

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Allendale County

Honorable Perry M. Buckner, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LAPARIS SHMEL FLOWERS,

APPELLANT

APPELLATE CASE NO 2018-000099

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

MELODY J. BROWN
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR APPELLANT

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DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 swab from the rear middle seat area -- seat cushion area,
2 and that did match the DNA profile of Tyquan Charlton.

3 The probability of randomly selecting an
4 unrelated individual having a DNA profile matching this item
5 is approximately one in 810 sextillion.

6 Russell Smart and Brandon Lewis were excluded
7 as contributors to that item.

8 Q And as it relates to that particular swab that
9 matched Tyquan Charlton, which I believe was your Item
10 Number 2?

11 A Yes, two.

12 Q And that was 68.2. What is that identified as
13 being?

14 THE COURT: Hold on. Let him answer the
15 question.

16 She's asking you if that was State's Exhibit
17 Number 2 -- sorry, exhibit number.

18 A Yes, that is correct. And that is described as
19 being swabs from the rear middle seat cushion area.

20 BY MS. LEGETTE:

21 Q And that is blood?

22 A Correct -- or it was submitted as blood.

23 Q Submitted as blood. Okay. And that matched
24 Tyquan Charlton?

25 A Correct.

DIRECT EXAMINATION OF PAUL MEEH BY MS. LEGETTE

1 Q Now, let's go back to Item Number 69, which is
2 your Item 10.1 -- State's 69, your Item 10.1. You said
3 you got no DNA from that?

4 A No DNA profile was developed from that.

5 Q You testified earlier about touch DNA. As it
6 relates to a shell casing, how difficult or not difficult
7 is it to find touch DNA on items such as shell casings?

8 A It's extremely difficult on shell casings
9 because there are several factors that play into that.

10 Number one, shell casings are usually made of
11 brass, which degrades DNA. It's from the older dynamic
12 test. So you often see in government buildings that the
13 handles are made of brass, and that's so people don't set --
14 it kills bacteria and degrades DNA.

15 The second thing is that the shell casing has
16 obviously gone through extreme heat and pressure. That all
17 degrades DNA as well. So I would say one in a thousand or
18 one in two thousand shell casings may make enough DNA to do
19 a profile.

20 Q Is it possible for someone to handle an object
21 and DNA not be found on it?

22 A Yes, it is.

23 MS. LEGETTE: Thank you. I have no further
24 questions. Please answer any questions from
25 Mr. Koger.

CROSS EXAMINATION OF PAUL MEEH BY MR. KOGER

1 CROSS EXAMINATION

2 BY MR. KOGER:

3 Q Just to clarify again, State's Exhibit 69, the
4 cartridge case, head stamped "WIN .9 millimeter Luger,"
5 there was no DNA profile developed, correct?

6 A Correct, sir.

7 Q Okay. And you don't have any type of DNA
8 results on Mr. Flowers in these reports, correct?

9 A No, sir.

10 MR. KOGER: Thank you. No further questions.

11 THE COURT: Redirect.

12 MS. LEGETTE: None, Your Honor.

13 THE COURT: As to this witness.

14 MS. LEGETTE: We ask that he be excused, please.

15 MR. KOGER: No objection.

16 THE COURT: You may step down. You're excused.

17 Leave my exhibits with me, take your file as soon as
18 I can get them.

19 Counsel approach.

20 (Off-the-record discussion held.)

21 THE COURT: Call your next witness.

22 MR. HOLLEN: State calls James Green.

23 Thereupon,

24 JAMES GREEN

25 was called as a witness, having been first duly sworn,

CROSS EXAMINATION OF PAUL MEEH BY MR. KOGER

1 was examined and testified as follows:

2 THE COURT: Take a seat, make yourself
3 comfortable. Adjust the chair and microphone to your
4 height.

5 Keep your file, but leave my exhibits.

6 THE WITNESS: Yes, sir.

7 THE COURT: State your full name, spell your last
8 name, and speak up.

9 THE WITNESS: James Green, G-R-E-E-N.

10 THE COURT: Mr. Green, because of the sound in
11 this courtroom, you're going to have to speak up. It
12 goes straight up to the ceiling, and I actually have
13 court reporters that's sitting where Mona is sitting
14 right now that tell me they can't hear the witness,
15 even with a microphone.

16 THE WITNESS: Yes, sir.

17 THE COURT: So it gets blurry. I have to remind
18 people constantly not to mumble in this courtroom.
19 I'm sure I won't have to do that with you, Mr. Green.
20 Just speak up for me.

21 THE WITNESS: Yes, sir.

22 THE COURT: Your witness, Counsel. Direct
23 examination.

24 MR. HOLLEN: Thank you, Your Honor.

25 DIRECT EXAMINATION

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 BY MR. HOLLEN:

2 Q Mr. Green, who do you have work for?

3 A I'm employed by SLED.

4 Q And is that commonly known as the -- well, it's
5 the South Carolina Law Enforcement Division, SLED,
6 correct?

7 A Yes, sir.

8 Q How long have you been with SLED?

9 A Since June of 2005.

10 Q And did you have any law enforcement experience
11 before you went to work for SLED?

12 A Yes, sir. I worked for Mt. Pleasant police
13 department. That's like in North Charleston for about
14 three and a half years before coming to SLED.

15 Q And what department do you work in now?

16 A I'm in forensic services laboratory, in the
17 firearms department.

18 Q Do you have any special education or
19 qualifications, training, that allow you to do your job?
20 Can you explain that to us?

21 A Yes, sir. When I was first hired to SLED I
22 began a firearm and tool mark course of instruction. It's
23 about three, three-and-half-year course of instruction.
24 And an apprentice studying under court-qualified firearms
25 examiners, learning to do what I do now.

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 Q And have you testified in State court before?

2 A Yes, sir.

3 Q Ever been qualified as an expert in State court?

4 A Yes, sir.

5 Q Approximately how many times?

6 A Sixty-two times in the State court.

7 Q Exactly 62 times?

8 A Yes, sir.

9 MR. HOLLEN: Your Honor, at this time I would
10 offer Mr. Green as an expert in the area of firearms
11 identification.

12 THE COURT: Any objection to his qualifications?

13 MR. KOGER: No objection, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury,
15 you'll recall my earlier instructions concerning
16 expert testimony. The witness is qualified in
17 firearm identification.

18 Without objection, you may proceed, Solicitor.

19 MR. HOLLEN: Thank you, Your Honor.

20 BY MR. HOLLEN:

21 Q Mr. Green, what kind of evidence are you
22 frequently given to test in criminal cases?

23 A Commonly we are given fired bullets, fired
24 cartridge cases, and occasionally firearms for testing.

25 Q Before we go any further, can you describe for

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 me what you just referred to. You said "casings, fired
2 casings, bullets."

3 What are the parts of a bullet as you --
4 how you identify them?

5 A Excuse me. My dad says he's going to Walmart to
6 buy a pack of bullets. And what he's really referring to
7 is a cartridge. A cartridge is a complete unfired piece
8 of ammunition. It is composed of the bullet projectile,
9 the cartridge case, which is just simply nothing but a
10 container to hold the bullet, and powder, and the primer.
11 So when a cartridge is fired, you will have a fired bullet
12 in a fired cartridge case.

13 Q So the part of the bullet that is fired is the
14 actual bullet.

15 A No. The part that goes down the barrel is the
16 bullet, yes.

17 Q Thank you for correcting me.

18 Mr. Green, as you said, you tested some
19 items in this case; is that correct?

20 A Yes, sir.

21 Q I'm going to hand you some items that have been
22 marked for identification and entered into evidence as
23 State's Exhibits 70.1, 70.2, 70.3, 70.4, 70.5, .6, and .7.
24 And I'm going to ask if you recognize this.

25 MR. HOLLEN: May I approach the witness?

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 THE COURT: You may approach.

2 MR. HOLLEN: Thank you, Your Honor.

3 A Ladies and gentlemen of the jury, if you see me
4 looking at evidence and rolling it around in my fingers,
5 what I'm doing is when we get evidence in the firearms
6 department, if it's big enough to mark, we will take a
7 Dremel tool and light pencil and we scribe our lab number
8 and item number and our initials on it. So that is what
9 I'm doing, just looking for those.

10 Yes, sir. State's Exhibit 70.1 through 70.7
11 are the evidence items I examined in this case.

12 Q All right. Agent Green, what are -- can you
13 explain to the jury, or to all of us in layman's terms,
14 what kind of criteria you used to examine bullets,
15 cartridges, that sort of thing?

16 A Yes, sir. Excuse me. The first thing we do
17 when we get a fired piece of ammunition, whether it is a
18 bullet or cartridge case is we examine it to make sure it
19 is fired. It sounds very simple, but a lot of times we
20 will get stuff that is not fired. Somebody finds a bullet
21 on the floor when we're loading up and they submit it,
22 say, "look to see if it's fired."

23 If it is fired, we will look to see if
24 there's any trace evidence on it. Is there any possible
25 blood on it, any body tissue that did not come from the

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 autopsy. Is there any wall board, plastic, some kind of
2 building material, basic paint if it's shot into the wall.

3 If it serves any value, any value to a
4 potential investigation, we will collect it. If not, we
5 will decontaminate it or clean the bullet or cartridge
6 casing and examine it. What we are doing is looking for
7 class characteristics.

8 Class characteristics are different
9 characteristics, whether it's a firing pin shape on a
10 cartridge case, type of pre-case on the primer. Those are
11 determined by the manufacturer when they are making the
12 firearms. So they know that they want them to have these
13 types of characteristics.

14 If we have multiple items, multiple bullets,
15 as in this case, we will see class characteristics will be
16 the rifling patterns, how many lands and grooves are in pair
17 on the firearm. And the widths of those lands and grooves
18 and the direction of twists. This is going to be -- if
19 those match, one item to the next, we will look at it
20 microscopically and see if we find a common source.

21 Q So different makers of different guns use
22 different rifling patterns on the inside of a barrel; is
23 that right?

24 A Yes, sir. Some share commons, like six grooves,
25 right twists is a shared common. The class

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 characteristics are common. But what's not common are the
2 individual characteristics. Those are unique to each
3 specific firearm. It's like DNA to a firearm, or
4 fingerprints.

5 There have been studies that I've taken part
6 in where a firearm examiner does a rigor, something like a
7 manufacturer, in getting consecutively made barrels and
8 consecutively made slots to see if there's any kind of
9 carry-over to include the characteristics. Because if there
10 is a unique carry-over, it's going to be with tools made one
11 right after the other, right after the other, right after
12 the other.

13 And in those studies we found you can't
14 differentiate if you know what you're looking for, to
15 consecutively made firearms on those two different
16 characteristics, if they truly are unique to a specific
17 firearm.

18 Q Thank you, Mr. Green.

19 In this case, were you able to make any
20 findings on the items that you were provided?

21 A Excuse me, yes, sir.

22 Q Can you, referring to the State's exhibit
23 number, give us some information about what your findings
24 were in this case?

25 A Yes, sir. State's Exhibit 70.1 was a fired

, DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 bullet. And State's Exhibit 70.7 is a fired bullet
2 jacket.

3 Q And can you tell us what is the difference
4 between a bullet and a bullet jacket?

5 A When you have a jacketed bullet, if you think
6 about it like M&Ms, everybody likes M&Ms, you got the
7 chocolate inside, and you got the candy coating shell.

8 Moving to the bullets now. The bullet is the
9 candy coating. You see, the bullet jacket is the candy
10 coating, and the core is the shell. If you take an M&M and
11 throw it on the floor, part of the candy coating will fall
12 off, break off. It's the same thing with bullets. If they
13 hit something hard enough, the jacket will separate.

14 So State's Exhibit 70 was the bullet. It was
15 a little damaged, but it's still the bullet, 70.1. And
16 State's Exhibit 70.7 is just the jacket portion of the
17 bullet.

18 Q Do you have any information in your report about
19 where it states Exhibit 70.1, or from whom it was removed?

20 A May I look at my report?

21 Based on the information provided to me on
22 the evidence log-in sheets, I have no direct knowledge. But
23 it says it was collected from Brandon Lewis.

24 Q Okay. And State's Item 70.7?

25 A It was collected from under the rear passenger

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 seat.

2 Q And you were able to make a finding about those
3 two items?

4 A Yes, sir. State's Exhibit 70.1 and 70.7 were
5 both fired by the same firearm.

6 Q Were you were able to determine that those were
7 the same firearm?

8 A Yes, sir.

9 Q Did you examine State's Exhibits 70.2, 70.3 --
10 just those two?

11 A State's Exhibit 70.2 and 70.3, yes, sir, I did.

12 Q And what are those items?

13 A State's Exhibit 70.2 is a fired bullet. And
14 State's Exhibit 70.3 is also a fired bullet.

15 Q Where did -- do you have information in your
16 report about where State's 70.2 and 70.3 came from?

17 A State's Exhibit 70.2 is listed from
18 Russell Smart, and 70.3 was from the trunk of the vehicle.

19 Q And as far as a specific firearm, were you able
20 to make any findings on those two items?

21 A No, sir. State's Exhibit 70.2 and 70.3, they
22 were somewhat fairly damaged, and the markings on them
23 were not -- the individual markings, they were
24 insufficient to make a definitive call. So it was an
25 inconclusive answer, which is a fancy word for, "I don't

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 know."

2 They share the same class characteristics as
3 State's Exhibits 70.1 and 70.7. They very well could have
4 been fired by the same firearm, but I was unable to tell
5 that due to damage and linear marks.

