
2 have reached a unanimous decision. A unanimous
3 decision means all twelve of you must agree. Once you
4 have done that, you will sign it, the verdict form,
5 and alert the bailiff by knocking on the door that you
6 have reached a unanimous decision. Is there anyone of
7 my first twelve who, for whatever reason, would be
8 unable to complete your deliberation? If so, please
9 stand.

10 Thank you. All twelve have indicated that they
11 are able to complete the deliberation.

12 What that means for you, my alternate, is that
13 you've completed your service at this time; but I'm
14 going to ask that you stay with us until the first
15 twelve have been given the evidence, and they have
16 indicated to the bailiff they have begun their
17 deliberations.

18 Ladies and gentlemen, this is the last time I'm
19 going to say this to you. Do not begin your
20 deliberations. Do not discuss this case amongst
21 yourselves. We're gathering the verdict form and the
22 evidence to go back with you. It is my policy, I do
23 not send the firearm and the ammunition back to you
24 together. So, we will make a decision. One will come
25 back, and if you want to look at the other items, if

8-29-17 STATE V BROWN

JURY CHARGE

1 you will alert the bailiff, and they will make that
2 exchange for you. Just my safety policy. Please do
3 not draw any inference from that, it's just the way I
4 conduct my courtroom. Please take all of your
5 belongings with you this time.

6 BAILIFF: Bring your notebooks.

7 THE COURT: Do you want the alternate to go with
8 you, and you'll bring him back.

9 BAILIFF: I'll bring him with me for now, and
10 then would you like him back here, your Honor?

11 THE COURT: No. He just needs to be in a
12 separate location.

13 BAILIFF: Yes. Yes, your Honor.

14 THE COURT: Please rise for the jury.

15 JURORS LEAVE COURTROOM 2:38 P.M.

16 THE COURT: Thank you. Be seated. Any
17 objections or exceptions to the charges from the
18 State?

19 MS. STAGGS: Nothing from the State, your Honor.

20 THE COURT: And from the defendant?

21 MS. SAXON: Nothing, your Honor.

22 THE COURT: We will be at ease. Please hand the
23 verdict form and the evidence. And please take the
24 ammunition. And so, just for ease of the bailiff,
25 what exhibit numbers are those?

8-29-17 STATE V BROWN

JURY CHARGE

1 MS. STAGGS: I know that -- I don't have my
2 master list.

3 COURT REPORTER: What are you looking for?

4 THE COURT: The ammunition.

5 COURT REPORTER: That would be --

6 MS. STAGGS: 34 is the bag of ammunition. And
7 then, believe that 33 -- I'm sorry, 2 is -- or 33 was
8 the gun. It was number 2.

9 COURT REPORTER: 33 is the gun.

10 MS. STAGGS: Is that correct?

11 COURT REPORTER: 33 is the gun.

12 MS. STAGGS: Okay. And then, 34 is the --

13 COURT REPORTER: And 34 is the --

14 MS. SAXON: 34 is the active -- the still-live
15 ammo, your Honor. I believe 35 through 38.

16 COURT REPORTER: And 33 is the firearm.

17 MS. STAGGS: Right. So that Number 34 and Number
18 33 cannot go back at the same time.

19 THE COURT: So everyone -- you both agreed that
20 33 will go back first?

21 MS. STAGGS: Yes, your Honor.

22 MS. SAXON: Yes, your Honor.

23 COURT REPORTER: 33 is the gun.

24 THE COURT: So you're going to hold 34 out until
25 they ask for it.

8-29-17 STATE V BROWN

NOTE FROM JURORS

1 BAILIFF: Okay.

2 THE COURT: Thank you.

3 BAILIFF: Um-hmm.

4 COURT REPORTER: Are you all ready to go over the
5 exhibits?

6 MS. SAXON: Absolutely.

7 ATTORNEYS AND COURT REPORTER

8 REVIEWING EXHIBITS.

9 EXHIBITS AND VERDICT FORM TAKEN

TO JURORS 2:42 P.M.

THE COURT: All right. We'll be at ease.

MS. STAGGS: Thank you.

MS. SAXON: Thank you, your Honor.

OFF THE RECORD 2:42 P.M.

BACK ON THE RECORD 3:20 P.M.

NOTE FROM JURORS:

THE COURT: We have received a note that the jury would like to re-visit State's Exhibit Number 2. We will mark this as Court's Number 2. We had received a previous note inquiring whether the defendant was right handed or left handed. Counsel for the State and the Defendant indicated that the defendant was right handed, and that was the message sent back to the jury. That will be Court's Number 3.

ITEM IDENTIFIED AS FIRST NOTE FROM

8-29-17 STATE V BROWN

NOTE FROM JURORS

JURORS MARKED COURT'S EXHIBIT NUMBER 2.

ITEM IDENTIFIED AS SECOND NOTE FROM

JURORS MARKED COURT'S EXHIBIT NUMBER 3.

THE COURT: All right. Anything before we bring in the jury?

MS. STAGGS: Nothing from the State, your Honor.

THE COURT: Nothing. Nothing.

BAILIFF: Yes, ma'am.

THE COURT: Is the State here?

BAILIFF: Ready, your Honor?

THE COURT: Yes.

BAILIFF: The jury is entering the courtroom, your Honor.

JURORS ENTER COURTROOM 3:22 P.M.

THE COURT: Thank you. Please be seated.

RE-PLAYING STATE'S EXHIBIT NUMBER 2,
IDENTIFIED AS COPY OF DVD OF IN-CAR
VIDEO OF CORPORAL TROY KRAPF.

END RE-PLAY OF STATE'S EXHIBIT NUMBER 2,
IDENTIFIED AS COPY OF DVD OF IN-CAR
VIDEO OF CORPORAL TROY KRAPF.

THE COURT: Madam Foreperson, do you need anything further?

MADAM FOREPERSON: No, ma'am.

THE COURT: All right. You may retire to your

8-29-17 STATE V BROWN

VERDICT

jury room and continue with your deliberations.

JURORS LEAVE COURTROOM 3:38 P.M.

THE COURT: Thank you. Be seated. Anything further?

MS. STAGGS: Nothing from the State, your Honor.

MS. SAXON: Nothing from Defense, your Honor.

OFF THE RECORD 3:38 P.M.

BACK ON THE RECORD 5:17 P.M.

VERDICT:

BAILIFF: All rise. Please come to order.
Court's now back in session.

THE COURT: Thank you. Please be seated. We have a verdict. Anything before we bring in the jury?

MS. STAGGS: Nothing from the State, your Honor.

MS. SAXON: Nothing from the Defense, your Honor.

THE COURT: Please bring them in.

BAILIFF: Yes, ma'am.

BAILIFF: The jury is entering the courtroom,
your Honor.

JURORS ENTER COURTROOM 5:18 P.M.

THE COURT: Thank you. Please be seated. Madam Foreperson, if you'll hand the verdict to the bailiff.

Madam Clerk.

MADAM CLERK: *State of South Carolina,*

County of Beaufort, in the Court of General

*Sessions for the Fourteenth Judicial Court,
Indictment 2016-GS-07-1340, State of South
Carolina versus Charles Claston Brown, we,
the jury, find the defendant, Charles Claston
Brown, -- we, the jury, find the defendant,
Charles Claston Brown, guilty of pointing a
firearm at a person.*

Signed by Virginia [[sic] Vega, Foreperson,
August 29, 2017.

THE COURT: Thank you. Anything further required
of the jury from the State?

MS. STAGGS: Nothing from the State, your Honor.

THE COURT: From the defendant?

MS. SAXON: Your Honor, we'd just ask that you
poll the jury.

JURORS POLLED:

THE COURT: Ladies and gentlemen, we're going to
poll you. It's a common occurrence. It happens in
almost every criminal case.

Please poll the jury using your jury numbers.

MADAM CLERK: Juror Number 27, is that your
verdict?

JUROR NUMBER 27: Yes.

MADAM CLERK: Is that still your verdict?

JUROR NUMBER 27: Yes.

8-29-17 STATE V BROWN

VERDICT

MADAM CLERK: Juror Number 177, was that your verdict?

JUROR NUMBER 177: Yes.

MADAM CLERK: Is it still your verdict?

JUROR NUMBER 177: Yes.

MADAM CLERK: Juror Number 173, was that your verdict?

JUROR NUMBER 173: Yes.

MADAM CLERK: Is it still your verdict?

JUROR NUMBER 173: Yes.

MADAM CLERK: Thank you. Juror Number 367, is that your verdict?

JUROR NUMBER 367: Yes, ma'am.

MADAM CLERK: Is it still your verdict?

JUROR NUMBER 367: Yes, ma'am.

THE COURT: Thank you, ma'am. Juror Number 345, was that your verdict?

JUROR NUMBER 345: Yes.

MADAM CLERK: Is it still your verdict?

JUROR NUMBER 345: Yes.

MADAM CLERK: Thank you, ma'am. Juror Number 94, was that your verdict?

JUROR NUMBER 94: Yes, ma'am.

MADAM CLERK: Is that still your verdict?

JUROR NUMBER 84: Yes, ma'am.

8-29-17 STATE V BROWN

VERDICT

MADAM CLERK: Thank you, sir. Juror Number 327,
was that your verdict?

JUROR NUMBER 327: Yes.

MADAM CLERK: Thank you, sir. Juror Number 139,
was that your verdict?

JUROR NUMBER 139: Yes, ma'am.

MADAM CLERK: Thank you, ma'am. Juror Number
358, was that your verdict?

JUROR NUMBER 358: Yes.

MADAM CLERK: Is that still your verdict?

JUROR NUMBER 358: Yes.

MADAM CLERK: Thank you, ma'am. Juror Number
208, was that your verdict?

JUROR NUMBER 208: Yes, ma'am.

MADAM CLERK: Is that still your verdict?

JUROR NUMBER 208: Yes, ma'am.

MADAM CLERK: Thank you, sir. Juror Number 80,
was that your verdict?

JUROR NUMBER 80: Yes.

MADAM CLERK: Is that still your verdict?

JUROR NUMBER 80: Yes.

MADAM CLERK: Thank you, ma'am. Juror Number
318, was that your verdict?

JUROR NUMBER 318: Yes.

MADAM CLERK: Is that still your verdict?

8-29-17 STATE V BROWN

SENTENCING

JUROR NUMBER 318: Yes.