6 Q Okay. There were a couple of other items in
7 this case that you looked at; is that correct?

8 A Yes, sir.

9 Q What about State's 70.5 and 70.6?

10 A Okay. State's Exhibit 70.5, you probably can't
11 even see it. It is a little tiny speck of a piece of
12 metal, and it looks like a part of a copper jacket from a
13 bullet. Like, that candy coated shell. But it is so
14 small, it didn't even register on my balance -- or my
15 scale, to give me a weight. It weighed less than .02
16 grains, and it was nothing -- a penny weighs 40 grams, so
17 it weighs less than one gram. It's just a little tiny
18 piece of something. And I was able to determine if it was
19 a bullet fragment -- that came from someplace.

20 State's Exhibit 70.6, the slide as well,
21 it's just a small-to-look-at crack, and it was
22 inconclusive with the others. It could have been fired by
23 the same gun as 70.1 casing, State's Exhibit 70.7, or it
24 could have been a different firearm. It was just too
25 damaged and too small to test.

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 Q Okay. So 70.5 and 70.6 are simply too small to
2 test?

3 A Yes, sir.

4 Q What about 70.4?

5 A State's Exhibit 70.4 is a fired .9 millimeter
6 Luger caliber cartridge case. It has the same caliber as
7 State's Exhibit 70.1, 70.2, 70.3, 70.7. It's the same
8 caliber, all .9 millimeter Luger. But this is the only
9 fired cartridge case that I received in this case.

10 Q And so you can't say if that was containing one
11 of those fired projectiles?

12 A Correct. It was just a fired cartridge case.

13 Q Were all of the items you looked at consistent
14 with one another as far as caliber?

15 A On those, I can't tell the caliber. State's
16 Exhibit 70.1, 70.2, 70.3, and 70.7 were all consistent
17 with .9 millimeter Luger caliber.

18 Q Okay. So it is a .9 millimeter Luger caliber
19 cartridge or --

20 A Yes, sir.

21 Q Okay. Were you able to make any other
22 determinations in your expert opinion given the
23 characteristics of the bullet? You said, rifling and
24 right or left twists; is that correct?

25 A Yes, sir.

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 Q Did those, or do those characteristics match
2 certain firearms?

3 A Yes, sir. When a firearms examiner -- excuse
4 me, firearms manufacture is making a firearm, they
5 actually have to provide the rifling specifications to the
6 FBI and the ATF. They keep a running list of those.

7 For instance, for such as this, where a
8 firearm examiner like myself gets a fired bullet, fired
9 bullets, we can take the width of the rifling, according to
10 the grooves, the direction of the twist, and the caliber,
11 and plug that into a computer program they give us, and that
12 will spit out the list or provide us with a list of possible
13 firearms that we know of that have rifling specifications
14 like those exhibited on that firearm.

15 We, in turn, give that list to the same
16 agency, or the investigating agency, if it's not too large.
17 Because sometimes I got like a nine-page list, and that's
18 not going to help anybody.

19 But if it's a relatively small list, like
20 this one, we will provide that to the agency saying, "If you
21 are looking for a firearm, you may want to start looking
22 under these categories."

23 Q Okay. Again, in your expert opinion, Mr. Green,
24 the list of firearms that those projectiles, the cartridge
25 casing, could have come from, are they more likely an

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 automatic or a revolver? And let me back up.

2 Can you explain the difference between
3 those two for us?

4 A Yes. A revolver, if you have ever watched an
5 old western movie, or heard somebody talk about a six-gun
6 or a wheel gun, it's a firearm designed with multiple
7 chambers in the cylinder. And when you pull the trigger,
8 the gun does the work for you. It rotates the cylinder,
9 the gun goes off. The trigger then empties the next
10 cylinder, the gun goes off, around until you run out of
11 ammunition. It can be five shots, six shots, some nine
12 shots.

13 They all have multiple chambers and when you
14 fire it, the cartridge case is not ejected. It stays in the
15 gun until you open the chamber and eject yourself.

16 An automatic pistol is like the police and
17 military carry now. It has a magazine. You load the
18 cartridge in the magazine, load the pistol, pull the slide
19 back, and go forward. It loads the cartridges into the
20 trigger, it extracts, ejects, goes forward, keeps shooting
21 until you run out of ammunition, until you shot.

22 Once again, a pistol has one chamber, and you
23 fire it. If it's working properly, the cartridge case will
24 be extracted and expelled or expelled.

25 Q And I don't want to get into specifics, but in

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 general, back to the question I asked before, what is your
2 opinion on whether these items were fired from a revolver
3 or an automatic weapon?

4 A I can't say for sure, because I don't have the
5 gun, but judging by the characteristics on Items 70.4 or
6 State's Exhibit 70.4, that was definitely fired from a
7 pistol, based on the cartridge resting in my hand.

8 The bullets you can look at, fragments, the
9 list I gave, it's about 99.9 percent semi-automatic pistol,
10 with what I was actually provided.

11 Q So it would be unusual, in your opinion, for a
12 bullet with those characteristics to have been fired by a
13 revolver?

14 A Yes, sir.

15 Q All right. Let's talk about typical ejection
16 patterns. Now, you said that an automatic weapon ejects
17 the cartridge out; is that right?

18 A Yes, sir.

19 Q What is, in general, the -- what direction and
20 where does that automatic weapon spit out the casing?

21 A First, that is not a test that we do at SLED
22 because all of the variances involved. But it has a very
23 general rule that when a cartridge case is extracted and
24 ejected, generally it will go back and to the right.

25 Q So the gun is pointed in a certain direction,

DIRECT EXAMINATION OF JAMES GREEN BY MR. HOLLEN

1 the cartridge is going to go back and to the right, in
2 general?

3 A Yes, sir.

4 MR. HOLLEN: The Court's indulgence, Your Honor.

5 (Pause.)

6 MR. HOLLEN: Mr. Green, I don't have anything
7 further. Please answer anything Mr. Koger has.

8 THE COURT: Cross examination.

9 CROSS EXAMINATION

10 BY MR. KOGER:

11 Q But, Mr. Green, as far as your answer to the
12 last question, "back and to the right," there also have
13 been studies conducted that show that bullets can be
14 ejected in other directions, correct?

15 A I'm sorry. Say that again.

16 Q I said, there are studies out there that shows
17 that that's just a general premise about back and to the
18 right. There have been studies out there that show that
19 cartridges can -- can be ejected in other directions,
20 correct?

21 A Oh, yes, sir. It's a very general. Back and to
22 the right is very general.

23 Q Okay. All right. And you are -- I just want to
24 clarify, you was not given a gun to do any comparison
25 with, correct?

CROSS EXAMINATION OF JAMES GREEN BY MR. KOGER

1 A That's correct.

2 Q All right. And as you just testified to, you
3 can't be for sure because you didn't get a gun to compare,
4 correct?

5 A Correct.

6 Q So you did not receive a gun in this case, to
7 compare?

8 A No. All I received was State's Exhibit 70.1
9 through State's Exhibit 70.7.

10 Q Okay. And as a matter of fact, you cannot
11 conclusively state that another gun that -- or two guns
12 were not involved in this case, can you?

13 A That's correct.

14 Q Okay. Now, and you also said here, the .9
15 millimeter Luger, that is actually you mentioned that you
16 receive a hit or something, and you came back with some
17 other firearms, correct, for a .9 millimeter Luger?

18 A Like I said, well, when I put the rifling
19 specifications into the GRC program the FBI provided to
20 us, that is where the list and the report came from.

21 Q So basically, evidence in this case, or the one
22 you identified, goes back to 62 different brands of .9
23 millimeter Lugers, right?

24 A That share those specifications, yes, sir.

25 Q Okay. And that is in your report?

CROSS EXAMINATION OF JAMES GREEN BY MR. KOGER

1 A Yes, sir.

2 MR. KOGER: Thank you. No further questions.

3 THE COURT: Redirect.

4 MR. HOLLEN: Nothing further, Your Honor.

5 THE COURT: As to this witness.

6 MR. HOLLEN: I'm going to ask that he be
7 excused.

8 THE COURT: Any objection, Mr. Koger?

9 MR. KOGER: No objections, Your Honor.

10 THE COURT: Mr. Green, leave my exhibits for the
11 court reporter. Make sure she gets all of them. You
12 get your file, and you are excused from the trial of
13 this case. You may leave the courtroom.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Thank you very much.

16 Madam Foreperson, ladies and gentlemen of the
17 jury, we will stop at this point so you can have your
18 delicious lunch, which will be served to you. Please
19 do not discuss this case during lunch, you haven't
20 heard all the evidence in this case. And I'll get
21 back with you after I know that you have all had a
22 chance to have lunch and take a break.

23 Please retire to your jury room at this time.

24 (The Jury exits the courtroom at 1:01 p.m.)

25 THE COURT: Counsel approach.

CROSS EXAMINATION OF JAMES GREEN BY MR. KOGER

1 (Off-the-record discussion held.)

2 (Lunch recess.)

3 THE COURT: State ready to proceed?

4 MS. LEGETTE: Yes, Your Honor.

5 THE COURT: Defendant ready to proceed?

6 MR. KOGER: Yes, Your Honor.

7 THE COURT: All right. Counsel, it's my
8 understanding that you have agreed on some sort of
9 stipulation.

10 MS. LEGETTE: That's correct, Your Honor.

11 THE COURT: Do you want to publish it to the
12 jury?

13 MR. KOGER: Yes, Your Honor.

14 MS. LEGETTE: Yes, Your Honor.

15 THE COURT: What is the stipulation?

16 MS. LEGETTE: That the Item Number 7, which is
17 the bullet removed from Brandon Lewis --

18 THE COURT: Item Number --

19 MS. LEGETTE: Seven.

20 THE COURT: Don't give me an item, just an
21 exhibit number.

22 MS. LEGETTE: Beg the Court's indulgence. I
23 believe it's --

24 THE COURT: Items aren't in evidence; exhibits
25 are. That is why I make SLED agents define -- they

STIPULATION PUBLISHED

1 love to use their item numbers.

2 MS. LEGETTE: The State is ready, Your Honor.

3 The stipulations are that State's Exhibit Number
4 70.1 is a bullet that was removed from the left arm
5 of Brandon Lawrence Lewis and thereafter examined at
6 SLED by Agent Green. That State's Exhibit Number
7 70.2 is the bullet removed Russell Smart and
8 thereafter examined by Agent Green. And then that
9 State's Exhibit-- well, SLED Item Number 60 was the
10 blood standard of Russell Smart, but it was dried by
11 Betty Butler from SLED and turned into State's
12 Exhibit Number 66 and then delivered to Forensic
13 Analyst Paul Meeh of SLED. And that the chain of
14 custody on SLED items admitted during the trial of
15 this case are intact.

16 THE COURT: Aren't they already in evidence,
17 each one of these exhibits?

18 MS. LEGETTE: They are, Your Honor, but we just
19 stipulated to the chain of custody because we didn't
20 have the doctor come down from Augusta or any of the
21 other chain witnesses.

22 THE COURT: Well, we put on the record at the
23 beginning of this case that there was no objection to
24 the chain of custody.

25 MS. LEGETTE: We did, Your Honor.

STIPULATION PUBLISHED

1 THE COURT: Do you want -- just tell me, do you
2 want the jury to be informed of that? Is that the
3 purpose of this stipulation?

4 MS. LEGETTE: Pretty much, Your Honor, that the
5 bullet itself came out of the arm of Brandon Lewis,
6 because we didn't have a doctor testify that he took
7 it out of his arm. So, more or less, it was simply a
8 way of covering all of our steps.

9 THE COURT: And with that --

10 MS. LEGETTE: The State would rest.

11 THE COURT: And is the Defendant going to put up
12 any evidence?

13 MR. KOGER: No, Your Honor.

14 THE COURT: All right. Then I'm going to bring
15 the jury back and let you publish the stipulation.

16 Bring us the jury, Mr. Freddy.

17 (The Jury enters the courtroom.)

18 THE COURT: Madam Foreperson, members of the
19 jury, we will now continue with the testimony in the
20 trial of this case.

21 Solicitor.

22 MS. LEGETTE: Thank you, Your Honor. At this
23 time, Your Honor, the State offers Court's Exhibit
24 Number 6 as a stipulation in the case of State versus
25 Laparis Flowers.

STIPULATION PUBLISHED

1 The State of South Carolina, by and through the
2 undersigned attorneys, Tameaka A. Legette and
3 Brian Hollen, and Defendant Laparis S. Flowers,
4 individually and through his counsel of record,
5 Joshua Koger, Junior, hereby agree and stipulate as
6 follows: That State's Exhibit Number 70.1 is the
7 bullet that was removed from the left arm of Brandon
8 Lawrence Lewis and thereafter examined at SLED by
9 Special Agent Jamie Green.

10 That State's Exhibit Number 70.2 is a bullet
11 that was removed from the body of Russell Smart and
12 thereafter examined at SLED by Special Agent
13 Jamie Green.

14 That the blood standard of Russell Smart, dried
15 by Betty Butler of SLED and turned into State's
16 Exhibit Number 66, which was then delivered to
17 forensic analyst Paul Meeh of SLED.

18 That the chain of custody on SLED items admitted
19 during the trial of this case are intact.

20 Signed this day by Laparis S. Flowers,
21 Joshua Koger, Junior, attorney for Defendant,
22 Tameaka A. Legette and Brian Hollen.

23 THE COURT: Mr. Koger, has the State adequately
24 published the stipulation to which you and your
25 client agree?

STIPULATION PUBLISHED

1 MR. KOGER: Yes, Your Honor.

2 THE COURT: Ladies and gentlemen of the jury,
3 you will have the witness stipulation in your jury
4 room as exhibit number what?

5 MS. LEGETTE: It'll be Court's Exhibit Number 6,
6 Your Honor.

7 THE COURT: Are you wanting it -- well, as a
8 Court's exhibit normally, you wanting the exhibit to
9 go to the jury?

10 MS. LEGETTE: Yes, Your Honor. We're marking it
11 as State's Exhibit Number --

12 THE COURT: You agree it's Court's Exhibit
13 Number 6; is that right?

14 MS. LEGETTE: Yes, Your Honor. We can remark it
15 as State's Exhibit Number 87.

16 THE COURT: All right. Remark as State's 87
17 to go to the jury; is that correct, Mr. Koger?

18 MR. KOGER: That's correct, Your Honor.

19 THE COURT: You'll have it in your jury room
20 with you, and the stipulation and the agreement, it's
21 an understanding that both sides agree it's not
22 necessary to prove the fact, that they have agreed on
23 it. And that's the purpose for the stipulation,
24 rather than you having to hear testimony in order to
25 conclude that fact, they agree that the fact is true.

STIPULATION PUBLISHED

1 You will have the written stipulation with you in
2 your jury room.

3 *(Whereupon, State's Exhibit No(s). 87 marked for*
4 *identification and received in evidence.)*

5 THE COURT: Call your next witness.

6 MS. LEGETTE: The State rests at this time,
7 Your Honor.

8 THE COURT: Any there any matters of law that I
9 need to take up at this time?

10 MR. KOGER: Yes, Your Honor.

11 THE COURT: Madam Foreperson, ladies and
12 gentlemen of the jury, I'm going to ask you to go to
13 your jury room. Please don't discuss this case. You
14 haven't heard all the evidence. You haven't heard
15 the arguments of the attorneys, my charge on the law.
16 I'm probably going to be able to get you home early
17 this afternoon. We probably won't finish until in
18 the morning. I have some matters of law that I have
19 to take up.

20 I'll let you know after I take up the matters --
21 they are going to take a while, I'm not going to let
22 you sit in the jury room and be late getting home
23 tonight, because it's going to take several hours to
24 do the argument and charge. And I don't want that to
25 happen to you.

STATE RESTS

1 So please go to your jury room, let me take up
2 some matters of law, and I'll be back with you just
3 as quick as I can and let you know.

4 (The Jury exits the courtroom at 2:13 p.m.)

5 THE COURT: Mr. Koger.

6 MR. KOGER: Your Honor, may it please the Court.

7 THE COURT: Come forward to the Bench. Come
8 forward.

9 MR. KOGER: Yes, sir.

10 May it please the Court. At this time, I would
11 ask for a directed verdict on all the charges on
12 behalf of my client, Laparis Flowers. The State has
13 not set forth sufficient evidence to warrant this
14 case to be submitted to a jury.

15 THE COURT: Solicitor, come forward.

16 MS. LEGETTE: Thank you, Your Honor.

17 Thank you, Your Honor. I would respectfully ask
18 the Court to deny the motion for directed verdict.
19 The State has met its burden, Your Honor. And when
20 the Court is ruling on a Motion for Directed Verdict,
21 as the Court is well aware, the Court is concerned
22 with the exhibits of evidence and not its weight.

23 In this case, Your Honor, we have several
24 witnesses who have testified about the murder charge
25 itself, with regards to the date of when the incident

MOTION BY DEFENSE

1 occurred at, I believe it was Barton Road, at
2 Pinewood Apartments, as well as the identification of
3 the individual who committed the murder.

4 We have testimony of Jarrell Murray, who
5 testified and identified Laparis Flowers, as being
6 the person who he saw open fire on the car he was
7 sitting in among with Russell Smart, Brandon Lewis,
8 and Tyquan Charlton.

9 He indicated that he heard several shots before
10 he jumped out and ran, and he actually was able to
11 observe and see his face.

12 In addition, Your Honor, and that goes as far as
13 the murder is concerned, as well as the attempted
14 murder on Jarrell Murray's life, given that there
15 were several shots that were actually fired.

16 With regards to identification from Tyquan
17 Charlton, Tyquan Charlton also testified that he
18 actually knew Laparis Flowers previously, that he was
19 able to see him, observe him pull up next to the car
20 and open fire. He also heard several shots.

21 Additionally, he indicated he knew Laparis
22 Flowers previously. He also recognized Laparis
23 Flowers's voice.

24 He, himself, was shot in the jaw. You heard,
25 testimony from, I believe it was, Lish Sabb, from

MOTION BY DEFENSE

1 EMS, who talked about how emergent his condition was,
2 how his heart stopped on the way to -- in the
3 transport to MCG in August.

4 Additionally, Dr. Fornari came into the
5 courtroom and testified that Tyquan Charlton had been
6 shot in the jaw, and that his condition was critical.
7 He stabilized him and then sent him to a trauma unit.

8 Also, Mr. Charlton testified that his condition,
9 his diagnosis, was that the bullet basically lodged
10 in his neck and was crushed up. And if he moves
11 improperly at sometime he might become paralyzed.

12 Additionally, Mr. Charlton testified about there
13 being several persons in the car, including Russell
14 Smart, who was the driver, as well as Jarrell Murray,
15 who was inside the car on the passenger side, front
16 passenger side, as well as himself being on the back
17 passenger side, and Brandon Lawrence Lewis being
18 directly across from him in the back driver's side.

19 The bullet that actually shot Tyquan Charlton
20 had come by Jarrell Murray -- I'm sorry -- by Brandon
21 Lawrence Lewis and hit Tyquan Charlton in the jaw.

22 Additionally, you heard testimony from, I
23 believe it was Brandon Lawrence Lewis, who talked
24 about the episode leading up to the Pinewood
25 Apartments incident and what happened thereafter.

MOTION BY DEFENSE

1 He talked about how once-- once he was shot he
2 told Russell, "Man, I have been hit, pull off, pull
3 off." And Russell was able to tell him, "I have been
4 hit, too."

5 And then Russell began to drive away very
6 slowly.

7 Based on that, Your Honor, he also talked about
8 how there was Tyquan Charlton sitting beside him, and
9 that Jarrell Murray had been in the front passenger
10 seat. He talked about how Russell Smart drove away
11 slowly, about five miles per hour, and then swerved
12 into a yard. He jumped out and he ran because he
13 believed someone might be coming after him. He
14 didn't know where the persons were.

15 Your Honor, given the fact that there were
16 several bullets fired, he didn't know how many
17 bullets were fired, but there were several fired
18 obviously, as testified to by the crime scene agent.

19 She indicated there were four defects to the
20 actual vehicle itself, including the projectiles she
21 was able to retrieve from the vehicle, the fragment
22 and decor, as well as the projectile in the trunk, as
23 well as the other projectiles that were recovered
24 from the arm of Brandon Lawrence Lewis who was
25 treated at the hospital, as well as the bullet taken

MOTION BY DEFENSE

1 out of the left -- right lung of Russell Smart.

2 According to crime scene, as well as Dr. Janice
3 Ross, the bullets were moving from left to right, and
4 they were coming across the car.

5 They were moving left to right, and they not
6 only hit Russell Smart and killed him, they also hit
7 Brandon Lawrence Lewis, hit him in the arm and went
8 across to hit Tyquan Charlton, nearly killing him and
9 very likely and very easily could have killed Jarrell
10 Murray if he had not been lucky enough to jump out
11 and run.

12 You also heard from Captain Manor of the
13 Allendale Police Department, who indicated that
14 Mr Brandon Lewis told him who shot him, the person
15 identified as Laparis Flowers, or Pat Pat. He then
16 got -- let's see -- Lieutenant Matt Brown to come and
17 see Brandon Lawrence Lewis. Brandon Lawrence Lewis
18 then told Lieutenant Matt Brown the same thing in
19 front of Captain Manor as well as Special Agent Jeff
20 Croft. He told him it was Laparis Flowers, he
21 identified Laparis Flowers as being the person who
22 opened fire on them and shot them.

23 Additionally, Brandon Lawrence Lewis was able to
24 pick Mr. Laparis Flowers out of a photo line-up,
25 indicating he had known him for some time.

MOTION BY DEFENSE

1 He also indicated there was Tyquan Charlton's
2 identification of Mr. Laparis Flowers as the person
3 who was doing the shooting. And there was
4 Mr. Jarrell Murray identification photo line-up of
5 Mr. Laparis Flowers as the person doing the shooting.

6 We also heard testimony about there being a
7 vehicle, the white Alero that Mr. Laparis Flowers was
8 known to drive, identified as driving, and that
9 vehicle had GSR in that vehicle on the steering
10 wheel, on the gear shift.

11 You heard testimony that the white Alero is,
12 according to Tyquan Charlton, was a white Alero that
13 Mr. Laparis Flowers was driving when he rolled up on
14 them. According to Tyler Sturkie from GSR trace
15 evidence of SLED, GSR can get on an inanimate object
16 from being in the vicinity of where a gun was fired,
17 or from a person who fired a gun recently or has GSR
18 on their hands, transferring it to the actual vehicle
19 itself.

20 And you also heard from Dr. Janice Ross that
21 Russell Smart, his manner of death was homicide, and
22 his cause of death was exsanguination due to a
23 gunshot wound from his left arm, cutting through his
24 chest, cutting the aorta and going into his right
25 lung, which caused the actual murder of

MOTION BY DEFENSE

1 Mr. Russell Smart.

2 Thereafter, Your Honor, given the fact that all
3 the witnesses who testified, Jarrell Murray and I
4 believe it was Tyquan Charlton, didn't see anyone
5 else in the vehicle aside from Lapolis Flowers.

6 According to the firearms expert, while he could
7 not identify all the projectiles as being from the
8 same gun, they were inconclusive due to damage, it is
9 very likely that they could have been fired by the
10 same firearm. However, we don't have a firearm to
11 compare them to.

12 With regards to the possession of weapon during
13 the commission of a violent crime, Your Honor, there
14 were four projectiles in -- four projectiles or four
15 defects found in the car of Russell Smart. There
16 were several fragments found in the car, along with a
17 projectile in the trunk as well as a projectile in
18 the arm of Russell Smart, a projectile -- sorry -- in
19 the chest of Russell Smart, projectile in the arm of
20 Brandon Lewis.

21 And though we did not find an actual firearm, we
22 had witnesses testify that Lapolis Flowers, they
23 actually saw the gun, saw him open fire, and that he
24 had a weapon, and that he did discharge this causing
25 them their injuries.

MOTION BY DEFENSE.

1 So, Your Honor, we believe we have sustained our
2 burden in this case. We would ask the Court to deny
3 the Motion for Directed Verdict. The venue in this
4 matter is Allendale County, we have proved that
5 through several witnesses over several days.

6 As for there being a specific intent to kill,
7 Your Honor, he did open -- according to witnesses, he
8 opened fire on the vehicle, firing at least four
9 shots.

10 It could have been more shots, but there were at
11 least four shots. One of those shots did kill the
12 first target, Mr. Russell Smart, very likely could
13 have killed Jarrell Murray, and also could have
14 killed Tyquan Charlton. His condition was emergent,
15 as testified to by Dr. Fornari, and EMS worker, Lish
16 Sabb, as well as Brandon Lawrence Lewis. He also
17 sustained a gunshot wound to the left arm.

18 However, unlike Russell Smart, he had a left arm
19 shot as well, it could have easily traveled through
20 his left arm into his left chest into his right chest
21 and thereby killed him as well.

22 So, Your Honor, we believe that we have
23 sustained our burden and ask the Court respectfully
24 to deny the Motion for Directed Verdict and send this
25 matter to the jury.

MOTION BY DEFENSE

1 THE COURT: Thank you.

2 Mr. Koger, your Motion for Directed Verdict, you
3 understand that I'm required to apply the existence
4 or non-existence of evidence at this stage. Your
5 motion is respectfully denied. Be seated, Counsel.

6 And I'm going to ask you now, Solicitor and
7 Mr. Koger, to approach the bench.

8 Approach the bench -- not the Clerk's bench, the
9 Court's bench.

10 (Off-the-record discussion held.)

11 THE COURT: All right. Mr. Koger, would you and
12 Mr. Flowers come around.

13 Madam Clerk, would you please swear in
14 Mr. Flowers.

15 Thereupon,"

16 LAPARIS FLOWERS

17 was called as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 THE COURT: Come to my microphone, if you would,
20 Mr. Flowers.

21 State your full name for the record.

22 THE WITNESS: Laparis Flowers.

23 THE COURT: Mr. Flowers, at this time I'm going
24 to explain to you certain of your rights. If you do
25 not understand anything that I say, please let me

RIGHTS GIVEN BY THE COURT TO THE DEFENDANT

1 know. If you want me to explain anything in further
2 detail, please let me know.

3 You understand?

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. We have now reached the
6 stage of the trial where you may present your
7 defense. You have the right to testify in your own
8 behalf. However, no one, not this Court, not your
9 attorney, not the Solicitor, no one can make you
10 testify.

11 In the event you have a record for any
12 conviction involving dishonesty or false statement or
13 for a crime punishable by imprisonment of more than
14 one year, and this Court determines as a matter of
15 law that the probative value admitting this evidence
16 outweighs its prejudicial effect to you, the
17 Solicitor would be able to introduce this record for
18 impeachment purposes to attack your credibility or
19 your believability.

20 It is my understanding from the Solicitor that
21 you have a previous conviction for conspiracy to
22 commit armed robbery. Is that your understanding,
23 Mr. Koger?

24 MR. KOGER: Yes, Your Honor.

25 THE COURT: And you have advised Mr. Flowers of

RIGHTS GIVEN BY THE COURT TO THE DEFENDANT

1 that?