MADAM CLERK: Thank you, ma'am.

BY THE COURT:

THE COURT: Thank you. Anything further?

MS. SAXON: No, your Honor. Thank you.

THE COURT: Anything further from the State?

MS. STAGGS: Nothing, your Honor.

THE COURT: Okay. Ladies and gentlemen, this concludes your service to this case. Please go back to your jury room. I'll be there in just a few moments to personally thank you for your service to Beaufort County. Please rise for the jury.

BAILIFF: Follow me, please.

JURORS LEAVE COURTROOM 5:22 P.M.

SENTENCING:

THE COURT: You may be seated. Do you have your sentencing sheet?

MS. STAGGS: I do, your Honor.

THE COURT: Ready to go forward at this time?

MS. SAXON: We are, your Honor.

THE COURT: Are you ready?

CHARLES CLASTON BROWN: Yes, ma'am. Yes, ma'am.

THE COURT: All right. I have heard the testimony. Anything further on behalf of the State?

MS. STAGGS: Just his prior record, your Honor.

THE COURT: All right. You need to sign this, Madam Solicitor. And we don't use Wite-Out on sentencing sheets.

HON. MARY J. LEMPESIS: Judge, that's my apologies. I told her not -- she signed it, and then I told her not to, because we usually don't sign it after a verdict from the jury.

THE COURT: You need to sign it. They don't have to.

HON. MARY J. LEMPESIS: Sure. Thank you, your Honor. I didn't know that, and that's not we had done in the past, so I apologize. That was my fault. I told Ms. Staggs to white it out.

THE COURT: Okay. Well, we never -- regardless, we never white out sentencing sheets.

HON. MARY J. LEMPESIS: Okay.

MS. STAGGS: I can easily correct that mistake. Actually, I can scratch the Wite-Out right off of it, and it's signed.

THE COURT: Can you just not print me another one?

MS. STAGGS: I can happily print you another one as well.

THE COURT: That's great. All right, prior record, I've heard it.

8-29-17 STATE V BROWN

SENTENCING

MS. STAGGS: In it's entirety, if I may, Judge. He has a 1995 CDV; a 1996 CDV; a 1997 CDV; 1998 armed robbery; a 2011 CDV; 2014 entering premises after warning; and in 2015, a resisting arrest, as well as an A and B second, your Honor.

THE COURT: And the State, you're asking for the maximum of five years. Is that correct?

MS. STAGGS: Yes, your Honor.

THE COURT: Does the victim wish to address the Court?

CORPORAL TROY KRAPP: No, Judge. Thank you.

THE COURT: Thank you. Ms. Saxon, happy to hear from you.

MS. SAXON: Thank you, your Honor. Charles is a 40-year-old man, and he has lived in Beaufort his entire life. He has three children who are all grown, but all very much a part of his life. And he is very much a part of his family's life. His parents have been at other hearings. They're out of town right now, unfortunately, right now, so they could not be here for the trial. But they are around and they do support him and they do want him home.

Your Honor, he has spent, I think as of today, 415 days in the Detention Center. And if I'm wrong on that number -- yeah, he's getting it out and that's

correct. 415 days in the Detention Center, so in any sentence your Honor crafts, of course we would ask for credit for that time as served.

What I want to tell you about Charles, what we did not get into in the trial, because we didn't feel it was relevant, is that Charles does have a mental health disorder. He was diagnosed bipolar schizophrenic right around the time that he was arrested for the armed robbery charge. That was the first time in his life that someone said, hey, this is why things seem a little bit different to you; this is why the world reacts in a different way to what you're going on.

Since that, he has -- when he's medicated, he's fantastic. As you've seen, he is a very pleasant gentleman. He's polite. He carries on good conversation. And it is only when there is no -- when he is off of medicine or if he is doing something else with his medicine that he tends to find himself in trouble or having a rough go of things.

Your Honor, as you can see if you look at the *Blair* hearing we had done, the competency report, you will see that. But the doctor that evaluated Mr. Brown found that at the time of this incident, he was in the middle of a schizophrenic break, but that there

8-29-17 STATE V BROWN

SENTENCING

was also enough there for him to be considered competent for the actions that were taken.

He works. He's always been a hard worker. Prior to this, he was working for a construction company. He has generally, your Honor, I would just like to tell you that he is a good, kind, individual. This incident, I don't think, is reflective of who he is. In all of the issues he's had with law enforcement, they're directly relate back to his mental health problems that he has had over the course of his life, which he has been dealing with roughly since he was about 17 years old, is my understanding.

Your Honor, we feel that a sentence that doesn't exceed the three years is more than sufficient in this case, and we'd ask you not to exceed that part.

I don't know if Charles wants to say anything on his behalf or.

THE COURT: Sir, is there anything you wish to say? You have been found guilty. You understand you have the right to appeal this sentence that I'm about to impose, but you or your attorney must do so within ten days. Do you understand?

CHARLES CLASTON BROWN: Yes, your Honor, I understand.

THE COURT: All right. And oftentimes,

defendants don't wish to speak to me because they've been told that they need not to say anything because they're preserving their appellate rights. So, if you choose to speak to me, that's fine. If you choose not to, I understand that you probably have been advised not to. Happy to hear from you, if you choose to.

CHARLES CLASTON BROWN: Well, I like to say I'm sorry -- I'm sorry for the whole situation. You know, I was found guilty, but I don't remember pointing a gun at nobody, you know. But what was said is done, and you know, I have to live with it. But you know, I'm a good person. You know, I have no intentions on when I get out and I will get out..

Being no career criminal, you know. I take my medication. I do what I'm supposed to do. And it's an unfortunate situation, you know. All I can say is, you know, I apologize to anything that, you know, I caused to be in this situation with me. And that's all I can say.

THE COURT: Thank you.

MS. SAXON: And your Honor, just by way of a slight bit of background, the -- what alleged the situation -- well, I guess it's not relevant at this point.

THE COURT: I'm sorry. Say that again.

8-29-17 STATE V BROWN

SENTENCING

MS. SAXON: It's not relevant, your Honor, at this point. I would just ask you to take into account everything; the individual that Charles is; the time that he has done; as well as he did obviously suffer damaging to his hand; it is still impaired; he doesn't have a full range of motion anymore; in crafting your sentence.

THE COURT: Taking all that into consideration, Mr. Brown, I have no doubt that you are not the same man that was at that residence on that evening. You have been appropriate in my two days having you in my courtroom, and for that I thank you. But what you did commit and your prior record, it is the order of the Court on 2016-GS-07-1340 that you be committed to the State Department of Corrections for a term of five years. I'll give you credit for 415 days. I'm going to order ATU, and I'm going to make sure that your mental health evaluation is updated. Good luck to you, sir.

CHARLES CLASTON BROWN: Thank you.

THE COURT: Anything further with relation to Mr. Brown?

MS. STAGGS: Nothing, your Honor. Thank you.

MS. SAXON: Nothing, your Honor. Thank you.

THE COURT: Thank you. All four of you were very

competent attorneys. It was a pleasure trying this case with you.

MS. STAGGS: Thank you, your Honor.

MS. SAXON: Thank you, your Honor.

THE COURT: Good luck to you, Mr. Brown.

CHARLES CLASTON BROWN: Thank you.

END DAY TWO, END TRIAL, MONDAY,

AUGUST 29, 2017, 5:30 P.M.

8-28-17 STATE V BROWN

CERTIFICATE OF REPORTER

CERTIFICATE OF REPORTER

AUGUST 28 AND 29, 2017 TRANSCRIPT OF TRIAL
STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

I, Wanda H. Rowe, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing August 28 and 29, 2017 Transcript of Pretrial Hearing and Trial is a true and accurate record of the proceedings had and exhibits admitted on said dates, in the case of State of South Carolina versus Charles Claston Brown, Beaufort County, Court of General Sessions, Case Number 2016-GS-07-01340; that I am of neither kin, counsel, nor interest to any party hereto.

This Certificate of Reporter contains my digital signature and is attached to the original of this transcript requested by SCCID. Pursuant to SCACR 607, requests for copies of this transcript must be made to the court reporter. Unauthorized copying/emailing is prohibited.

Witness my signature December 25, 2017.



Wanda H. Rowe, CVR-M
Official Court Reporter



Forensic Psychiatry Program
 Department of Psychiatry and Behavioral Sciences
 29C Leinbach Drive
 Charleston, SC 29407
 Tel 843.792.1461
 Fax 843.792.2254
 www.musc.edu

April 6, 2017

Jessica Saxon, Esquire
 P.O. Box 525
 Beaufort, SC 29901

Re: The State of South Carolina v. Charles C. Brown
 Department of Mental Health #: 970-0043
 Beaufort County, Court of General Sessions

Dear Attorney Saxon:

In accordance with the court order issued by the Honorable Michael G. Nettles, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. §17-24-10 (1976).

If the court order specifies either an "evaluation requested by either party after defendant's assertion of insanity defense" or an "evaluation requested by consent of both parties at any time," both the solicitor and the defense attorney will find a copy of the SCDMH report attached to this letter. However, if the court order specifies an "ex parte evaluation requested by defendant prior to assertion of insanity defense," only the defense attorney will find a copy of the SCDMH report attached to this letter.

This twenty page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. §44-23-410 (1976).

4/6/17

Date

Allison T. Floyd

Allison Floyd
 Forensic Administrative Assistant

cc: Dustin Whetsel, Esquire
 Cathy Garner



CRIMINAL RESPONSIBILITY EVALUATION

Examinee: Charles Brown

DOB:

DMH#: 970-0043

Date of Evaluation: 02/13/17

First Examiner: Sheresa Christopher, Ph.D.

Report Date: 04/05/17

Charge(s): Pointing and Presenting Firearms at a Person

IDENTIFYING DATA: Mr. Brown is a 40-year-old male (DOB:) currently charged with Pointing and Presenting Firearms at a Person for the alleged events occurring on 07/09/16. An evaluation of his criminal responsibility and capacity to conform was ordered by consent of both parties on 12/12/16 by The Honorable Michael G. Nettles of the Beaufort County Court of General Sessions pursuant to S.C. Code Ann. §17-24-10 (1976). The basis for the order reads:

"Mr. Brown has been diagnosed [*sic*] with bipolar schizoaffective disorder [*sic*] and is believed to have been using drugs and alcohol prior to the event. Per the report Mr. Brown states that during the time leading up to the altercation people were attempting to kill him, there were infrared lights shining on and from under his house, that he could feel something inside his home nudging him and that he was hearing things. He further reports that on the evening of the incident once he realized the people were officers he became [*sic*] afraid to come out because they might be dirty cops. Based on these statements I have concerns that Mr. Brown was not fully aware of reality during this incident with law enforcement and would have been unable to conform his behavior [*sic*] to the law."