2 MR. KOGER: Yes, Your Honor.

3 THE COURT: Is that everything, Solicitor?

4 MS. LEGETTE: Yes, Your Honor.

5 THE COURT: You understand that if I were to
6 make that finding, she could bring that out if you
7 testified, if I elected and found as a matter of law
8 that the probative value of admitting that evidence
9 outweighs its prejudicial effect to you.

10 The Solicitor, if you testified, would be able
11 to introduce this record of yours, this conviction
12 for conspiracy to commit armed robbery, to attack
13 your credibility or your believability.

14 Do you understand that?

15 THE WITNESS: Yes, sir.

16 THE COURT: If I were to make that finding as a
17 matter of law.

18 If you elect not to take the witness stand, I
19 will charge the jury in my charge on the law to the
20 jury that they are not to give the fact that you did
21 not testify any consideration whatsoever, and there
22 is to be absolutely no prejudice to you because you
23 did not testify.

24 You have a constitutional right to remain
25 silent. The burden of proof as to your guilt rests

RIGHTS GIVEN BY THE COURT TO THE DEFENDANT

1 on the State of South Carolina, and that burden of
2 proof must be beyond a reasonable doubt.

3 The decision as to whether or not you testify
4 will be left entirely up to you. You can talk with
5 your attorney, but it is not your attorney's
6 decision. It is your decision, and only your
7 decision.

8 So the ultimate decision as to whether or not
9 you testify in this case is entirely yours.

10 Would you like a moment to talk to your
11 attorney?

12 THE WITNESS: No, sir. I am aware, and I wish
13 to remain silent.

14 THE COURT: You do not wish to testify?

15 THE WITNESS: No, sir.

16 THE COURT: And is that your decision and no one
17 else's?

18 THE WITNESS: Yes, sir.

19 THE COURT: And no one has promised you anything
20 or threatened you in any manner in making that
21 decision? In other words, it is your decision of
22 your own free will and your own accord?

23 THE WITNESS: Yes, sir, I'm aware.

24 THE COURT: And you do not wish to testify in
25 the trial of this case; is that correct?

RIGHTS GIVEN BY THE COURT TO THE DEFENDANT

1 THE WITNESS: That is correct, sir.

2 THE COURT: Thank you very much. You may return
3 to your seat.

4 I'm going to bring the jury back and I'm going
5 to say, "You've heard from the State. We'll now hear
6 from the Defense," and my understanding is, Mr.
7 Koger, that you will rest.

8 I have given the lawyers at lunch the
9 October 25th, 2017 case of the State versus King. It
10 is in Westlaw, it's not even -- it's 2017 Westlaw
11 4800004. It affects my charge. I intend to hold a
12 charge conference with the attorneys in chambers this
13 afternoon because I think this completely changes the
14 charge that the State submitted to me as their
15 proposed charge.

16 I invited Mr. Koger to read it, and I will
17 discuss it in chambers since it's barely 60 days old,
18 from the Supreme Court of South Carolina. It
19 completely changes prior -- well, it completely
20 changes the statute, if you read the statute
21 literally for attempted murder, and we also have
22 contrasted in this case with the offense of murder,
23 which is a completely different general intent crime
24 from attempted murder, which has now been held in the
25 State versus King to be a specific intent crime,

RIGHTS GIVEN BY THE COURT TO THE DEFENDANT

1 which I will discuss with the attorneys in chambers,
2 so that the charge can be made.

3 I have advised them in State versus Bate, which
4 was decided at the end of last year by the Supreme
5 Court, that if Mr. Flowers does not put up any
6 testimony, that the Defendant will get final argument
7 tomorrow morning.

8 You agree, Solicitor, that that is correct?

9 MS. LEGETTE: Yes, Your Honor.

10 THE COURT: Very well. Have I accurately stated
11 what occurred at the bench, Mr. Koger?

12 MR. KOGER: Yes, Your Honor.

13 THE COURT: And you agreed that you would get
14 final argument and that we need to discuss the effect
15 of State versus King on the charge.

16 MR. KOGER: Yes, Your Honor.

17 THE COURT: Very well. Mr. Flowers, I meant to
18 ask you this, and you're still under oath, so I want
19 to make sure.

20 Did you understand everything that I went over
21 with you about your right to testify?

22 THE WITNESS: Yes, sir.

23 THE COURT: You didn't have any questions of me
24 about it?

25 THE WITNESS: No, sir.

RIGHTS GIVEN BY THE COURT TO THE DEFENDANT

1 THE COURT: Very well. Thank you very much.

2 Bring us the jury, Mr. Freddy.

3 (The Jury enters the courtroom.)

4 THE COURT: Madam Foreperson, ladies and
5 gentlemen of the jury, you have now heard the
6 evidence from the State of South Carolina. You will
7 now hear from the Defendant.

8 You may call your first witness, Counsel.

9 MR. KOGER: Your Honor, the Defense rests.

10 THE COURT: Ladies and gentlemen of the jury,
11 you have now heard all the evidence in this case, but
12 you have not heard the closing arguments of the
13 attorneys nor received my charge on the law.

14 Because it is 25 till three, and because I have
15 to have a charge conference with the attorneys on the
16 law, there are matters of law involving my charge
17 that I have to take up with the attorneys in this
18 case. We will conclude this case first thing in the
19 morning rather than keeping you here after dark this
20 afternoon, before you receive the case.

21 Now, it is drizzling rain outside. So I want
22 everybody to be extremely careful on the roads
23 getting home. I will get you home early today. We
24 will start back at 10 o'clock in the morning and
25 finish this case promptly in the morning.

DEFENSE RESTS

1 I want you to be careful on the way home, and I
2 want everybody to get here safely in the morning
3 because there's a little chance the rain will happen
4 the next few days. I don't know whether it'll be
5 raining or not, but we will have some wet roads. So
6 I want everybody to be careful.

7 Please be in your jury room prior to 10:00 a.m.
8 in the morning so we can start at 10:00 a.m. and get
9 finished, and I can get you home, ladies and
10 gentlemen.

11 Thank you for your patience. Thank you for your
12 service. I will look forward to seeing each and
13 every one of you in the morning at 10:00 a.m.

14 You are now excused for the balance of today.
15 You may leave the courtroom at this time.

16 Thank you very much. We'll continue tomorrow.

17 THE COURT: Everyone else remain seated while
18 the jury is leaving.

19 (The Jury exits the courtroom at 2:35 p.m.).

20 THE COURT: All right. I'm going to need to --
21 I think my law clerk has actually given you all each
22 a copy of the State versus King. Is that right?

23 MS. LEGETTE: Yes, Your Honor.

24 MR. HOLLEN: Yes, Your Honor.

25 THE COURT: Both of you, I need you to have read

COLLOQUY

1 this -- it's lengthy, it's about -- looks like it's
2 about 15 -- ten or 12, 15 pages, but I need for you
3 to be prepared to be able to discuss it when you come
4 in.

5 I will go over with you in chambers both the
6 verdict form and my entire charge in chambers so that
7 you both will know prior to your arguments in the
8 morning exactly what the Court intends to charge in
9 this case so that you can tailor your closing
10 arguments to the charge on the law that the court
11 gives, particularly in light of the King case, which
12 I think completely changed the charge on the law in
13 South Carolina on attempted murder. So be prepared
14 to discuss it.

15 Anything further on the record outside the
16 presence of the jury from the State of South
17 Carolina?

18 MS. LEGETTE: Not from the State, Your Honor.

19 THE COURT: From the Defendant?

20 MR. KOGER: Not from the Defense, Your Honor.

21 THE COURT: Mr. Koger, I'm assuming since you
22 have rested, you renew your motion for directed
23 verdict at the close of all the evidence, just as you
24 made at the close of the State's case; is that
25 correct?

COLLOQUY

1 MR. KOGER: That's correct, Your Honor.

2 THE COURT: And for the reasons that I stated,
3 your Motion for Directed Verdict at the close of all
4 the evidence is respectfully denied.

5 MR. KOGER: Thank you, Your Honor.

6 THE COURT: All right. Counsel, I'll call you
7 back into chambers in just a moment, we'll have the
8 charge conference. This Court stands adjourned until
9 10:00 a.m. tomorrow morning.

10 (Court adjourned for the day. Proceedings to
11 continue on 1-11-2018.)

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1-11-2018 PROCEEDINGS

1 In the Court of General Sessions for the
2 State of South Carolina, County of Allendale

3
4 Case No.: 2014GS0300229

5 00231, 00232, 00233, 00234

6 State of South Carolina,

7 Plaintiff(s),

8 vs.

Transcript of Record

9 Laparis Shemel Flowers,

10 Defendant(s).

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15
16 January 11, 2018

17 Allendale, South Carolina

18
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21
22 BEFORE:

23 The Honorable Perry M. Buckner
24
25

COLLOQUY

1 THE COURT: Thank you. Good morning, and please
2 be seated.

3 Let the record reflect that yesterday afternoon
4 for sometime, I had a charge conference with the
5 attorneys involved in the trial of this case. They
6 have agreed to the charge.

7 They have agreed to the verdict form. We have
8 also agreed to the oral argument. The State will
9 argue first. They asked for 30 minutes, which I told
10 them is fine, followed by a closing argument by
11 counsel for the Defendant, who will also have 30
12 minutes.

13 There was one addition to the charge this
14 morning. They asked me to give them copies of my
15 charge, which I was happy to do so. I have been over
16 that addition to the charge, which involves the fact
17 that the inference of malice is a wrongful
18 presumption. They both agree that should be added.
19 I met with them this morning concerning that addition
20 in chambers.

21 Now, ladies and gentlemen, the courtroom is a
22 public place, and we invite the public to be here.
23 But we do not tolerate any emotional outbursts of any
24 kind during trial, or when a verdict is published.
25 If you cannot control your emotions, then I suggest

COLLOQUY

1 you get up and leave now, because I will not tolerate
2 for this jury any type of emotional outburst, and I
3 will enforce that with the contempt powers of this
4 court.

5 So I better not hear any type of remark of any
6 type, favorable or unfavorable, out of respect for
7 the jury.

8 Does everyone understand that, and does anyone
9 wish to leave at this time?

10 (No response.)

11 THE COURT: It appears everyone understands and
12 no one wishes to leave.

13 Bring us the jury, please.

14 (The Jury enters the courtroom.)

15 THE COURT: Good morning, Madam Foreperson.
16 Good morning, ladies and gentlemen of the jury.
17 Thank you for being here on time.

18 We will now continue with the trial of this
19 case. You will hear the closing arguments of the
20 attorneys followed by my charge to you on the law
21 which applies to this case. I ask that you listen
22 carefully to the attorneys and the Court.

23 Solicitor, you may proceed.

24 CLOSING ARGUMENT BY THE STATE.

25 MS. LEGETTE: Thank you, Your Honor. May it

CLOSING ARGUMENT BY THE STATE

1 please the Court.

2 THE COURT: Proceed.

3 MS. LEGETTE: Mr. Koger.

4 THE COURT: Counsel approach.

5 (Off-the-record discussion held.)

6 THE COURT: Proceed. Let -- just a moment. Let
7 him get in position so he can see as well.

8 (Pause.)

9 THE COURT: Can everybody on the jury see the
10 screens?

11 (The Jurors indicate affirmatively.)

12 THE COURT: Okay. You see all of this?

13 JUROR: Yes, sir.

14 THE COURT: Can you see?

15 MR. KOGER: I can see.

16 THE COURT: Come on up a little forward if you
17 need to.

18 Can you see everything?

19 THE DEFENDANT: I can.

20 THE COURT: If you can't see this board right
21 here, you let me know. Just raise your hand.

22 Proceed.

23 MS. LEGETTE: Thank you, Your Honor.

24 Good morning.

25 THE JURORS: Good morning.

CLOSING ARGUMENT BY THE STATE

1 MS. LEGETTE: Good morning. December the 6th,
2 2014 was a time to kill for Laparis Flowers. Laparis
3 Flowers is a killer. Laparis Flowers is a killer.
4 And on December the 6th, 2014, he went in search. He
5 went looking for who he wanted to kill.

6 His intent was to steal, to kill, to murder,
7 destroy. To steal lives, to kill, to murder, to
8 destroy the objects of his anger.

9 Now, ladies and gentlemen, Mr. Flowers sits
10 before you today cloaked in a robe of righteousness.
11 A robe of righteousness. The trial judge is going to
12 tell you that he sits there cloaked in that robe of
13 righteousness until and unless the State meets its
14 burden of proof and takes off that robe of
15 righteousness.

16 I submit to you today that the robe of
17 righteousness is already off. We have taken it off.
18 We have snatched it off. Because beyond a reasonable
19 doubt, you already knew.

20 Now, ladies and gentlemen, I really don't want
21 to insult your intelligence, but I feel like I'm
22 going to have to insult your intelligence this
23 morning because there are a few things the State must
24 go over again, and again, and again, and again.

25 Laparis Flowers, for his actions on

CLOSING ARGUMENT BY THE STATE

1 December 6th, 2014 has been charged with murder of
2 Russell Smart, attempted murder of Tyquan Charlton,
3 attempted murder of Jarrell Murray, and attempted
4 murder of Brandon Lewis. Also possession of a weapon
5 during the commission of a violent crime. That is
6 why he's here. And that is what we believe we have
7 proven.

8 It is not my intent to prosecute an innocent
9 man. Not so. We do not prosecute the innocent, only
10 the guilty.

11 Now, ladies and gentlemen, I'll tell you the
12 words of Johnny Cochran. If you feel that it does
13 not fit, then you must acquit. But we believe we
14 have met the burden of proof. So let us now go
15 forward because you have been convinced beyond a
16 reasonable doubt. All doubt being resolved.

17 Now, let's talk about what we learned at trial,
18 the Judge will ultimately tell you at the end of this
19 case. Let's go through attempted murder. I don't
20 want to go with murder first, this is not a normal
21 case. It is a simple case, but I'll go over the
22 attempted murder first. Because through the
23 attempted murder, you will see Laparis Flowers is
24 also guilty of the murder of Russell Smart.

25 So what does attempted murder require? If I'm

CLOSING ARGUMENT BY THE STATE

1 wrong, the trial judge will tell you what the law is.
2 It is his province. But attempted murder just
3 briefly.

4 My daddy likes math, and I really was not good
5 at math. Y'all can see, I talk too fast, and I was
6 transposing numbers. I'm not real good at math, but
7 there are a few things I can do. So we are going to
8 do a little equation this morning. We are going to
9 take the law and apply it to the facts. For the
10 facts, and apply it to them.

11 Let's start. Attempted murder requires that a
12 defendant attempted to kill another person. In here,
13 I have put down, Tyquan Charlton, Brandon Lewis,
14 Jarrell Murray, with malice aforethought. And he
15 must have had a specific intent to kill.

16 So what have we proven? Let's talk about the
17 case we put before you. I want you to remember the
18 number 13. Thirteen, some say 13 is an unlucky
19 number. I don't believe 13 is an unlucky number.
20 Thirteen is the beginning of something else.

21 You get to 12 and you finish, 13 is the
22 beginning of something else. The beginning of a new
23 day. A day when you get the truth.

24 So what 13 things do I want to discuss today?
25 Let's look at 13 things. Tyquan Charlton's

CLOSING ARGUMENT BY THE STATE

1 identification of Laparis Flowers. How do you know
2 Laparis Flowers is guilty of attempted murder?

3 Number one, you have his name. So we will go
4 ahead and check off our box. It is a little simple
5 equation, but we are going to check off our box, the
6 Defendant. Tyquan Charlton said, "I know Laparis
7 Flowers, I have known him for years. I saw him that
8 night."

9 He said, "Y'all tried to flex on my little
10 cousin." Y'all tried to flex on my little cousin.
11 Is that what this is about?

12 You roll up, come up on people in a car, open
13 fire because they try to flex on your little cousin?
14 Who is that cousin? Jaqwavian. Toot. They had
15 issues in the club. Remember? Lobster House, issue
16 in club. Somebody said Laparis was mad. He was
17 cussing. Toot brother might have got into it. Toot
18 and Dee. Toot, Jaqwavian, his little cousin.

19 Tyquan Charlton said, "He pulled out the gun.
20 He started shooting at us in the car. I was hit in
21 the jaw with a bullet."

22 The doctor talked about how emergent his
23 condition he was. He said the bullet lodged in his
24 neck. If he move, he may be paralyzed. Attempted
25 murder. He's lucky to be alive. Possible paralysis.

CLOSING ARGUMENT BY THE STATE

1 That's what Tyquan Charlton said.

2 Let's talk about Tyquan Charlton's demeanor. I
3 noticed something. I noticed something. It seemed
4 like Mr. Charlton came here and sat on that witness
5 stand, Mr. Koger called it "the great equalizer."
6 Did you see Tyquan Charlton? Did you see him stand
7 up and look? You could tell he was afraid. Did you
8 see his demeanor? Did you see him? He didn't want
9 to look over there at Mr. Flowers. He didn't want to
10 look over there because he was so afraid.

11 What else did Tyquan Charlton say? On December
12 the 10th, in the hospital, with a Slurpee in his
13 mouth, a Slurpee, Lieutenant Brown said he had a
14 Slurpee, he was taking water out of his mouth like
15 you have at the dentist, telling him, "It was Laparis
16 Flowers who shot into the car where I was."

17 He then identified him, number two, in a photo
18 line-up on December the 10th. And if that wasn't
19 enough, go back to Tuesday of this week. Tuesday, he
20 came in here and identified him one more time. That
21 is three.

22 Then number four, he identified the photo
23 line-up that he originally -- this photo line-up
24 right here -- this one. This picture. This photo
25 line-up, he identified as being his photo line-up.

CLOSING ARGUMENT BY THE STATE

1 where he picked out Laparis Flowers. That is number
2 four.

3 And as if that ain't enough, number five, in
4 open court, before all of you, with fear in his eyes
5 and a tremble in his voice, he picked him out again
6 in open court.

7 Five identifications from Tyquan Charlton.
8 Five. Five. The same man over and over and over. I
9 told you, I was going to insult your intelligence,
10 but I have to.

11 What does that mean? Laparis Flowers is guilty.
12 He is guilty of attempted murder of Tyquan Charlton.
13 Remember when Tyquan Charlton was sitting in that
14 car, on the back passenger side, bullets flying all
15 the way across that car, all the way across that car,
16 threw a rock at that car, into the left side jaw, the
17 head area of Tyquan Charlton.

18 That means the Defendant attempted to kill. He
19 had a specific intent -- he ain't just fired one
20 bullet, not two bullets, not three bullets, but at
21 least four bullets. Let me show you this car.

22 Can I show you this car? You see this car. Can
23 I show you this car? Look at this car. Just look
24 here. You got A, you got B, C, you got D. You got
25 four defects. You got four men, at least four shots.

CLOSING ARGUMENT BY THE STATE

1 That is attempted murder. That is specific intent to
2 kill.

3 Somebody called or texted to ask him where is
4 Jaqwavian, that he's around at Pinewood. Laparis
5 Flowers got in his little white car and rolled up on
6 Pinewood where he thought he walked in and got in the
7 back. What did he do? Opened fire. Boom. Boom.
8 Boom. Boom. Four shots. Four men. One dead.
9 Three survivors.

10 Laparis Flowers is a killer. He tried to kill
11 Tyquan Charlton. He didn't succeed, but he is still
12 a killer.

13 Let us talk about Brandon. Where is Brandon
14 Lewis? Yeah, yeah. Brandon Lewis walked in here,
15 y'all, and Brandon Lewis, I hated to embarrass
16 Brandon Lewis, he came in here in shackles. I
17 couldn't hide from you that Brandon Lewis is in
18 Federal prison. Brandon Lewis is an inmate, has been
19 there since 2015, he said. He will be there until
20 2021. He is going back there to Federal prison.
21 Yes, he is.

22 What did Brandon Lewis tell you? "I know
23 Laparis Flowers. I have known Laparis Flowers for
24 years. I saw him that night."

25 Pat Pat shot into the car. Laparis Flowers

CLOSING ARGUMENT BY THE STATE

1 shot. I was shot in the arm. The bullet removed.

2 Let's talk about the inmate, the snitching, the
3 code. It's a code. It is a code, he is sitting in
4 prison. He has to go back. He has to go back. And
5 because he had to go back there, he can't sit in here
6 and identify a man and then he would have to go back
7 and tell the boys. He has to go back to the prison.
8 Surely they are going to ask him what he did.

9 He had to know that. Man, I didn't do anything,
10 man, I didn't, man, I -- that is what the inmate
11 Brandon Lewis came in here and did. That is what he
12 did.

13 But look at this. That goes back to what he's
14 already said, before he was an inmate, when it was
15 fresh on his mind, when he cried.

16 Now, I've never been a man. Know many men. My
17 daddy, my brother, strong men. Strong willed black
18 men. Stand up. Large men. I don't see the men in
19 my family cry unless it is very, very deep.

20 You had another black man, a man that come in
21 here and told you that he went to see Brandon Lewis,
22 before he got to be -- before he came. You know,
23 code, snitch, you know, he broke down and cried when
24 we asked him about Russell.

25 When he asked him about Russell, and what did

CLOSING ARGUMENT BY THE STATE

1 Brandon Lewis tell him? He told Detective Manor it
2 was Laparis Flowers who shot. It was Laparis
3 Flowers.

4 And then, again, on December the 6th, he said it
5 again two times, to Lieutenant Brown from SLED. He
6 didn't really want to, but he did. And then, the
7 third time he identified him in the photo line-up.
8 That is three times. That is three identifications.
9 That is three.

10 This right here, this is Brandon Lewis'
11 identification. That is the third one, y'all.
12 That's the third identification of Brandon Lewis.
13 Three separate identifications, all of the same man,
14 Laparis Flowers.

15 I told you that robe of righteousness -- that
16 robe of righteousness, oh, it's filthy. It is
17 filthy. We have now taken it off, it's on the floor.

18 Shooter. Four young men in a car. Where was
19 Brandon Lewis sitting? Right behind Russell. Right
20 behind Russell. Close enough to see the man who
21 tries to kill him.

22 Now, you think that attempted murder, he didn't
23 die. He had a shot in the arm, left arm. Russell
24 Smart got shot in the left arm. And that shot in the
25 left arm of Russell Smart killed him. It went

CLOSING ARGUMENT BY THE STATE

1 through his body. It cut across his body. It cut
2 into his aorta. It cut through his lung. It cut
3 through to the other lung. And it killed him. And
4 because Brandon Lewis had the same fate as he, he
5 could have been done the same way.

6 Laparis Flowers tried to kill. He had the
7 intent to kill when he opened fire on that car.
8 There was four young men. When he pulled up, the
9 element of surprise. They weren't even paying him
10 attention. They were not even looking at him. The
11 element of surprise.

12 He tried to kill Brandon Lewis. And what does
13 that mean? Laparis Flowers is a killer. Laparis
14 Flowers is a killer. Laparis Flowers does not have a
15 robe of righteousness. Laparis Flowers does not wear
16 a robe of righteousness. Killers don't get to wear
17 the robe of righteousness.

18 He is guilty. He is guilty. We are going to
19 just go ahead and mark off Tyquan and Brandon.

20 Now, let's talk about Jarrell Murray. Jarrell
21 Murray, what did Jarrell Murray say? He said he knew
22 Laparis Flowers. He had known him for years. He saw
23 him that night. The car pulled up door to door.
24 Laparis Flowers pulled out the gun. He began to
25 shoot at us in the car.

CLOSING ARGUMENT BY THE STATE

1 He jumped out and ran away. Jarrell Murray
2 sitting in a similar position as Tyquan Charlton,
3 only the far passenger's side, and he jumped out and
4 run, but he heard several shots. He didn't know how
5 many. I believe Tyquan said he didn't know how many,
6 but he heard several shots. He had four defects in
7 that car.

8 Jarrell Murray. He tried to kill Jarrell Murray
9 as well. The bullets were going straight across.
10 Straight -- if you look at the way this car is cut
11 up, the bullets are going straight across this car.
12 They are head shots and they are upper body shots.
13 That is intent to kill. The specific intent to kill.
14 That is the intent to kill. Laporis Flowers tried to
15 kill Jarrell Murray.

16 Let's talk about Jarrell Murray. The victim.
17 Did y'all see him? I'll go back again to what
18 Mr. Koger said about this seat, the great equalizer.

19 Did you see how Jarrell Murray made him feel
20 really calm? I saw him walk in the door, keep his
21 back straight. But when he got on the stand, he
22 hunkered down. I could barely see him.

23 But did you listen? Did you listen? I could
24 barely hear him. He almost wanted to whisper. I
25 have seen it, I have heard it in his voice, and I

CLOSING ARGUMENT BY THE STATE

1 felt it. But all in one, I know when I have seen it.
2 They sat on the witness stand and had to stand up,
3 and I had no choice but to ask, and in his whisper,
4 hushed tone, he told you about Laparis Flowers.

5 Let's talk again about how many times. How many
6 times did he -- he said it was Laparis Flowers
7 December 6th, 2014, to Lieutenant Matt Brown. That
8 is one.

9 He identified him in a line-up on December 6th,
10 2014. That is two. Lookie here. And then that is
11 the third one, y'all. That's Jarrell Murray
12 identifying Laparis Flowers.

13 Then, number three, he came to court on Tuesday,
14 sat in that equalizing box, hunkered down like a
15 scared little boy. Jarrell Murray stood up to a
16 killer. A face probably he'll never forget, and told
17 you it was Laparis Flowers.

18 Then he turned around and identified the photo
19 line-up that he had already seen on December 6th, as
20 being the one that he filled out. This same one
21 right here. I know I'm insulting your intelligence,
22 I have no choice. No choice. Because at the end of
23 all this, you will have no choice. I don't want to
24 leave you with no choice. No doubt. None. And what
25 did he do the fifth time? Sat there. I asked him,

CLOSING ARGUMENT BY THE STATE

1 "Do you see the man? Do you see the man who shot
2 into that car four times? Boom. Boom. Boom. Boom.
3 Do you see him in here?"

4 What did he say? "There he is. There he is in
5 the blue. There he is." That's what he said, the
6 the one in the blue shirt.

7 Five times. Five identifications. Five. What
8 does that mean? Laparis Flowers is guilty of
9 attempted murder of Jarrell Murray. Laparis Flowers
10 is guilty of attempted murder of Brandon Lewis.

11 Laparis Flowers is guilty of attempted murder of
12 Tyquan Charlton. And because of all that, Laparis
13 Flowers is guilty of murder of Russell Smart.

14 We are just going to go ahead and mark it off.

15 Malice. What is malice? Before we go to
16 malice, let's talk about this. What was five plus
17 three plus five, 13. Thirteen. Thirteen times
18 Laparis Flowers has been identified as the shooter
19 into that Crown Vic on December 6th, 2013. Thirteen
20 times. You can't deny it. It is simple math. I may
21 not have the mind of a mathematician, but even I can
22 count to 13. Five plus three plus five equals 13.