Mr. Brown is currently detained at Beaufort County Detention Center (BCDC) and was transported for evaluation on 02/13/17 to the Medical University of South Carolina (MUSC) Forensic Psychiatry Program.

CRIMINAL RESPONSIBILITY: Yes. It is my opinion that Mr. Brown had the capacity to distinguish moral or legal right from moral or legal wrong and to recognize the particular act charged as morally or legally wrong pursuant to S.C. Code Ann. §17-24-10 on the day of the alleged offense.

CAPACITY TO CONFORM: Yes. It is my opinion, to a reasonable degree of psychological certainty, that Mr. Brown had the capacity to conform his behavior to the requirements of the law pursuant to S.C. Code Ann. §17-24-20 (1976) on the date in question.

DISCLOSURE OF NON-CONFIDENTIALITY: Mr. Brown was informed about the nature of the forensic evaluation prior to the interview. Specifically, he was informed the judge in his case has ordered a forensic evaluation regarding his criminal responsibility and capacity to conform. It was explained that any observations and information he provided would not be held confidential, and would be included in a written report submitted to defense counsel, the solicitor and the judge. The possibility of oral testimony in the matter was presented. Mr. Brown read the notification out loud with ease. When asked, Mr. Brown recalled the purpose of the current evaluation ("Evaluation of my mental state... what my mental state was during the incident and I recon what it is now"). He expressed understanding regarding the non-confidential nature of the evaluation noting evaluators

Name: Charles Brown

DMH#: 970-0043

1

Medical University of South Carolina
Forensic Psychiatry Program

will write a report and "forward it to the judge and the solicitor and my lawyer." Based upon his responses, it is my opinion that he understood the nature and purpose of the evaluation. Mr. Brown read and signed the notification form and expressed a willingness to proceed.

SOURCES OF INFORMATION:

1. Telephone interview with Mr. Charles Brown, Sr. (Mr. Brown's father) on 04/04/17 for 17 minutes;
2. Telephone interview of mental health at Beaufort County Detention Center on 04/04/17 for 5 minutes;
3. Clinical interview of Mr. Brown on 02/13/17 for two hours and 30 minutes at the Medical University of South Carolina (MUSC) Forensic Psychiatry Program;
4. Order for Criminal Responsibility and Capacity to Conform Evaluation signed by Judge Michael G. Nettles of the Beaufort County Court of General Sessions, dated 12/12/16;
5. Records from Beaufort County Detention Center (BCDC), dated 07/22/16-07/23/16;
6. South Carolina Law Enforcement Division documents, to include:
 - a. Crime Scene Investigation Summary for Case #31-16-0076, dated 08/24/16;
 - b. Forensic Services Report for Case #31-16-0076, dated 08/01/16;
 - c. Memorandum of Interview of Mr. Charles Brown, dated 07/12/16;
 - d. Memorandum of Interview of "J.E.C.", dated 07/10/16;
 - e. Memorandum of Interview of "M.C.", dated 07/10/16;
 - f. Voluntary Statement of "J.E.C.", dated 07/10/16;
 - g. Voluntary Statement of "J.R.S.", dated 07/10/16;
 - h. Voluntary Statement of "T.A.K.", dated 07/10/16;
7. Beaufort County Sheriff's Office Affidavit and Arrest Warrant #2016A0710200241, dated 07/9/16;
8. Beaufort County Sheriff's Office Deputy Report for Incident #16S148882, dated 07/09/16 to 8/15/16;
9. Records from Coastal Empire Mental Health Center, dated 08/23/12 to 01/03/17;
10. Records from Beaufort Memorial Hospital, dated 02/08/97 to 07/10/16;
11. Records from G. W. Bryan Psychiatric Hospital, dated 01/16/97 to 11/25/97;
12. Five compact discs containing audio and video footage and entitled as follows (undated):
 - a. "Charleston Claston Brown in car video disc 1 of 3; Attachment #27";
 - b. "Charleston Claston Brown in car video disc 2 of 3; Attachment #27";
 - c. "Charleston Claston Brown in car video disc 3 of 3; Attachment #27";
 - d. "Charleston Claston Brown in car video #1 of 2; Attachment #5";
 - e. "Charleston Claston Brown in car video #1 of 2; Attachment #5."

BACKGROUND HISTORY: *The following information has been synthesized from a clinical interview with Mr. Brown and a review of collateral information.*

Familial History: Mr. Brown was born and raised in Beaufort, South Carolina. He indicated he was raised by his biological mother and father and has three sisters and one brother. He described reaching his developmental milestones as expected. He noted his childhood as "good" and denied a history of child maltreatment to include witnessing domestic violence and experiencing neglect, physical abuse, and sexual abuse. Behaviorally, Mr. Brown reported getting into fights (about three) during high school and being truant (once). He otherwise denied significant behavioral problems as

a youth. Mr. Brown described his family relationships as "awesome." He reported a family history of mental illness (a maternal uncle diagnosed with schizophrenia) and denied a family history of substance use. Mr. Brown has never been married. He described experiencing three significant relationships in his life and indicated he has three children (ages 21, 22, and 23). Prior to his arrest, Mr. Brown was living independently in a mobile home. He noted this is the first time he has lived entirely alone as he has spent the majority of his life living with his family or a significant other.

Educational History: Mr. Brown graduated from high school where he earned "B's, C's, [and] a couple of A's." He indicated he was enrolled in general education programming and denied a history of problems learning. He was suspended three times for "fighting" and denied a history of expulsion. As an adult, Mr. Brown completed college classes in Business Administration at Technical College of the Low Country (one year) and online at Everest College of Phoenix (six months). He described earning "A's and B's" in his classes. He was last enrolled in 2013.

Occupational History: Mr. Brown first worked in landscaping and cleaning during the summers in high school (age 14). He subsequently worked at a grocery store and a distribution company in addition to roles as a boom operator, electrician, painter, and delivery driver (sheet rock). He reported his longest job was for two years as a truck driver. He was fired for getting into an argument with a customer. He has no history of military service. Mr. Brown has received disability benefits from the Social Security Administration since 2012 related to a diagnosis of "bipolar schizoaffective" (presumably schizoaffective disorder, bipolar type). Two months prior to his arrest, he intermittently worked in construction with a friend.

Legal History: Mr. Brown was legally involved once as a youth related to fighting with a peer on the school bus. As an adult, he reported he has been arrested "maybe 10 times" related to misdemeanor charges and one felony.

Substance Use History: Mr. Brown reported a history of drinking alcohol and using illicit drugs (crack cocaine, powder cocaine, cannabis, methamphetamine, and mushrooms). He denied a history of misusing prescription medications. Mr. Brown reported his largest problem with substance use is related to use of alcohol and stimulants (powder and crack cocaine). He reported drinking alcohol from age 15 through the night he was arrested. He stated, "I'm not a drinker" and noted his drinking varied. He described no drinking at all or having one 12 ounce beer at times. He reported the most he would drink would be two 40 ounce beers three days per week. He described a history of drinking more heavily at the age of 17 for one year ("drink until we puke"). Mr. Brown described experiencing adverse consequences resulting from alcohol use to include increased tolerance, blacking out, family concern, using more than intended, failed attempts to quit, cravings when not drinking, and use in potentially hazardous circumstances.

Mr. Brown first tried crack cocaine at the age of 18 ("once"). In 2012, he reported his girlfriend of 10 years died of breast cancer and he subsequently began using crack and powder cocaine. He described using crack or powder cocaine "every day I could get it." He would typically use several times per week ("50 dollars' worth") for a period of one year. He subsequently went to a drug rehabilitation program, remained sober for nine months, and subsequently started using crack cocaine again ("once in a blue moon"). He last used on the night of the index offense. Mr. Brown reported his use was increasing in the months before his arrest and he began using "40 dollars'

worth a day." Mr. Brown described several adverse consequences of using crack cocaine (e.g. family concern, using more than intended, failed attempts to quit, and cravings). Mr. Brown smoked cannabis from age 15 through 37 ("a joint, twice"). He reported smoking cannabis daily during 2006 for a period of four months. He denied experiencing adverse consequences associated with cannabis use. Mr. Brown used methamphetamine "twice in my life" in his late 30's. He used mushrooms "once" in the 7th grade. Regarding treatment, he reported a history of going to Alcoholics and Narcotics Anonymous and noted he went to the Palmetto Center (a residential rehabilitation program) in 2013 for 28 days.

Medical History: Mr. Brown reported he had surgery on his right elbow when he broke it in 1991. He has experienced hypertension when overweight in the past. He otherwise described himself as healthy and denied a history of head injury, loss of consciousness, seizure, stroke, and chronic medical ailments. Per records, Mr. Brown presented to Beaufort Memorial Hospital (BMH) on 11/03/15 from Beaufort County Detention Center (BCDC) secondary to a single isolated seizure; he was discharged later that day. It was noted Mr. Brown did not appear to have any cognitive or function deficits at this time.

Psychiatric History: Mr. Brown reported he was diagnosed with "bipolar schizophrenia" at the age of 17. He reported receiving inpatient mental health treatment at G. Werber Bryan Psychiatric Hospital (MPH) three or four times and BMH on at least six occasions. As mentioned above, he has attended the Palmetto Center (once) related to problematic substance use. Mr. Brown has also received outpatient mental health treatment from Coastal Empire Mental Health Center (CEMHC) since the age of 17 while in the community and while incarcerated. He attempted to die by suicide twice previously (age 17 and age 19). He noted an attempt to hang himself resulting in a mental health hospitalization for three to four months (age 17). At age 19, he noted providers told him of his suicidal actions; however, he does not recall the details of his attempt to die by suicide. He denied a history of past self-injurious behavior or homicidal ideation. Mr. Brown reported he has been prescribed psychiatric medication since age 17 and noted he is currently prescribed Abilify (antipsychotic). Mr. Brown reported he has a history of discontinuing psychiatric medications while simultaneously using substances resulting in decompensation of his mental health. He noted in these instances he typically finds himself in jail or in a hospital.

G. Werber Bryan Psychiatric Hospital (BPH): Mr. Brown was involuntarily emergently admitted to BPH from 01/16/97 to 01/29/97 secondary to suicide attempt that was noted to be due to "probable psychosis." He reportedly "tied a heavy duty electric cord to a tree and around his neck, [and] stood on a fence to jump" before his father intervened. Mr. Brown was noted to make the following statements: "I wanted to hand myself, I'm already dead[. T]hey told me I'm strange[.] I tried to get a job[.]" Records indicate Mr. Brown had a history of alcohol use in the past and cocaine and cannabis use "within hours of evaluation." It should be noted a urine drug screen was negative. Upon admission, he was noted to be "blocked in speech" and evidenced delusions (e.g., he believed his home was being bugged with cameras). He was noted to appear depressed with have flat affect (emotional expression). Further, he was noted to be "disheveled, agitated, and requiring physical restraint, with labile affect and hostility, [and] mutism." His judgement was noted to be "overclouded by his anxiety." For the first three days of this admission, Mr. Brown was noted to be "relatively agitated," but was able to calm when taking his medications as prescribed. On the fourth day of this admission, Mr. Brown was found in the bathroom with a belt around his neck. It was

noted no injuries were sustained and he remained calm and responsive. He did not provide hospital staff with information as to why he attempted to die by suicide. After placed on one-on-one observation for three days, precautions were removed. Towards the end of his hospitalization, Mr. Brown denied auditory hallucinations (hearing voices) and did not demonstrate any signs of psychosis. He was compliant with prescribed medications and attended group treatment sessions. He was discharged at "his premorbid level of functioning" and diagnosed with psychosis, not otherwise specified. He was prescribed Haldol (antipsychotic) and Depakote (mood stabilizer).

Mr. Brown was again admitted on emergency papers to BPH from 02/08/97 to 02/12/97 secondary to suicidal ideation on the morning of admission. It was noted that Mr. Brown's paramour told him to leave, he was unable to find a job, and "he did not know how to deal with his children." Mr. Brown maintained he did not want to die, but he just wanted to find a job. Upon admission, Mr. Brown was noted to be "apprehensive and felt guilty. His speech was slow and deliberate." It was further noted, "He expressed guilt feelings of quasi-delusional intensity." He was noted to have flat affect, depressed mood, and feelings of hopelessness and helplessness. Mr. Brown was able to contract for safety. Throughout this admission, he was noted to become more "appropriate, coherent and relevant." He denied experiencing symptoms of psychosis or additional suicidal ideation. "He has not shown any bizarre or threatening behavior." His condition was noted to improve and he was discharged. He was diagnosed with adjustment disorder with depressed mood and history of psychosis, not otherwise specified. He was prescribed Prozac (antidepressant), Benadryl (antihistamine used for side effects at times), and Haldol.

Mr. Brown's last admission to BPH was from 11/17/97 to 11/25/97 to which he was emergently admitted after an altercation with his family and paramour. He was noted to have been recently diagnosed with a personality disorder in addition to the aforementioned mental health diagnoses. Upon admission, he was noted to have "intense affect," poor insight, paranoid ideas about his family, and poor judgement. He was further noted to have threatened his father and fled from law enforcement. He was described as calm, pleasant, with "somewhat depressed" affect. It was noted that he was preoccupied with resuming Prozac to cope with life stressors. A urine drug screen was positive for cannabis. Although initially noted to be calm, within two days of the admission, Mr. Brown became agitated. However, his agitation was "verbally redirectable." He was noted to actively participate in treatment groups, although "he was somewhat volatile and aggressive." At the time of discharge, he did not demonstrate overt symptoms of psychosis or safety concerns; however, it was noted that he demonstrated "some anger during discussion regarding relationship issues." He was diagnosed with adjustment disorder with depressed mood and cannabis dependence and prescribed Prozac.

Beaufort Memorial Hospital (BMH): Mr. Brown was admitted to BMH on several occasions. Brief summaries of relevant visits are described in turn below. Mr. Brown was first seen at BMH on 02/08/97 due to suicidal ideation and was subsequently admitted to BPH. On 12/27/97, he was seen at BMH secondary to increased agitation while incarcerated. He was diagnosed with bipolar disorder and prescribed Depakote (anticonvulsant). He was admitted to BMH from 08/14/09 to 09/15/08 secondary to symptoms of psychosis. Upon admission, he was noted to be agitated, labile, inappropriate, and aggressive. A urine drug screen was positive for cocaine and THC (the chemical compound in cannabis). At discharge, he was diagnosed with schizoaffective disorder, bipolar type; cocaine dependence; and "personality disorders, primarily antisocial." He was prescribed Haldol,

Lamictal (anticonvulsant), Risperdal (antipsychotic), and Zyprexa (antipsychotic). Mr. Brown was involuntarily admitted to BMH from 08/12/11 to 08/17/11 secondary to homicidal ideation. At admission, he endorsed homicidal ideation, auditory hallucinations, and was noted to have blunted, but appropriate affect and thought blocking. Upon discharge, he was diagnosed with schizophrenia, paranoid type, chronic and antisocial personality disorder.

Mr. Brown was voluntarily admitted to BMH from 07/05/15 to 07/20/15 secondary to suicidal ideation and paranoia. Upon admission, he was noted to be restless, appear cooperative, and endorse auditory hallucinations. A urine drug screen was positive for cocaine. He was noted to have a history of medication nonadherence and polysubstance abuse. At discharge, he was diagnosed with schizophrenia, paranoid type, cocaine use disorder, alcohol use disorder, and antisocial personality traits. He was prescribed Abilify, chlorpromazine (antipsychotic), and diazepam (anxiolytic and sedative). Next, Mr. Brown was voluntarily admitted to BMH from 07/25/15 to 07/29/15 secondary to auditory hallucinations and paranoia. Throughout the admission, he was noted to be irritable, paranoid, menacing towards other patients, and religiously preoccupied. It was noted that he "fights sleep, as he is afraid something will happen to him if he is unconscious." Upon discharge on 07/29/15, he was diagnosed with "SAD [presumably schizoaffective disorder], chronic, acute exacerbation," cocaine use disorder, alcohol use disorder, and antisocial personality disorder. He was prescribed Abilify, Ativan, Stelazine, and Ambien (sedative).

On 07/31/15, he presented to BMH stating "They're after me, they all have guns and they have been chasing me through the fields. I am paranoid about them trying to kill me, I am running for my life. They are a lot of people involved and I know y'all are part of the organization too." He was noted to be combative, as he was punching and kicking the walls. A urine drug screen was positive for cocaine and benzodiazepines. He was discharged to Beaufort County Detention Center on 07/31/15 after allegedly assaulting a security officer. Mr. Brown presented on 08/08/15 secondary to symptoms of psychosis, suicidal ideation, auditory hallucinations commanding him to harm others, and visual hallucinations (seeing images in the absence of external stimuli). At this time, he was noted to be nonadherent with psychiatric medications. A urine drug screen was positive for cocaine and benzodiazepines. He was discharged on 08/09/15. Mr. Brown presented to BMH on 08/14/15 via law enforcement secondary to "nervousness and paranoia." He was noted to state he was paranoid and scared that people were going to kill him. He further stated, "I've been taking my meds but they ain't working."

Mr. Brown presented to BMH on 10/24/15 via law enforcement secondary to a domestic dispute between Mr. Brown and his daughter. Upon admission, law enforcement noted he had bizarre behavior, as he appeared to be responding to internal stimuli, had flat affect, and stated his daughter is "a good person, but she is getting in [his] head." A urine drug screen was negative. He was diagnosed with schizophrenia and discharged on 10/25/15. Mr. Brown presented again to BMH on 10/26/15 secondary to auditory hallucinations. Upon admission, he was noted to be disorganized, nonadherent with psychiatric medications for two days prior, focused on psychiatric symptoms, and sexually focused. Per Discharge Summary dated 10/27/15:

"Since admission, he has been sexually focused and inappropriate in groups. Unfortunately, he became physically and sexually inappropriate with staff, intrusive into nurses station, and would not respond to verbal redirection. He touched [a] nurse inappropriately on [the] buttocks, and would not be redirected. He was secluded as [he] was

not able to contract for safety for others. While in seclusion, [he] disrobed, masturbated, and kicked and banged on doors. Beaufort City Police Department was contacted and took [him] into custody."

At discharge, he was diagnosed with "SAD [presumably schizoaffective disorder], chronic, acute exacerbation," cocaine use disorder, alcohol use disorder, and antisocial personality disorder. He was noted to have delusional thoughts, respond to internal stimuli, and voice homicidal ideation.

Coastal Empire Mental Health Center (CEMHC): Mr. Brown presented to CEMHC on 08/23/12 with his father. During the initial interview, Mr. Brown endorsed auditory hallucinations commanding him to kill himself. Additionally, he was noted to have blunted affect (restricted emotional expression), persecutory thought content and delusions (fixed false beliefs), and poor decision making. No additional information was provided. Records show a case was re-opened for Mr. Brown at CEMHC on 03/27/15. A document specifying the plan of care is dated 06/18/15. This document shows Mr. Brown had been diagnosed with schizoaffective disorder, alcohol abuse, amphetamine abuse, cannabis dependence, and cocaine dependence. Prescribed medications were not specified. His prognosis was noted to be poor secondary to "sporadic" participation in treatment, continued substance use (crack cocaine and cannabis), and medication nonadherence. On 07/21/15, his diagnosis of schizoaffective disorder was amended to schizophrenia, paranoid type; however, additional substance use diagnoses remained. He was noted to evidence antisocial traits and prescribed Abilify, Valium (anxiolytic and sedative), and Thorazine (antipsychotic).

On 10/07/15, his diagnoses were listed as schizophrenia; alcohol use disorder, moderate; cocaine use disorder, moderate; and cannabis use disorder, moderate. It should also be noted Mr. Brown appeared to be seen on a consistent basis from 07/30/15 to the 01/19/17 (the date of the last received record). During this time, he exhibited occasional paranoia, difficulty sleeping, suicidal ideation, auditory hallucinations, visual hallucinations, homicidal ideation, and anxiety. He was noted at times to have blunted affect and continued drug use. Although Mr. Brown maintained sobriety at times, a urine drug screen on 08/07/15 was positive for cocaine and benzodiazepine. Similarly, on 12/31/15 he was asked to complete a urine drug screen after appearing in "an altered state," was noted to bring a sample that looked like "plain ordinary tap water," and refused to provide another sample. A urine drug screen was positive for marijuana and cocaine on 02/16/16.