23 I told you I would insult you. I am sorry, but
24 it's 13. No denying it. He has been identified 13
25 times. He is guilty. He is guilty.

CLOSING ARGUMENT BY THE STATE

1 Now, ladies and gentlemen, what is malice? What
2 is malice? Malice, the Judge is going to tell you
3 what malice is. Malice is basically evil. Wicked.
4 Depraved. And has to be aforethought. It has to be
5 aforethought.

6 But malice is evil, wicked, heart bent on doing
7 wrong, bent on doing wrong. And that is what Lapolis
8 Flowers had in his heart.

9 Don't be fooled by the baby face. Do not be
10 fooled by the baby face and the little boy doe eyes.
11 Because behind those eyes is the heart of a killer.
12 The heart of a wicked and evil man, and that is what
13 he did on December the 6th, 2014.

14 Now, listen again. Aforethought can be just
15 before. It has to be before. Basically like you lie
16 in wait, or you make a plan to go there.

17 What does he do? Best testimony was, found out
18 where Dee was, went to Pinewood, get in the car, goes
19 over there. He don't live there. What is he doing
20 in Pinewood? He is looking for these men. These men
21 that flexed on his little cousin. That is malice
22 aforethought.

23 And we had discussed the specific intent to
24 kill. His intent was to kill them. Look at Russell
25 Smart. Look at him lying here, bullet in his arm,

CLOSING ARGUMENT BY THE STATE

1 cut through his heart and aorta. His intent was to
2 kill. He just (inaudible). Russell may have pulled
3 off.

4 Remember, Brandon told you, "Russell, I got hit,
5 man, pull off." Russell said, "me, too," and he
6 drove away at five miles an hour. He may have saved
7 Tyquan, he may have saved Brandon, too. In his last
8 dying breath, he drove away.

9 Intent to kill. He killed Russell, and he
10 intended to kill every single soul in that car, for
11 no other reason than they flexed. Somebody --
12 somebody just rived on his little cousin. That is
13 intent to kill, he just didn't get the chance.

14 Now, ladies and gentlemen, let's talk about the
15 murder. But really the murder is already done. You
16 might as well check it off. We have been going
17 through it the whole time. The murder, the
18 Defendant -- my speaker is going dead. Laparis
19 Flowers killed another person, Russell Smart, with
20 malice aforethought.

21 We talked about the wickedness, the evil. You
22 open fire in a car filled with people, and you shoot
23 four times, head shots -- head shots, body shots,
24 cutting across vital organs. You intend to kill
25 them.

CLOSING ARGUMENT BY THE STATE

1 Malice, evil. He went looking for them. And
2 malice can be with expressed or inferred. Expressed
3 means basically I speak words to you, or I have ill
4 will. Now, somebody said he was mad. He left the
5 Lobster House angry. Cussing. He was upset. But he
6 was prepared. He went looking for them. That can be
7 seen as expressed malice.

8 Or malice can be inferred from the use of a
9 deadly weapon. Your expert came and you saw him. He
10 told you that he got shell casings, he got
11 projectiles, he got bullets, he got fragments. He
12 got cord -- a cord, which is also from a bullet.

13 Basically what he did was, he opened fired,
14 shell casing, .9 millimeter. It was a .9 millimeter.
15 A firearm. A gun. A deadly weapon. Malice is
16 inferred with the use of a deadly weapon.

17 Now, that means he is guilty of murder of
18 Russell Smart.

19 Let's go back one more time, because just in
20 case you are yet still not convinced, if it's still
21 not clear, I'm going to insult you one more time. I
22 got to. I apologize, but I got to insult you one
23 more time.

24 I direct your attention. Laparis Flowers is a
25 killer. Identification. What do we have? Three

CLOSING ARGUMENT BY THE STATE

1 different dates, at three different times, at three
2 different places. All saying the same thing, all say
3 the same thing. All ID the same man. It is simple.

4 You already heard, shot and killed Russell, shot
5 Tyquan in the face, shot Brandon Lewis in the arm,
6 shot at Jarrell Murray.

7 Corroborate. Let's discuss this here. What do
8 these other witnesses say? Look at what the
9 witnesses all say. Even if you had to take Brandon
10 out, Brandon says the same thing as Tyquan and
11 Jarrell, except he pulls back because of where he
12 lives, because when he comes from court and all of
13 them say, how was it.

14 Tyquan says, and Jarrell says, and Brandon says,
15 left the Lobster House. Left with Russell, catching
16 a ride. Russell was driving. Tyquan in the back
17 seat. Everybody says the same thing. Tyquan was in
18 the back passenger seat. Everybody says, Jarrell was
19 in the front. Everybody says Russell was driving.
20 Everybody says Brandon was on the driver's side
21 behind Russell.

22 They went to Pinewood Apartments. They all say
23 it. They all say it. All of them. Even Brandon.
24 He got right up to the car. They were sitting at
25 Pinewood Apartments. The white car pulled up, the

CLOSING ARGUMENT BY THE STATE

1 driver window -- I'm sorry to go over it again. I
2 know it's a little boring. I know it's boring. But
3 you cannot leave here with any doubt. No -- beyond a
4 reasonable doubt is authentic.

5 Because that is the kind of doubt to cause a
6 reasonable man to take action. If you didn't believe
7 what you heard from that chair you would have
8 reasonable doubt, but I want you to leave the
9 courtroom and feel like you didn't have a choice,
10 that there is no doubt.

11 I'm going to leave it all on the floor for you,
12 because there's no doubt. Everybody says the same
13 thing, over and over and over, 13 times. None of
14 them differ, they all say it.

15 They don't ever hear Pat Pat. Laparis. He
16 pulled out a gun. He opened fire. They all said it.

17 Consistent, consistent, consistent. Except for
18 Brandon refused to identify him in court.

19 Consistent. Consistent. They all pick him out.

20 They all pick him out. One by one by one, all
21 of them. Three line-ups, three different men, the
22 same thing. All of them. No doubt. They took him
23 out. Consistent.

24 What does it mean? Laparis Flowers is guilty.

25 He is a guilty man. He is guilty.

CLOSING ARGUMENT BY THE STATE

1 Yes, I insulted you. Yes, I apologize. But
2 it's necessary. It is needed. He is a killer.

3 And ladies and gentlemen, it can't because
4 Mr. Koger is going to bring a lot of stuff up about
5 oh, what about this and what about that? And
6 hypothetical this and hypothetical that. But I don't
7 want to talk about the hypothetical. I want to
8 discuss what really happened that night. All of the
9 rest. What happened.

10 The white Alero. The white Alero, let's discuss
11 the white Alero. The white Alero belonged to Laparis
12 Flowers. We have proof that over and over and over
13 again, the white Alero belonged to Laparis Flowers.

14 Look here, his name is on the contract document
15 found in the car. In the car of Laparis Flowers.
16 That is his car, he and his mother's. He signed for
17 it. Laparis Flowers.

18 Laparis Flowers' ID is in the trunk of the
19 Alero. It is his car. It's his car. Laparis
20 Flowers in his white Alero. Look at your video.
21 Look at your video. Laparis Flowers is getting in
22 that white Alero. He is identified by Detective
23 Manor -- Captain Manor. He is getting in the white
24 Alero. It is his car. His car. His Alero. It
25 belongs to him. He drives it. He controls it.

CLOSING ARGUMENT BY THE STATE

1 Anybody else could not have driven it. Let's just
2 talk about it. Let's talk about that.

3 Oh, somebody else drove it. And then the
4 question, Laparis Flowers had him move it. You're
5 knowledge in the investigation is that Laparis
6 Flowers had him move the car.

7 Anyone else that drove that car only drove it
8 because he told him to. And it is found on the
9 property of his relative. Edith Bates, Jennifer
10 Bates, his momma, her relative. His relative. The
11 white Alero.

12 Steering wheel tells an interesting story, don't
13 they? Let's talk about it. Look at Russell Smart.
14 Russell Smart, gunshot residue. Laparis Flowers,
15 gunshot residue, GSR on the steering wheel. Laparis
16 Flowers GSR because Laparis Flowers fired the gun
17 into the green car from his white Alero and then he
18 drove away. Things that make you say, hmm.

19 The gear shift, Laparis Flowers' gear shift.
20 His hand on the gear shift. Laparis Flowers was the
21 shooter driving that car.

22 Let's forget about the hypothetical. This is
23 not a coincidence. He wants you to believe that it
24 is a coincidence, but it's not a coincidence. There
25 are no such things as coincidence.

CLOSING ARGUMENT BY THE STATE

1 Mr. Koger said one more interesting thing. He
2 talked about how they went to the house in north
3 Augusta, but you didn't find anything related to this
4 crime at my client's house.

5 No, sir, we didn't. No, sir, we didn't. We
6 didn't find a gun there. I would have liked to have
7 had a gun to bring to you to show you that the
8 bullets matched. No gun.

9 No clothes. I would like to have had clothes to
10 bring to you to show you the GSR on them, but no
11 clothes. I would have loved to have bullets -- I'm
12 sorry, bullet that were not fired at his house,
13 bullets to match, or the gun.

14 They weren't in that house in north Augusta.
15 They didn't find anything there. They didn't find
16 the car there either. It is clearly his car. They
17 didn't find the car there. No clothes there. No gun
18 there. No bullets there.

19 But guess what? Those same clothes that
20 Mr. Koger brought up to you, brought to your
21 attention, about we didn't find them in the house,
22 the same clothes, in the video the man who is wearing
23 those same clothes is Lapolis Flowers. Oh, yeah.
24 There it is.

25 Lapolis Flowers is wearing the same clothes in

CLOSING ARGUMENT BY THE STATE

1 the video. Those same clothes. So the police go
2 goes to the place where the person lives looking for
3 evidence. They went there. They didn't find the
4 clothes that he was wearing in the video. Look at
5 the video.

6 They didn't find the clothes. They didn't find,
7 the gun. They didn't find bullets. They didn't find
8 the car at his house.

9 What did he do with it? Where did it all go?
10 Where is the gun? Where is the bullets? Uh-huh. It
11 could have been put on fire, but we found it. He
12 just happened not to have his clothes in North
13 Augusta.

14 He is clearly seen wearing the clothes in the
15 video. Oh, where are the clothes at, y'all? These
16 clothes. The clothes.

17 One place you would look, your house in North
18 Augusta. And they wouldn't have found that car, but
19 it was at his relatives' house. He ditched it. He
20 disposed of the evidence. He disposed of the
21 evidence. He got rid of it all. We found the car.
22 He can't deny the car.

23 He can't deny it. He can't hide it away, it is
24 his car, it is his, he drove it. And there was
25 nothing that could be found, and if there was

CLOSING ARGUMENT BY THE STATE

1 something to be found it had already been cleaned.

2 The young man had his car cleaned.

3 Now, ladies and gentlemen, forget about these
4 hypotheticals. What happened is just like they
5 said, just like they said: Jarrell Murray, Tyquan
6 Charlton, Brandon Lewis.

7 Laparis Flowers, ladies and gentlemen, is a
8 wicked and evil man. He is a killer. It's time to
9 speak the truth.

10 December 6th, 2014 was a time to kill for
11 Laparis Flowers. He went to Pinewood Apartments to
12 kill, murder, and destroy. He did that. And now
13 it's time to speak the truth. A verdict of guilty
14 will speak the truth. I have insulted you today, and
15 for that I do apologize. But I want you to leave out
16 of this courtroom without any doubt, beyond any
17 reasonable doubt.

18 Laparis Flowers, the robe of righteousness is in
19 the garbage. Incinerated. On fire. It is over.

20 Speak the truth this day. Find Laparis Flowers
21 guilty of murder, of attempted murder of Tyquan
22 Charlton, of attempted murder of Brandon Lewis, of
23 attempted murder of Jarrell Murray, and the weapon,
24 because he had to use a firearm to kill. He is a
25 killer.

CLOSING ARGUMENT BY THE STATE

1 Thank you.

2 CLOSING ARGUMENT BY THE DEFENSE

3 MR. KOGER: May it please the Court.

4 THE COURT: Proceed.

5 MR. KOGER: Ms. Legette, Mr. Hollen.

6 Laparis Flowers is not a killer. Laparis
7 Flowers is not the shooter in this case.

8 Now, I admire Ms. Legette's passion, and I
9 admire Ms. Legette's emotion. But as jurors, y'all
10 are to listen to all of the evidence that was placed
11 in this courtroom during this week, and also take
12 into consideration what was not placed into evidence
13 on this particular week.

14 Now, the State would have you, to bolster the
15 case, primary, solely on identification. And I'm
16 going to deal with that later in my closing. But
17 this is their whole case and the entire case. And
18 everything that was placed into evidence this week or
19 not placed in, is taken for consideration in this
20 case against Mr. Laparis Flowers.

21 He tried to minimize the fact that there was no
22 firearm. But indeed these deeds were committed by a
23 firearm. Out of all the pieces of evidence we had
24 over here, and I think we had maybe about 80-some-odd
25 pieces of evidence, no gun. No gun.

CLOSING ARGUMENT BY THE DEFENSE

1 Agent Green from SLED testified to doing these
2 steps, finding this ballistics, this case and what
3 have you. But he also testified to that he can't
4 even conclusively say whether it was more than one
5 gun used on that particular night.

6 And then the other parties' testimony was, well,
7 the casing of the .9 millimeter that we found, it
8 goes back to 62 brands of guns.

9 Sixty-two brands of guns. A murder, three
10 counts of attempted murder, and one count of
11 possession of a weapon during the commission of a
12 violent crime, no gun.