Several progress notes from CEMH describe Mr. Brown's mental status before and after the index offense. On 06/13/16, a progress note indicates the provider and Mr. Brown processed the "...serious issue of the fact that client continues to use crack cocaine and currently is refusing treatment." It was noted that Mr. Brown indicated he is "not ready to quit yet." The following information was provided by providers two days following the index offense (07/11/16):

"He was cooperative and alert. He responded appropriately to questions. Admits that he has been using crack on a daily basis. Describes his mood as confused. Affect was appropriate to the situation. States he has been eating and sleeping since being arrested. States he has been hearing and seeing things, seeing 'all the things he has done and that have been done to him.' When asked to be more specific, he said there was a 'spiritual snake' in his house that was protecting him. When asked to describe it, he said he didn't see it, that rather he felt it... States he does not intend to be in jail very long, but says he needs to get his medicine. He stated he had medicine at this house, even though he has not seen Dr. Treadway since February."

On 07/29/16, Mr. Brown's mother called to speak to his treating provider. The note indicates, "Client's mother report that during the incident with the police, client had shot many holes through the walls of his trailers into the vent system believing there was someone hiding in there that want to kill him. Informed client's mother that one of the side effects of an overdose of cocaine is extreme paranoia." Lastly, on 08/02/16, Mr. Brown was seen for a follow-up mental health visit. He reported he was using cocaine daily prior to his arrest and taking Abilify only when upset. He reported frequent cannabis use. He described daily auditory hallucinations. His attitude was noted to be cooperative, his thought process was described as logical and goal directed, he denied delusions, and he was described as alert and oriented.

COURSE OF DETENTION: Few records were received for review from BCDC. The first document includes a mental health questionnaire (dated 07/22/16). It notes he reported a history of drinking beer and denied a history of illicit drug use. Further, it is noted that he has no history of inpatient or outpatient mental health treatment. His appearance was described as "cooperative," "well groomed," "happy," and "content." The undersigned contacted BCDC to request additional information. Mental health staff indicated his mental status has significantly improved with the addition of Abilify since the time of incarceration. They noted additional information regarding his mental health can be found in the CEMH records as CEMH providers afford mental health services to inmates incarcerated at BCDC (records were reviewed and outlined previously).

MENTAL STATUS EXAMINATION: At the time of the evaluation, Mr. Brown was dressed in jail-issued attire with adequate attention to hygiene. His psychomotor activity was unremarkable. Mr. Brown appeared cooperative and engaged in the task at hand. He described his mood as a "seven" and added, "I'm good." Regarding his typical mood, he stated, "I'm normally good, happy, upbeat." His affect was appropriate and consistent with his stated mood. He indicated he is emotionally upset infrequently resulting from life stressors. He described his appetite as increased; however, he attributed this change to a lack of exercise while incarcerated. Mr. Brown otherwise denied symptoms consistent with depression (e.g. pervasive depressed mood, lack of life pleasure, lack of motivation, and changes in sleep and energy). He reported he has a lengthy history of sleeping for one to three hours "in intervals" for a total of nine hours. Mr. Brown reported symptoms consistent with mania to include decreased need for sleep, elated mood, racing thoughts, pressured speech, distractibility, and increased goal-directed behavior. He noted these symptoms occur while he is using cocaine and "when I become manic." He described experiencing symptoms consistent with mania since the age of 17 when he discontinued his prescribed medications. Mr. Brown denied current self-injurious behavior and suicidal and homicidal ideation. Mr. Brown denied symptoms consistent with anxiety or posttraumatic distress. Consistent with my observations, he reported an adequate ability to concentrate and attend to the task at hand.

Mr. Brown's thought process was logical and goal-directed throughout the interview. He was oriented to time, place, person, and situation as he was aware of the date, his general location, who he was, and the purpose of the current evaluation. His speech was normal and his thought content was appropriate to mood and circumstances. Consistent with our observation, Mr. Brown denied currently experiencing hallucinations (odd perceptual experiences), delusions (fixed false beliefs), paranoia, and additional symptoms of psychosis. Mr. Brown reported a history of symptoms consistent with psychosis to include auditory, command, and visual hallucinations (hearing voices, perceiving commands, and seeing images in the absence of external stimuli). He described hearing

voices since age 17 though "the week that I got arrested" and his subsequent incarceration. He indicated, "They [the voices] come and go whenever they want." He noted with medication, "They're not as strong." He described hearing "different voices" and noted, "It's like somebody watching you, scrutinizing your life... voices of people around you... doubting you... they try to tell me what to do." He reported he does not often listen to the voices he hears and indicated the voices can be both positive and negative at times. He noted his visual hallucinations began around the same time as described above and provided an example of this experience ("Like somebody laying in the road"). He noted they last occurred prior to his arrest. He stated, "The month before I got locked up I was experiencing a lot of things I didn't understand." He described experiencing heightened paranoid when not taking medications. Additionally, he reported feeling as if the radio and television were communicating directly to him "once or twice" while sober.

Mr. Brown's fund of knowledge was adequate, as he knew answers to several basic questions including the current and several past U.S. Presidents, names of major U.S. cities, and directions of travel. He demonstrated a basic ability to think abstractly as he identified similarities between common objects. Mr. Brown's immediate memory (the ability to immediately repeat information presented) was intact as he was able to repeat three unrelated words immediately after presented. His delayed recall (the ability to recall information previously presented after an interference task) five minutes later was fair. He spontaneously recalled one word and required a categorical prompt to recall the additional two words. Mr. Brown's basic judgment was intact as he provided reasonable explanations to basic hypothetical situations. He demonstrated adequate insight into his legal circumstances, his mental health, and his behavior; however, he minimized the need for substance use treatment given his history of substance use.

DIAGNOSTIC FORMULATION: The following diagnoses are rendered on the bases of the above data and in accordance with the *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition*, (DSM-5).

- Schizoaffective Disorder, Bipolar Type, Multiple Episodes, Currently in full remission
- Alcohol Use Disorder, In early remission, In a controlled environment
- Stimulant Use Disorder (Cocaine), In early remission, In a controlled environment

The DSM-5 states a "diagnosis of schizoaffective disorder is based on the assessment of an uninterrupted period of illness during which the individual continues to display active or residual symptoms of psychotic illness" (p. 106). Further, "mood symptoms meeting criteria for a major mood episode must be present for the majority of the total duration of the active and residual portion of the illness" (p. 107). Mr. Brown has a lengthy history of repeated inpatient mental health treatment and has been noted to evidence symptoms associated with psychosis (e.g. delusions, paranoia, disheveled appearance, impaired insight and judgement, bizarre, threatening, hostile, and agitated behavior, and auditory, command, and visual hallucinations), depressed mood (e.g. depressed mood, flat affect, hopelessness, helplessness, psychomotor slowing, feelings of guilt, and suicidal ideation), and mania (e.g. agitation, labile affect, hostility, hypersexual behavior, hyperreligiosity, intrusive behavior, and irritability). Mr. Brown's symptoms have been noted to resolve when adherent to psychiatric medications. Symptoms of psychosis, mania, and depression have been noted across time, providers, and settings suggesting a chronic presentation with multiple

episodes. Importantly, Mr. Brown has a length history of stimulant use and has tested positive for stimulants at the time of several inpatient admissions. He has also evidenced similar symptoms when simultaneously testing negative for illicit drug use. Thus, the extent to which his symptom presentation is caused by or exacerbated by substance use is unknown at this time.

The DSM-5 notes, "The essential feature of a substance use disorder is a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems" (p. 483). Mr. Brown reported a history of drinking alcohol and using illicit drugs (crack cocaine, powder cocaine, cannabis, methamphetamine, and mushrooms) throughout his lifetime. Of these substances, he described alcohol and stimulants (crack and powder cocaine) as his substances of choice and noted he was using crack cocaine heavily prior to his arrest. Mr. Brown described experiencing adverse consequences resulting from alcohol use to include increased tolerance, blacking out, family concern, using more than intended, failed attempts to quit, cravings when not drinking, and use in potentially hazardous circumstances. Mr. Brown further described several adverse consequences of using stimulants including family concern, using more than intended, failed attempts to quit, and cravings. Taken together, Mr. Brown meets criteria for alcohol and stimulant use disorders at this time. The specifier, "in early remission" is noted to indicate a period of three to twelve months of sobriety as he is currently "in a controlled environment" without access to alcohol or cocaine. Notably, he did not report recent heavy use or adverse consequences associated with use of cannabis, methamphetamine, or mushrooms and recent collateral records do not provide clarification as to the nature and extent of his use of these substances. Thus, additional substance use disorders are not presently included.

CRIMINAL RESPONSIBILITY DATA:

Official Version of the Alleged Offense (date 07/09/16): *The following official description of the offense has been synthesized from a review of discovery materials cited previously.*

Investigation and Laboratory Reports: Per the Beaufort County Sheriff's Office Investigation Narrative, Sergeant (Sgt.) Stuckey was dispatched to Winsor Road in response to a report of shots fired by an anonymous caller. Sgt. Stuckey began patrolling the area upon arrival and heard an additional two rounds of five or six shots each. Dispatch advised a second caller called in reference to the shots fired and provided the name and address of Mr. Charles Brown. Sgt. Stuckey approached the residence, took cover, and requested additional units to respond to the area. Corporal [Cpl.] Krapf arrived on scene, additional shots were fired, and Cpl. Krapf took cover behind a brick wall in the front yard. Cpl. Krapf estimated five to ten shots were fired upon his arrival. A black male was observed to emerge from the front door of the residence and yell for officers to leave and go home. Cpl. Krapf noted, "I observed a black handgun in Brown's hand which he held at his side." He noted he announced "Sheriff's Office" and Sgt. Stuckey commanded Mr. Brown to show his hands and put down his weapon; to which he did not comply. Sgt. Stuckey noted he observed Mr. Brown "...appear to point something (possible small black handgun) at Cpl. Krapf." Cpl. Krapf fired one shot and the male stepped back into the residence. Officers continued to provide verbal commands and Sgt. Stuckey noted, "The suspect eventually emerged from his residence and began complying with law enforcement commands." Cpl. Krapf noted, "Brown eventually complied and exited the residence, showing he had no weapon in his hands or in the area of his waistband." Cpl. Tunis documented the male "...hesitated at first, but eventually complied

with officer's commands. Officers backed the male away from the house to the end of the driveway where they took him into custody." The suspect was handcuffed, quickly checked for weapons and then Cpl Krapf escorted him to where EMS [Emergency Medical Services] was waiting at Parris Island Gateway and Winsor Road for medical treatment."

A protective sweep of the interior of the residence did not locate additional persons. Staff Sergeant (SSgt.) Thomas noted, "Immediately upon entering the residence, I noted a small black revolver handgun laying on the arm of a couch which was to the left of the front door. I also noted a lot of blood on the kitchen floor which was to the right of the front door. In addition, I noted what appeared to be a lot of .22 cal [caliber] rounds of ammunition also laying on the kitchen floor." South Carolina Law Enforcement Division (SLED) subsequently arrived on scene and assumed the investigation.

Per the SLED Crime Scene Department Crime Scene Notes documentation, "The back door to the mobile home leading into the kitchen appeared to be secured with a 2x4 and other items blocking it. On the kitchen/living room floor, there were numerous unfired cartridges observed. There were a total of thirty-six (36) unfired cartridges, all headstamped "Super X" collected from the kitchen floor. Within a trash can in the kitchen copious amounts of cartridge cases were observed. Upon removing items from the trash can, numerous empty ammunition containers were also observed. A total of one hundred thirty-two (132) fired cartridge cases were located in the kitchen trash can." Additionally, three cartridge cases were observed on the floor around the trash can, one cartridge case was near the kitchen table, a razor blade was lying on a plate on the kitchen table, two unfired cartridges were located within a container on the kitchen table, and a cigarette pack containing pieces of steel wool and a partial glass pipe was located in a cabinet above the stove. An empty ammunition box was observed within the bedroom closet, 50 cartridge cases were found in the bathroom trashcan, and a 40 ounce bottle of Olde English 800 malt liquor was observed on the living room television stand. Four additional cartridge cases were observed in the front yard. The report notes, "Several suspected bullet defects were observed to the west side of the kitchen" to include two in the wall above the sink, one in the kitchen counter, and several in the cabinet below the counter. Additional bullet defects were noted in the exterior west wall of the residence. Several projectiles were also found in the kitchen area and one was found in the living room.

Cpl. Krapf conducted a search of Mr. Brown's person. A cellular telephone, a pocket knife, and a "Crown Royal type bag" were found on Mr. Brown's person and entered into evidence. Mr. Brown informed police the bag contained "bullets to the gun" and indicated the gun had been left on "the chair" within the residence. Per the SLED Crime Scene Department Crime Scene Notes documentation, 129 cartridges were found within the Crown Royal bag on Mr. Brown's person and two additional unfired cartridges were later found in his pants pocket. Cigarettes, one metal pipe, "...one piece of white rock-like substance," keys, a lighter, and a wallet were also collected from Mr. Brown. The rock-like substance and metal pipe were submitted for drug analysis.

Officer Byrd observed "...a bloody left hand and a small amount of blood on the suspect's chest" and noted, "The suspect stated he had been shot in his hand." Cpl. Krapf noted Mr. Brown reported pain in his hand and chest and stated he may have been shot in both areas. Cpl. Krapf noted, "I visually examined Brown's chest and noted blood and possible swelling, but no injury where the blood was coming from." Similarly, Cpl. Scott noted, "The suspect advised he was shot in the chest.

We immediately opened the front of his shirt and observed a large amount of swelling in the center of his chest. In the middle of the swelling was a fair amount of blood. I could not tell if this was in fact a gunshot wound or not and relayed this information to SSgt. Thomas." When asked by Cpl. Krapf, Mr. Brown denied feeling dizzy. Upon EMS arrival, they advised Mr. Brown would be taken to Beaufort Memorial Hospital (BMH) given his observed injuries. While in the ambulance, Officer Byrd notes, "The suspect (Charleston Brown) stated his neighbors had been shooting at him all day and he had gotten tired of it. Brown said he had been drinking all day and doing drugs (never stated what drugs). Brown said that he went outside and began returning fire at his neighbors."

Officer Malphrus responded to BMH to assist in the investigation. It was noted that Mr. Brown "...appeared to be in pain and made comments he used drugs and alcohol prior to this incident..." thus, Mr. Brown was not interviewed at this time. Photographs were taken of Mr. Brown and his injuries, clothing was collected, and his hands were processed for gunshot residue. Mr. Brown received medical treatment, was released, and ultimately transported to BCDC SLED laboratory reports (dated 08/01/16) indicate "particles of gunshot residue were found" on Mr. Brown.

Voluntary Statements: Cpl. Krapf provided a voluntary statement on 07/10/16. Within his statement, he indicates he had previously responded to this area ("Yes, report of gunshots in same area within last week (approx [approximately]).") Cpl. Krapf also noted, "Several times, the subject disappeared and reappeared in the doorway, occasionally walking away from the open door" prior to standing in the doorway and raising and pointing his gun. He described Mr. Brown's actions as he ultimately exited the residence. He noted, "Eventually, the subject walked out the front door with his arms up and complied when ordered to face away. I noted one of the subject's hands was clenched in a fist (later confirmed to be injured). I ordered the subject to lift his shirt and turn all the way around, exposing his waistband so I could see any weapons. The subject complied and I saw no weapons. I continued giving the subject verbal commands to keep walking backward toward my voice, he complied. Once the subject reached my location, I had him side step to the right behind a second brick wall and get on his knees, at which point I handcuffed him behind his back."

Per SLED Memorandum of Interview, Lieutenant Ghent interviewed several of Mr. Brown's neighbors on 07/10/16. Neighbor, J.C. indicated she originally called 911 and provided a voluntary written statement. J.C. noted she called 911 as she heard six shots but saw nothing. She subsequently heard another three shots and "...looked out the window saw fire discharge, then another rounds and a black male standing on his back steps." She added, "Noise and shots have been going on for a week..." and indicated she "...called two other times during the week about the shots, nothing really done about it." J.C. indicated the man she saw "...looked like our neighbor Charles..." and noted he was firing "back of the house towards the trees." Another witness, R.C. indicated he had been hearing "...loud banging sounds... [that] ...resembled gunshots" since 2 a.m. the previous night. A third witness, K.C. indicated she has heard the same noises "...many times in the past and always at night." Witness, M.C. indicated she has lived at the residence for 15 years and that Mr. Brown moved in about six months prior to the incident. She reported he plays loud music at all hours and has asked for a ride to the store previously. A fifth witness, A.C. reported she has seen "...a lot of cars going to and from the residence..." Witness, M.D. indicated when the police came out to the area the week prior, they told Mr. Brown to turn down his music but otherwise did not do anything. The report notes, "When he talked to him he could smell a very strong odor of alcohol on his breath."

A second SLED Memorandum of Interview documents a call received from J.C. on 07/10/16; approximately two hours later. J.C. reported she and the other residents living in the home "...noticed what appeared to be a bullet hole on the exterior wall of their trailer" on the side nearest to Mr. Brown's residence. She indicated upon further inspection, she found "...a bullet had passed through the wall and was lodged in the mattress that she usually slept in." Senior Special Agent Williams responded to J.C.'s residence and took photographs of the exterior wall of the mobile home and the mattress within the residence. The bullet was removed and submitted for analysis.

Interview of Mr. Brown: Mr. Brown was interviewed and Senior Special Agent Williams of SLED on 07/12/16. Mr. Brown indicated he "...had been having some problems with some old acquaintances which he could not name." He described several incidents in which someone fired shots at him while he was outside his home. He indicated, "...the bullet grazed his leg" the first time. He reported a second incident in which two females came to his home asking for water for their overheating vehicle, left, returned ten minutes later, and told him "...someone was going to kill him." He noted shortly after this a "...male driver shot at him and he returned fire." The report notes, "Sometimes, he goes outside and he thinks somebody is watching him. He said he could feel the 'infrared rays' on him, so he shot low into the backyard so the girls would get scared and leave." He reported a third incident in which a man he is familiar with shot at him from a vehicle and noted he found four shell casings.

On 07/09/16, he reported "he shot underneath his mobile home because he 'heard things there.' He went out into his yard and got down behind the brick wall at the head of his driveway and was looking back at his residence. He could see 'infrared lights' shining on his house. When he went back inside, he could feel something 'nudging him.'" Mr. Brown informed Senior Special Agent Williams that he called the police but when they came to his residence "...they told him to quit calling that there was nothing under his house. He shot into the backyard because he saw lights. He had no idea that they were the police, because they did not identify themselves." He indicated when he realized they were police, he was afraid to exit his residence because he thought "...they might be 'dirty cops.'" He indicated he put the gun down, showed his hands, was shot, and fell back. He denied having had the gun in his hand when he was shot. He then followed the officer commands, came outside, and was taken into custody.

Audio and Video Footage (reflective of events occurring on 07/09/16): Several audio and video clips received from the evening of the alleged offense were reviewed. Many of the clips showed travel to the location, officer discussion, and video of the street in front of police vehicles. Review of audio and video recordings reflect audio of Mr. Brown yelling "Go home!" to police during the altercation. Officers can be heard providing direction and verbalizing commands to Mr. Brown. Officer commands indicate Mr. Brown began to comply and follow directives. Once in custody, Mr. Brown engages in conversation with Officers and provides goal-directed, relevant, and complete responses to questions asked. Specifically, he indicated no one else was within the residence, his gun was on the chair, and he identified he had been hurt. While talking to EMS, Mr. Brown provided answers to questions noting he is prescribed Abilify and attends mental health treatment. Notably, Mr. Brown was asked by EMS about the events that occurred on the evening of the alleged offense. Mr. Brown stated, "I got shot at two days in a row... I shot back at him... Called the officer and the officer said he left. But um tonight I thought people were shooting at me all day really." Mr. Brown indicated he did not take his prescribed psychiatric medications on the day of the offense.