13 But the State wants you to really not consider
14 that because it doesn't help their case.

15 Second, search warrants were issued and
16 executed. Obviously they started video before they
17 got the search warrant, before they approached the
18 Magistrate for the search warrant, and they wanted to
19 execute the search warrant. Don't let the State tell
20 you, well, because of some clothes on a video, they
21 really didn't want to find the clothes.

22 Okay. They executed a search warrant in north
23 Augusta, as stated. No firearms, no ammunition, no
24 magazines connected with firearms. No black sweater.
25 No white thermal shirt. No camouflage pants. No

CLOSING ARGUMENT BY THE DEFENSE

1 Nike white Air Jordans.

2 The Defendant's grandmother, Ms. Edith Bates,
3 said, "Don't need a search warrant, come on in and
4 look."

5 No firearm, no firearm magazines, no ammunition,
6 no black sweater, no white thermal shirt, no
7 camouflage pants, and no white shoes.

8 Don't let the State tell you, well, that is
9 okay. That is a minor part of this case, not finding
10 these items in the residence or the places in which
11 Mr. Flowers were, because they were not important.
12 They would not have gotten the Magistrate to sign the
13 warrant to go look for them. Okay. To go look for
14 them. That's number one.

15 Number two, Ms. Legette gave the number 13 as
16 being the number in this particular case. Thirteen,
17 that is the number. But I submit to you another
18 important number, 48.

19 Forty-eight is the fourth number. Forty-eight
20 is the time that that Oldsmobile white Alero -- and
21 by the way, no firearms, no magazines, no ammunition,
22 no clothes found in that Oldsmobile also.

23 But nevertheless, 48, that is the number. What
24 is 48? Forty-eight hours is the time from the
25 alleged incident until the time that the car was

CLOSING ARGUMENT BY THE DEFENSE

1 secured.

2 Agent Brown testified to the car was secured at
3 3:45 a.m. That's morning, the morning hours of
4 December 8th.

5 This incident happened on December 6th, around
6 3:15 in the morning hours. He admitted -- he agreed
7 that the car was unsecured for 48 hours. He also
8 said during the investigation that he know of at
9 least one other person that drove the car, and also
10 he didn't know who else had been in the car during
11 that particular time.

12 That person that drove the car, we don't know
13 who else he had in the car, what they had on their
14 person, what they had on they hand, what they had on
15 their clothes, it was 48 full hours that we don't
16 know what kind of traffic went in and out of that
17 car.

18 That is not hypothetical, that is a fact. And
19 Agent Brown from SLED stated that. And he also
20 stated that even though he's not the gunshot residue
21 expert, he stated the gunshot residue can be
22 transferred.

23 So let's go to the gunshot residue transfer
24 expert. He said that, you know, gunshot residue was
25 detected here, it was detected here, and it was

CLOSING ARGUMENT BY THE DEFENSE

1 detected here. But he also said that it could be
2 transferred. And it could be transferred very
3 easily.

4 As a matter of fact, he gave the example of
5 cooking with flour. He say, if you have flour on
6 your hand and grab a cup, and somebody else come
7 behind you and grab that cup, they can get trace
8 evidence of flour on them.

9 As a matter of fact, over a New Year's holiday,
10 I attempted to put some gumbo -- I wanted to watch a
11 football game, and I had to use a little flour to get
12 the gumbo to thicken. And flour is very messy to
13 work with. It's the example that he used on gunshot
14 residue.

15 He said it can be transferred by hand or
16 clothing. Again, 48. Forty-eight hours, we don't
17 know how many people was in that car or traveled
18 through that car.

19 And here's another thing, too, that Agent
20 Sturkie testified to, where I think is the most
21 important. And I'm going to -- just excuse me for
22 this reading off the paper this one time, but I want
23 to get the language right, because I want to be sure.

24 He said several times, "No information can be
25 provided as to the time frame in which the particles

CLOSING ARGUMENT BY THE DEFENSE

1 were deposited."

2 No information can be provided as to the time
3 frame in which the particles were deposited. He
4 stated that it could have been deposited before
5 December 6th, 2014 at 3:15. It could have been
6 deposited after December 6th, 2014. No time frame
7 can be provided.

8 Again, the State wants you to minimize that, but
9 we can't minimize because guess what? They called
10 Agent Sturkie, I didn't put Agent Sturkie on the
11 stand. They called Agent Sturkie.

12 They put the information out there. So you
13 can't -- you can't have -- you can't have it at least
14 come out and then when it's not favorable, minimize
15 it. They have to prove they case beyond a reasonable
16 doubt. The entire case beyond a reasonable doubt.

17 Now, let's go to the identification because that
18 is the major part of their case. The identification.
19 Well, let's look into the identification.)

20 Okay. First of all, let's start off with
21 Brandon Lewis. Now, it's been testified to that he
22 made an identification on December 7th, but nobody
23 wants to talk about the first time he was talked to,
24 four hours -- about seven hours later in a hospital
25 on December 6th. Nobody else there. No one wanted

CLOSING ARGUMENT BY THE DEFENSE

1. to talk about it. The SLED has got the lead SLED
2. agent, Agent Brown. Yes, they talked to him, but I
3. really don't want to talk about it. Lead SLED agent.

4. Okay. Detective Manor, I don't know. I wasn't
5. inside, I don't know what they said the day before.

6. You know why they tried to minimize that.

7. Because on December 6th, Brandon Lewis did not tell
8. them what they wanted to hear. Brandon Lewis told
9. them on December 6th, "I don't know, I couldn't
10. identify the car, I couldn't identify the driver, I
11. can't identify the gun." That is what he told them
12. on December 6th. Okay. He told them that.

13. Now, why do you think then that back on
14. December 7th, and even Detective Manor stated, "Well,
15. Brandon Lewis trusts me because I have known him for
16. a while."

17. Detective Manor was sent on December 7th to get
18. a positive identification because they didn't get one
19. on December 6th. And Detective Manor sat on that
20. stand and tried to deny he knew nothing about the
21. December 6th interchange between two SLED agents in
22. Augusta, Georgia.

23. You have to take these things into consideration
24. to see whether the identification was -- is out.

25. Okay. And not -- and not under the influence of law

CLOSING ARGUMENT BY THE DEFENSE

1 enforcement. You have to look at that, because the
2 first time, you know, they trying to say the first
3 time they talked to Brandon Lewis, he identified him.
4 The first time they talked to Brandon Lewis, he did
5 not identify. And that was December 6th in the
6 hospital.

7 Okay. But they want you to not really -- you
8 know, really consider that. Okay.

9 And here is another thing that I am going to
10 talk about with you. The second interview, and I'm
11 going to go to the second interview on December 7th,
12 it was audio taped of Brandon Lewis. The interview
13 with Ty Charlton was video taped. Okay. The
14 interview with Jarrell Murray were audio taped. So
15 all of the positive information that they could use,
16 it was audio taped or video taped, but just so
17 happened the December 6th interview in Augusta with
18 Brandon Lewis was not video taped or audio taped.

19 Take those things into consideration, and this
20 was back on December the 6th, 2014, near the time of
21 this incident. Okay? And here is another thing,
22 too, you have to wonder. If you want to get a true
23 depiction, the true flavor of what was said at those
24 the initial interviews on December the 6th, 2014, if
25 you want to see how they responded to the question,

CLOSING ARGUMENT BY THE DEFENSE

1 and it was audio taped, in relation to Mr. Murray and
2 Lewis --

3 MS. LEGETTE: Your Honor.

4 THE COURT: Counsel approach.

5 (Off-the-record discussion held.)

6 THE COURT: Let's move along.

7 MR. KOGER: And testified to. There was a tape
8 by Mr. Murray in this case, an audio tape. Okay.

9 All right. So you have to look at -- you have
10 to look at that, too, when you are trying to come to
11 a determination whether Mr. Flowers is guilty or not
12 guilty of these particular charges.

13 And also, too, again, going to Mr. Charlton,
14 Ty Charlton, now -- and this was stated by SLED
15 agent, too, and he also answered it, too. On
16 December 10th, when the statement was taken from
17 him -- and there is a video tape of Mr. Charlton,
18 too -- that he don't know how he got in the car, and
19 he doesn't know where he got in the car. But yet he
20 testified to an identification that he could identify
21 Mr. Flowers on that particular day.

22 And, also, too, he said three times, he used the
23 term, "I was drugged on that day."

24 I was drugged on that day. I was drugged on
25 that day. Now, maybe he meant under the influence of

CLOSING ARGUMENT BY THE DEFENSE

1 medication. I don't know. But basically he say, I
2 -- you know, he say that, "I was drugged."

3 So you have to look at does the liability and
4 the accuracy of that identification.

5 First of all, he said, "I don't know how I got
6 into the car, I don't know where I got into the car,
7 I was drugged on that particular day, but I can
8 identify Laparis Flowers as the shooter.

9 And why -- and why are all of these
10 identifications back on December 6th or December 7th
11 or December 10th is the point, because that is closer
12 to the event. That is closer to the event, and you
13 have to take that into consideration when you trying
14 to determine the reliability and the accuracy of
15 these statements. You have to take that into
16 consideration.

17 With Mr. Murray, again, some type of -- it's
18 something there that, you know, they talked about the
19 interview at the Magistrate's office, but they
20 wasn't at -- law enforcement wasn't as forthright
21 about where my first interaction with him. Well, we
22 went to the house, and he didn't -- he wanted to
23 talk, according to law enforcement, the ones that
24 testified -- he wanted to talk in a more, I guess,
25 private place. Didn't want cops to be at his house.

CLOSING ARGUMENT BY THE DEFENSE

1 That's the reason that they give.

2 But then they took him right down the road.

3 They had a Magistrate office -- offices to take him
4 inside to talk with him. Several SLED agents spoke
5 with him outside.

6 Now, you are supposed to be considerate of his
7 wishes, supposedly at the house, according to
8 testimony, that I don't want law enforcement at my
9 house, I don't want, I guess, people to know, I don't
10 want -- I just want this to be a little more private.

11 And then they take him to the Magistrate's
12 office and have the interview outside. The interview
13 outside, in daylight, with several, I would imagine,
14 uniformed law enforcement officers.

15 You have to see whether that makes sense. Okay?
16 You have to see whether that makes sense, whether
17 there was, again, some type of influence, some type
18 of hesitation on the part of the witnesses in this
19 case. And that goes to their -- their accuracy and
20 their feeling in these identifications.

21 Now, the State has to prove their case beyond a
22 reasonable doubt, and that is a high burden. And
23 they not only have to prove their case beyond a
24 reasonable doubt, but they have to prove every
25 element of their case beyond a reasonable doubt.

CLOSING ARGUMENT BY THE DEFENSE

1 They got to prove identifications beyond a reasonable
2 doubt. Any evidence has to be competent and proven
3 to beyond a reasonable doubt.

4 And that is a very high standard. Another
5 thing, too, when it comes to the attempted murder,
6 again, Mr. Flowers is not the shooter, and he's not
7 the killer.

8 But as Ms. Legette stated on the notebook right
9 here, on her big pad right here, she sat out an
10 element of attempted murder. And her interpretation
11 of specific intent -- and, again, the Judge is going
12 to give you the law on this case. Her interpretation
13 of specific intent is that he had a specific intent
14 to attempt to kill who was in that car.

15 But go back to testimony in this case, and this
16 is what Ms. Legette said on -- in her closing, that
17 this supposedly started over an argument between
18 Mr. Jaqwavian Williams and Mr. Gray over a blown kiss
19 in relation to Tracy Roberts. Okay.

20 And that because of that, that Mr. Smart
21 appeared, showed his weight, gun was not seen, but he
22 was taking a message that he had a weapon. Okay?

23 MS. LEGETTE: Objection, Your Honor. May we
24 approach?

25 THE COURT: Counsel approach.

CLOSING ARGUMENT BY THE DEFENSE

1 (Off-the-record discussion held.)

2 THE COURT: Objection sustained.

3 MR. KOGER: And that somehow, Russell Smart
4 intervened in the argument Mr. Flowers would be upset
5 that it pertained to his cousin, Jaqwavian Williams
6 and Toot. That was about the testimony about how
7 this thing supposedly got started. Okay?

8 In relation to specific intent to kill, that was
9 said that the only person that the shooter would be
10 after -- and, again, Mr. Laparis Flowers is not the
11 shooter -- would be Russell Smart because there was
12 no testimony to Jarrell Murray being involved in that
13 altercation concerning that. There was no testimony
14 of Brandon Lewis being involved in that altercation
15 surrounding that. And there was no testimony that
16 Ty Charlton was involved in that altercation
17 surrounding that.

18 So specific intent. Again, Mr. Flowers is not
19 the killer, is not the shooter. But on a matter of
20 law, listen to the Judge's instruction on attempted
21 murder, and make the proper decision.

22 You must make the decision with everything in
23 this case, and you must decide beyond a reasonable
24 doubt whether Mr. Flowers is guilty as charged. You
25 look into the identifications, not just the actual

CLOSING ARGUMENT BY THE DEFENSE

1 subsequent identifications, but what went behind
2 these identifications, what came from the stand in
3 reference to these identifications.

4 Look at what was said on the stand by law
5 enforcement, and they are going to ask you what the
6 witnesses with -- on these identifications.

7 Also, look at -- in these 85 pieces of evidence
8 that was submitted here during the last three days,
9 what was not submitted here?

10 No gun. The bullets that were found matched up
11 with 62 different brands of guns. Okay.

12 The car being unsecured for 48 hours. Now,
13 again, if any of that was important they would have
14 put it in evidence. But it is important that the car
15 was unsecured for 48 hours. And at least, from the
16 investigation, as Agent Brown stated, at least one
17 person had access to the car. But he doesn't know
18 who had total access to the car. Okay.