Defendant's Version of the Alleged Offense: Mr. Brown was asked to provide an account of a typical day occurring prior to the index offense. He indicated in the month prior to the index offense he would wake up around 7:30 in the morning, get picked up by a friend, and go to work installing foundations. He worked Monday through Saturday from 7:30 a.m. through 4:30 p.m. After work, he would stop at the store to purchase a 12-ounce beer and return home. He would then shower, watch television, and cook dinner. Regarding his living situation, he stated, "I'm happy" and noted he would have friends come over and typically had "no trouble." He described drinking two 12 ounce beers and a 40-ounce bottle of Old English four of the seven days prior to the day in question. He described using crack cocaine daily after work throughout the night. He recalled spending \$40 per day and noted his use had been increasing in frequency within the month prior to his arrest. He denied using additional illicit drugs during this time.

Within the week before his arrest he described having a lot going on. He stated, "I was having some problems with some acquaintances" within the three days prior to his arrest. He described that one of the two people who he was having problems with shot at him and the bullet grazed his leg. He reported calling the police and telling them he hears people in the background or under his house. He stated, "They look at me like I'm imagining this stuff but people were literally shooting at my house." He indicated following the index offense, police found seven bullets in his yard that did not match his gun and noted this is evidence to support his assertion that he was being shot at. He reported calling the police five times within the week prior to the index offense so that officers could "investigate people trying to harm me." He indicated Officer Suranka responded to his home on the day prior to the index offense. Mr. Brown recalled the officer checked his property and did not see anything. He stated he had rapport with this officer and knew him personally so he felt safe and returned to his home.

Mr. Brown noted in the week prior to the index offense he was not taking his prescription medication as prescribed. He indicated he took his medication "three days out of the week if that much" during the week prior to the offense. He reported he was sleeping "not much" (about four hours per night) due to his mental illness and crack cocaine use. He stated, "I was going crazy. A lot of things going on mentally I didn't know what was going on. I thought I was going to die... because people trying to kill me." When asked to describe why, he stated, "I don't want to get into it." Regarding his mental health, he stated, "I wasn't manic. I was more than enough competent and sane to make good judgment." He noted his good judgment was the main reason as to why he called the cops several times in the month prior to his arrest. He described experiencing derogatory auditory hallucinations "every day." He stated, "It's like I heard people being killed. It's like I heard people plotting to kill me. I tried to not let it freak me out. That's why I called the authorities." He indicated during this time he stayed in his home unless he was working. He denied experiencing visual hallucinations prior to his arrest. He stated, "I don't think so. Everything I saw was there. Real people. Real situations." He indicated he is not able to make complete sense of his experiences in the week prior to his arrest. Regarding his concern for his safety at that time, he stated, "I'll just leave it at that. My mind just plays tricks on me sometimes."

Mr. Brown was then asked to provide an uninterrupted account of the day of the index offense (07/09/16). He began his version of events with the statement, "I didn't do it." Mr. Brown subsequently described the day of the index offense. He recalled it was a Saturday "because three days prior to that somebody had come to my house and shot at me." He explained he had been shot

at "three days, three different times." He indicated he was shot at on Friday night and explained "They bullet is lodged in my door." He indicated he woke up that day, called his brother, and asked his brother to come and pick him up. He reported he had a woman over for a short period of time and she subsequently left. His brother picked him up, he went to the neighborhood where he is from, and he spent the day with his family. He reported his brother dropped him back off home around 5:30 pm that day. He stated, "I had a 40-ounce I picked up on the way home" and described listening to music, watching television, and drinking his beer. He stated, "I was paranoid, not knowing if these guys were going to come back" because "this was the fourth day." He continued, "I was in my house, smoking dope by myself, drinking a beer, just watching television and listening to music." He recalled hearing a noise and looking outside; however, he did not see anything and went back inside. He stated, "I was I guess getting more paranoid, getting more paranoid" and noted he repeatedly went outside and then back inside to ensure safety.

Mr. Brown indicated he "Didn't want to get caught sleeping because 'somebody gonna kill me.'" He continued, "I was just going crazy." He recalled shooting his gun "underneath my house" to "scare people [and] let them know I have a gun." He was sitting in the kitchen, saw lights outside, and thought to himself, "I know that's the police now." He stated, "I put my gun in the middle of the couch. When I went to the door I didn't have no gun. I knew it was the police. They were in the driveway in the road. I opened the door and I told the police, I said, Go home." He indicated they had come to his home several times within the week prior and told him that "If I call 911 again they gonna lock me up for harassment." He stated, "I looked through the window and saw the cops out there. I told them to go home because they had told me if I had called them back I'd get charged with harassment." He recalled, "And they shot me. I was pleading tell[ing] them that I was hit and that I was unarmed." He noted an officer shot him in the hand and noted the bullet grazed his chest. He continued, "I didn't have a gun. I said, 'I give up.' They say, 'Come out with your hands up.' And I wasn't going to run out there after he shot me..." He reported he hesitated "because I didn't know why he shot me in the first place and I was scared. I didn't know if he was a dirty cop." He reported he looked again and saw several police outside "so I took a chance" and exited his home. He indicated he had both hands in the air, followed commands, held his hands up, and was placed under arrest. He indicated he was taken to the hospital and subsequently, jail.

Mr. Brown was asked several questions to clarify the information discussed above. He denied having pointed and presented a gun at police and stated, "I did not have a gun in my hand. I see from the damn window it was the cops. I'd have been a fool" to have brought a gun with him to talk with police. When asked why he placed the gun on the couch, he stated, "Because I'm gonna go to the door... I had the common sense that I'm not going to present no gun to the police. The first thing they gonna do is shoot you." Mr. Brown noted he thought the officers were "dirty" police "after not before" he was shot. He thought they were "dirty" because he believes they shot him without cause. Mr. Brown denied having gone in and out of his residence while officers were commanding him to come outside. He stated he was at the door and went inside to the left of the door when he was shot. He recalled thinking, "Is he a dirty cop or not" and "[Does] he want to shoot me again?" Mr. Brown reported once he realized more officers had presented to the scene, he felt safe that not all of them would have bad intentions. When asked if he knew the individuals outside were police, he stated, "They didn't say they were cops but they didn't have to say they were cops. I knew they were cops." Mr. Brown informed officers that he was hurt "to get help."

Mr. Brown reported he was aware that pointing and presenting a firearm at police is illegal "because you don't point no gun at nobody. That's threatening somebody's life. That police would have been justified to shoot me if I had pointed a gun at the police." He indicated he knew it was illegal on the day of the crime and noted this is why he left his gun on the couch when attempting to speak with the officers who were outside. He stated, "Of course that's illegal; especially the police. You shouldn't even have no gun if the police come." Mr. Brown reported purchasing a gun in the week prior to the alleged offense "because I deal with a lot of people... for safety." Mr. Brown indicated he had shot his gun several times that day because he wanted "to warn them [the individuals who were out to get him]." He reported he shot at the ground in his back yard "to deter anybody from coming to shoot at my house." Mr. Brown acknowledged having shot his gun in the days preceding the index offense ("to scare people"). When asked about the cartridges (fired and unfired) found in his home, he indicated they were from multiple days "during various shootouts." He noted the fired cartridges left on the floor were likely put there by someone else as he would typically throw them in the trash can. When asked about his report of "infrared rays," he explained that he saw the infrared ray from the scope of a gun on his house in the days prior to the incident.

Mr. Brown described drinking one 40-ounce bottle of Old English beer after returning home from his family party on the day in question. He indicated he did not drink alcohol while with his family during the day. He also smoked "\$80 worth" of crack cocaine after returning home because "I was stressed; people trying to kill me." He noted the razor blade found in the kitchen was "for drugs." Despite consistently using crack cocaine on the night of the index offense, he denied he was high on crack cocaine when he interacted with police ("It [the high] don't last no 10, 15 minutes"). He denied using any other illicit drug on the day of the alleged offense.

Brown indicated he did not take his prescribed psychiatric medications on the day of the alleged offense or within the week prior. He reported poor sleep in the days surrounding the index offense because "I was paranoid." Mr. Brown indicated he continued to feel paranoid about his acquaintances that were out to get him; however, he did not communicate his concerns while in the presence of his family members. Regarding symptoms of mental illness, he denied experiencing mania at the time of the alleged offense. He stated, "I was more scared then anything." He stated, "I thought I saw a snake been in my house"; however, he noted he subsequently realized it was not there. When asked about feeling the house "nudging him," he stated, "Like the snake, it sound crazy but it felt like something was underneath the floor hitting the floor." He described experiencing auditory hallucinations "more than usual." He denied that his paranoia was a product of his mental illness. He stated, "It was real" and described feeling paranoid as a result of real concerns. He acknowledged that his paranoia may have been heightened as a result of his mental illness. He reported if he were to have taken his medications at the time he would have handled things differently and would "approach the situation better than having a gun." Mr. Brown showed the undersigned a darker spot on his leg and indicated this is where the bullet grazed his leg when an acquaintance shot him. Mr. Brown denied the allegations described stemmed from acute symptoms of mental illness.

Additional Information:

Beaufort County EMS and BMH (dated 07/09/16 and 07/10/16): Records from Beaufort County EMS (dated 07/09/16) indicate Mr. Brown was "...answering questions appropriately and in

complete sentences without difficulty" and held his hand in a closed fist and reported it was too painful to open. Records further indicate, "Patient Admits to Alcohol Use." Mr. Brown was taken via ambulance to BMH (arrival on 07/10/16) secondary to a gunshot wound to his left hand and chest. At this time, he was noted to be oriented to time, place, person, and situation. Further, it was noted that he "smell[ed] of ETOH [alcohol]," was guarded, and made poor eye contact. His wounds were treated, he was noted to be "stable," and he was released to Beaufort County Detention Center on 07/10/16.

Interview of Charles Brown, Sr. (Mr. Brown's father) on 04/04/17: Per Mr. Charles Brown, Sr., his son had significant mental health problems prior to his incarceration. He indicated Mr. Brown has shown signs of mental illness "off and on" since high school. His father described him as highly paranoid. He noted he was fearful of Mr. Brown when in this state because of his threatening behaviors towards him in the past while taking drugs and discontinuing medications. Prior to Mr. Brown's incarceration, his father recalled Mr. Brown kept saying "someone was shooting at him trying to kill him." Mr. Brown, Sr. indicated his son has a pattern of discontinuing medications, taking drugs, becoming concerned that people are going to kill him and his family, and calling the police to report his concerns. Mr. Brown, Sr. indicated he believes his son interacts with the type of people who may try to hurt him; however, he denied that the problem was as serious as Mr. Brown believed it to be. He stated, "I do believe there was someone shooting at him. Still, I don't think it was near as bad as he was putting it to be." Mr. Brown, Sr. denied seeing Mr. Brown on the day of the index offense. He indicated he last saw him for a brief period of time a week before his arrest.

CLINICAL IMPRESSIONS: Mr. Brown has been diagnosed with schizoaffective disorder, bipolar type, multiple episodes, currently in full remission; a disorder typically associated with psychosis, depression, and mania. Mr. Brown denied taking his psychiatric medications as prescribed at the time of the crime. As such, he described experiencing auditory hallucinations in addition to heightened paranoia and poor sleep. He further described feeling the house nudging him, feeling infrared lights on him, and feeling something underneath the floor, which may be reflective of tactile hallucinations (feeling sensations in the absence of external stimuli). Although Mr. Brown reported his paranoia at the time of the crime was largely based in reality, data suggests he may have been experiencing acute symptoms of mental illness resulting from medication nonadherence and crack cocaine use.

Records from CEMH prior to the index offense (06/13/16) indicate Mr. Brown was both using crack cocaine and refusing treatment. Following the index offense (07/09/17), Mr. Brown was noted to respond to questions appropriately and to speak in complete sentences without difficulty. He was described as oriented to time, place, person, and situation and noted to smell of alcohol, appear guarded, and make poor eye contact. Within days of the index offense (07/11/16), CEMH records indicate Mr. Brown reported experiencing auditory and visual hallucinations prior to his arrest. Provider observations suggest he was cooperative, alert, and responded to questions appropriately at this time. At the time of the interview with Mr. Brown on 07/12/16 (conducted by SLED), Mr. Brown reported he had acquaintances out to get him who have been watching him, trying to kill him, and shooting at him. Mr. Brown further reported he could feel something "nudging him," feel the infrared rays from a scope of a gun on him, and see them shining on his home in the days prior to the event. CEMH providers spoke with Mr. Brown's mother on 07/29/16 who reported Mr. Brown shot many holes through the walls of his trailer into the vent system as he was concerned

someone was hiding in the walls that wanted to kill him. Mr. Brown's father also described him as experiencing significant paranoia as a result from drug use and acute symptoms of mental illness around the time of the crime (per telephone communication, dated 04/04/17). Given the data presented, it is my opinion Mr. Brown was likely experiencing symptoms of schizoaffective disorder and crack cocaine intoxication at the time of the index offense.

Mr. Brown has also been diagnosed with alcohol and stimulant use disorders related to continued substance use despite adverse experiences resulting from continued use. Mr. Brown reported drinking alcohol and using crack cocaine on the day of the alleged crime. It is my opinion that diagnoses of alcohol and stimulant use disorder were present at the time of the crime. Nevertheless, voluntary intoxication does not constitute a mental disease or defect that would preclude an individual from lacking culpability for their actions at the time of a crime.

Taken together, it is my opinion that Mr. Brown was experiencing acute symptoms of psychosis resulting from a combination of medication nonadherence and crack cocaine intoxication. As mentioned, voluntary intoxication does not negate culpability. Notably, Mr. Brown reported that he did not point and present a firearm at officers at the time of the index offense. While symptoms of psychosis may have altered Mr. Brown's ability to accurately perceive reality at the time of the crime, it is not possible to differentiate between those symptoms resulting from mental illness and associated medication nonadherence and those symptoms resulting from crack cocaine intoxication. It is my opinion that although experiencing symptoms of mental illness and crack cocaine intoxication at the time of the alleged crime, symptoms did not impair his ability to appreciate the moral and legal wrongfulness or his ability to conform his conduct on the day of the alleged offense. If the court were to find the facts asserted in the case to be true, the following opinions are rendered regarding Mr. Brown's culpability at the time of the crime.

Criminal Responsibility. According to S.C. Code Ann. §17-24-10, a defendant may be found not guilty by reason of insanity if, "at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong."

Mr. Brown's capacity to distinguish moral or legal right from moral or legal wrong at the time of the alleged offense was assessed. On the day of the crime (07/09/16), Mr. Brown described being aware that pointing and presenting a firearm is both illegal and immoral. For instance, he indicated that pointing a presenting a firearm is akin to "threatening somebody's life" and noted that the officers would have been "...justified to shoot me..." if he were to have engaged in this act. Although Mr. Brown reported to investigators (SLED interview dated 07/12/16) and to the undersigned (interview dated 02/13/17) that he thought the officers were "dirty" or out to get him; he clarified that he did not think this until after he was shot. He further indicated when additional law enforcement officers arrived, he felt safe as he thought it would not be possible for all of the responding officers to be "dirty" or out to get him. He subsequently exited his home, complied with officer requests, and demonstrated the ability to engage in goal-directed communications and actions. His decision to comply with officer commands rather than to continue attempts to avoid detection and/or capture suggests that he understood the wrongfulness of his role in the dispute. As mentioned, he denied pointing and presenting a firearm at officers. Nevertheless, he described that

he was aware he was required to abide by the direction and commands of law enforcement officers given his actions on the night of the alleged offense.

As mentioned above, there is data to suggest Mr. Brown's perception of reality was increasingly paranoid resulting from a combination of mental illness and crack cocaine intoxication. While there is clear indication that he was highly paranoid, data do not suggest that his experience of paranoia was impairing his ability to perceive the wrongfulness of his actions at the time of the alleged offense. Further, voluntary intoxication does not preclude an individual from lacking culpability for their actions. Taken together, it is my opinion that Mr. Brown had the capacity to distinguish moral or legal right from moral or legal wrong and to recognize the particular acts charged as morally or legally wrong.

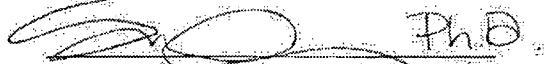
Capacity to Conform. According to S.C. Code Ann. §17-24-10, "a defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or the recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law."

Mr. Brown's ability to conform his conduct to the requirements of the law was assessed. As mentioned above, Mr. Brown engaged in several goal-directed behaviors at the alleged crime. For instance, he adamantly told officers to go home when they responded to his home and he ultimately decided to abide by officer commands. He followed each command to include putting his hands up, exiting the home, facing away from officers, backing up towards the officers, and showing his waist band to ensure that he did not have any weapons. Mr. Brown also told officers of his injuries immediately once detained. At the time of the evaluation, he explained that he provided this information so that he could receive medical attention for his injuries. These behaviors suggest that Mr. Brown had control of his actions and made choices to ensure a desired result (e.g. receiving medical attention). While in route to the hospital, Mr. Brown demonstrated the ability to provide goal-directed and relevant answers to medical personnel. He briefly described his injuries and answered questions in complete sentences. His actions further suggest he had the ability to maintain control of his behavior immediately following the alleged offense. Taken together, data suggest Mr. Brown had the capacity to conform his conduct to the requirements of the law at the time of the offense.

SUMMARY: Mr. Brown is a 40-year-old male (DOB:) currently charged with Pointing and Presenting Firearms at a Person for the alleged events occurring on 07/09/16. Mr. Brown has been diagnosed with schizoaffective disorder, bipolar type, multiple episodes, currently in full remission; alcohol use disorder, in early remission, in a controlled environment; and stimulant use disorder (cocaine), in early remission, in a controlled environment at the time of the current evaluation. Data suggests Mr. Brown was experiencing symptoms of schizoaffective disorder and alcohol and stimulant use disorders at the time of the offense. Specifically, data suggest Mr. Brown was experiencing heightened paranoia resulting from crack cocaine intoxication and nonadherence to his prescribed psychiatric medications. As mentioned, voluntary intoxication does not constitute a mental disease or defect that would preclude an individual from lacking culpability for their actions at the time of a crime. Notably, Mr. Brown reported that he did not point and present a firearm at officers at the time of the index offense. If the court were to find the facts asserted in the

case to be true, it is my opinion that the above disorders were present at the time of the offense; however, data suggest such symptoms did not significantly impair his ability to appreciate the moral and legal wrongfulness or his ability to conform his conduct on the day of the alleged offense.

Respectfully submitted,



Sheresa Christopher, Ph.D.
Licensed Clinical Psychologist

We will like to know
Whether the Defendant was
left or Right Handed



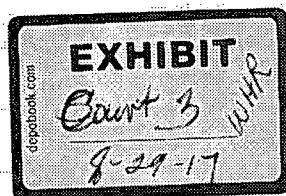
28th Aug 2017 @ 15:00

The Defendant is Right
handed

[Signature]

De Wouda Lehto Reinsit
State expt #2

29 Aug 2017 @ 1510



#2

WITNESSES

D. Williams

SL90

DOCKET NO. 2016GS0701340

The State of South Carolina
County of Beaufort

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

Defendant

COURT OF GENERAL SESSIONS

January Term 2017

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

ARREST WARRANT NUMBER

2016A0710200241

THE STATE

vs.

Charles Claston Brown

Indictment For

Pointing Firearm at a Person

SC Code: 16-23-410

CDR Code: 0122

Defendant

Witness:

C.C.C. PLS. and G.S.

Nally B. Brown
Foreperson of Grand Jury

Date:

JAN 2 3 2017

VERDICT

[Signature]
Foreperson of Petit Jury

Date:

INDICT

29 Aug 2017

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2016GS0701340

At a Court of General Sessions, convened on January 26, 2017, the Grand Jurors of Beaufort County present upon their oath:

Pointing Firearm at Person

That in Beaufort County, South Carolina, on or about July 10, 2016, the Defendant, Charles Claston Brown, did present or point a firearm, whether loaded or unloaded, at Corporal Troy Krapf, all in violation of Section 16-23-410, et al. of the Codes of Law of South Carolina.

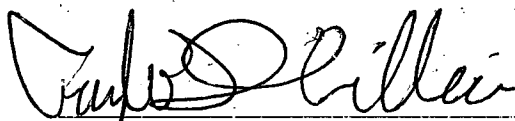
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

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,



Taylor D Gilliam
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 5th day of July, 2018.

RECEIVED

JUL 05 2018

SC Court of Appeals