19 Look at those things. Because this case is not
20 just about the identification. This is not a case on
21 identification. This is everything. Everything that
22 came out that was submitted in evidence, and what
23 they was not able to submit into evidence. This is
24 the search for the truth, and that was what the
25 Honorable Judge Buckner indicated to you at the

CLOSING ARGUMENT BY THE DEFENSE

1 beginning. This is a search for the truth, and this
2 journey has taken several days this week.

3 I need for you to go back in that jury room, as
4 I know you will, and look at everything. Recall
5 every piece of testimony. Not just portions of it,
6 not just portions that are advantageous to the State,
7 and not just portions that are advantageous to the
8 the Defendant, but everything. And I'm confident at
9 the end of this journey, that you will find that
10 Laparis Flowers is not a killer, Laparis Flowers is
11 not the shooter, Laparis Flowers is not guilty of the
12 murder of Russell Smart. Laparis Flowers is not
13 guilty of the attempted murder on Tyquan Charlton.
14 Laparis Flowers is not guilty of the attempted murder
15 of Brandon Lewis. Laparis Flowers is not guilty of
16 the attempted murder of Jarrell Murray. And Laparis
17 Flowers is not guilty of possession of a firearm on
18 that particular night during the commission of a
19 violent crime.

20 And I am confident you will come back and you
21 will end this search for justice, and your verdict
22 will be fair, it will be true. And it will be just,
23 and it'll be not guilty on all counts for Laparis
24 Flowers.

25 Thank you.

CLOSING ARGUMENT BY THE DEFENSE

1 THE COURT: Madam Foreperson, ladies and
2 gentlemen of the jury, I have to do a couple of
3 things as a matter of law before I charge the jury.
4 Because I have to take up those things, I'm going to
5 let you take a break.

6 Don't discuss the case. You haven't heard my
7 charge yet. Don't discuss it amongst yourselves.
8 I'm going to ask you to retire to your jury room, use
9 the restroom, stretch your legs, talk about anything
10 but this case.

11 I'm going to bring you right back, but I got to
12 take care of a couple matters of law.

13 Thank you. Please retire to your jury room.

14 (The Jury exits the courtroom.)

15 THE COURT: All right. I want to put on the
16 record, outside the presence of the jury. There were
17 two objections during the closing arguments of the
18 Defendant.

19 The first objection by the Solicitor was to the
20 reference to a tape. I overruled that objection
21 because there was evidence that there was an audio,
22 and in one case a video tape, of one of the victims
23 of the attempted murder.

24 The Solicitor further objected that counsel for
25 the Defendant should not be allowed to speculate on

CLOSING ARGUMENT BY THE DEFENSE

1 why the tape was not admitted into evidence or the
2 contents of the tape. I sustained the objection as
3 to the contents because that would be speculation.

4 And I also sustained the objection as to why the
5 Solicitor did not put the tape into evidence because
6 that would also be speculation and conjecture.

7 Later on, in Mr. Koger's argument, the Solicitor
8 objected a second time. This was to an argument
9 concerning Russell Smart putting his hand in his
10 pants.

11 Is that right, Solicitor?

12 MS. LEGETTE: Oh, yes, Your Honor. What he --
13 what he actually said, Your Honor, was that Russell
14 Smart may have put his hand in his pants as having a
15 gun, and there was no testimony in --

16 THE COURT: And I sustained that objection
17 because there was no testimony as to that, and I
18 wanted there to be a record of it, as to occurred in
19 the bench conferences.

20 All right. I have been over with counsel the
21 addition to the charge that I told you about this
22 morning, and the reason for it being that the burden
23 shifting presumption argument, or conclusive
24 presumption argument, allegedly depriving the
25 Defendant of his due process of law. And, therefore,

CLOSING ARGUMENT BY THE DEFENSE

1 I intend to explain to the jury that it is not a
2 conclusive presumption in part of my charge on
3 murder, when I get to the point that malice can be
4 inferred from the use of a deadly weapon.

5 Both lawyers have indicated to me they agree
6 with that addition to the charge in our conference
7 this morning.

8 Since you have agreed to the verdict form and
9 you've agreed to the contents of the charge, I think
10 we are ready to proceed.

11 Anything further from the State?

12 MS. LEGETTE: Not from the State, Your Honor.

13 THE COURT: From the Defendant?

14 MR. KOGER: Not from the Defendant, Your Honor.

15 THE COURT: All right. Bring us the jury,
16 please.

17 (The Jury enters the courtroom.)

JURY CHARGE BY THE COURT

18 THE COURT: All right. Ladies and gentlemen,
19 Madam Foreperson, it is now my duty to charge you on
20 the law of this case.
21

22 The State of South Carolina has charged the
23 Defendant, Laparis Flowers, with murder in Indictment
24 Number 2014 GS 0300229; attempted murder in
25 Indictment Number 2014 GS 0300233; attempted murder

JURY CHARGE BY THE COURT

1 in Indictment Number 2014 GS 0300231; a third
2 attempted murder in Indictment Number 2014 GS
3 0300232; and finally, with possession of a weapon
4 during the commission of a violent crime in
5 Indictment Number 2014 GS 0300234.

6 I remind you that the fact that the Defendant
7 was arrested, the fact that the Defendant was
8 charged, the Defendant was indicted, is not evidence
9 in this, nor does it create any presumption of guilt.

10 The indictments, ladies and gentlemen, are
11 simply the formal written instruments which contain
12 the charges made against the Defendant. The
13 indictments are the formal documents by which the
14 case is brought into this court, the Court of General
15 Sessions of Allendale County.

16 Now, the Defendant has pled not guilty to each
17 of these indictments, and that plea of not guilty
18 puts the burden on the State of South Carolina to
19 prove the Defendant guilty beyond a reasonable doubt.

20 A person charged with committing a criminal
21 offense in South Carolina is never required to prove
22 himself innocent.

23 I charge you, ladies and gentlemen, that it is
24 an important rule of law that the Defendant in a
25 criminal trial, no matter what the seriousness of the

JURY CHARGE BY THE COURT.

1 charge may be, will always be presumed to be innocent
2 of the crime for which the indictment or indictments
3 were issued unless guilt has been proven by evidence
4 satisfying you of that guilt beyond a reasonable
5 doubt.

6 The presumption of innocence does not end when
7 you begin your deliberations, but it accompanies the
8 Defendant throughout the trial until you, the jury,
9 reach a verdict of guilt based on evidence satisfying
10 you of that guilt beyond a reasonable doubt.

11 The presumption of innocence is not a mere legal
12 theory, it's not just a legal phrase. It is a
13 substantial right to which every defendant is
14 entitled unless you, the jury, are satisfied from the
15 evidence of the Defendant's guilt beyond a reasonable
16 doubt.

17 What is a reasonable doubt in the law? A
18 reasonable doubt is the kind of doubt that would
19 cause a reasonable person to hesitate to act. The
20 State has the burden of proving the Defendant guilty
21 beyond a reasonable doubt.

22 Some of you may have served in the past as
23 jurors in a civil case, such as a contract case or a
24 wreck case, both examples of civil cases, where you
25 were told as far as burden of proof that it was only

JURY CHARGE BY THE COURT

1 necessary to prove that a fact is more likely true
2 than not true. We call that the burden of proof in a
3 civil case, by the greater weight or preponderance of
4 the evidence.

5 In a criminal cases, such as the case here, the
6 State's proof must be more than that. It must be
7 beyond a reasonable doubt. Proof beyond a reasonable
8 doubt is proof that leaves you firmly convinced of
9 the Defendant's guilt.

10 There are very few things in the world that we
11 know with absolute certainty. And in criminal cases,
12 ladies and gentlemen of the jury, the law does not
13 require proof that overcomes every possible doubt.

14 If, based on your consideration of the evidence,
15 you are firmly convinced that the Defendant is guilty
16 of the crime or crimes charged, you must find him,
17 the Defendant, guilty.

18 On the other hand, if you think there is a real
19 possibility that the Defendant is not guilty, you
20 must give the Defendant the benefit of the doubt, and
21 find the Defendant not guilty.

22 Now, I remind you, the jury of this trial, you
23 and I have had certain duties to perform. As the
24 trial judge, it has been my responsibility to preside
25 over the trial of the case. And I also have the duty

JURY CHARGE BY THE COURT

1 to rule on the admissibility of evidence offered
2 during this trial.

3 You are to consider only the competent evidence
4 before you. If there was any testimony ordered
5 stricken from the record in this case during this
6 trial, you must disregard that testimony. You are to
7 consider only the testimony which has been presented
8 from the witness stand, any exhibits which have been
9 introduced into evidence, and you've heard me say are
10 in evidence as a part of the record in this case, and
11 any stipulation which may have been made by counsel
12 during the course of the trial of this case between
13 the parties.

14 I also have the additional duty, ladies and
15 gentlemen, to charge you the law that applies to this
16 case, as the presiding judge. I am the sole judge of
17 the law, and it is your duty as jurors to accept and
18 to apply the law as I now state it to you.

19 If any of you on this jury already have any idea
20 or opinion about what you think the law is, or what
21 you feel the law ought to be, and it does not agree
22 with what I now tell you the law is, you must abandon
23 any of your preconceived ideas or opinions because
24 you took an oath. And in that oath you sworn, when
25 the court reporter gave it to you at the beginning of

JURY CHARGE BY THE COURT

1 the trial, that you would accept and you would apply
2 the law exactly as I now state it to you.

3 In every case tried in this courtroom before a
4 jury, the jury becomes, as I told you at the outset,
5 the sole and the exclusive judge of the facts in the
6 case.

7 A trial judge such as myself cannot intimate,
8 state, comment on, or make any statement whatsoever
9 to a trial jury such as yourself about the facts in a
10 case.

11 Since you, ladies and gentlemen of the jury are
12 the sole judges of the facts in this case, you are
13 not to infer anything from what I have said during
14 the progress of this trial in ruling upon the
15 admissibility of any evidence, or otherwise, or any
16 objection, or anything that I say during the course
17 of this instruction to you, that I have any opinion
18 whatsoever about the facts in this case.

19 The law does not allow me to have an opinion
20 about the facts in this case. This is a matter
21 solely for you, ladies and gentlemen, the jury, to
22 determine, based on evidence introduced during the
23 trial of the case.

24 As jurors, it becomes your duty to determine the
25 effect, the value, the weight, and ultimately the

JURY CHARGE BY THE COURT

1 truth or the believability of the evidence that's
2 been presented during the trial of this case.

3 Now, there are two types of evidence generally
4 presented in a trial. Like many things in the law,
5 we have names for those two general types of
6 evidence. It's called direct evidence and
7 circumstantial evidence.

8 Direct evidence is the testimony of a person who
9 claims to have actual knowledge of a fact, such as an
10 eyewitness to an event. Direct evidence is evidence
11 which immediately establishes the main fact to be
12 proved.

13 Circumstantial evidence, as contrasted with
14 direct evidence, is proof of a chain of facts and
15 circumstances indicating the existence of a fact.
16 Circumstantial evidence is evidence which immediately
17 establishes collateral facts from which the main fact
18 may or may not be inferred.

19 Circumstantial evidence is based on inference
20 and not on personal knowledge or personal
21 observation.

22 The law makes absolutely no distinction between
23 the weight or the value to be given to either direct
24 evidence or circumstantial evidence, nor is a greater
25 degree of certainty required of circumstantial

JURY CHARGE BY THE COURT

1 evidence than of direct evidence.

2 You, ladies and gentlemen of the jury, should
3 weigh or consider all the evidence in this case, both
4 direct and circumstantial. After considering all the
5 evidence in this case, both direct and
6 circumstantially, if you are not convinced of the
7 guilt of the Defendant beyond a reasonable doubt, you
8 must find the Defendant not guilty.

9 On the other hand, after weighing, hearing,
10 deciding all the evidence in the case, both direct
11 and circumstantial, if you are convinced of the guilt
12 of the Defendant beyond a reasonable doubt, you must
13 find the Defendant guilty.

14 Necessarily, you are going to have to
15 determine, as I told you at the outset, the
16 credibility, which simply means the believability of
17 the witnesses who have testified in this case.

18 It becomes your duty as jurors to analyze, to
19 evaluate the evidence, and determine which evidence
20 convinces you of its truth and its believability.

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

JURY CHARGE BY THE COURT

1 the remaining part of the testimony of that same
2 witness.

3 You may believe the testimony of a witness in
4 its entirety or you may reject the testimony of a
5 witness in its entirety.

6 You may consider whether any witness has
7 exhibited to you any interest, any bias, any
8 prejudice or other motive in this case. You may also
9 consider the -- what I told you is called -- the
10 demeanor of the witness, the appearance of the
11 witness, the manner of the witness while the witness
12 is on the witness stand.

13 Any thing that is in evidence, ladies and
14 gentlemen of the jury, you, as the jury, have the
15 right to consider in deciding upon the credibility or
16 the believability of the witnesses who have testified
17 during the trial of this case.

18 Now ordinarily, ladies and gentlemen, our rules
19 of evidence do not permit witnesses to get on the
20 witness stand and take an oath and say my opinion is
21 so and so, because we do not allow normally witnesses
22 to give opinions or conclusions.

23 An exception to our opinion rule in the rules of
24 evidence is for those witnesses we call expert
25 witnesses. A witness who claims by education and

JURY CHARGE BY THE COURT

1 training or experience, claims to have become an
2 expert in some art, science, or profession, may give
3 an opinion as to the subject the witness claims to be
4 an expert in. And they also give the reasons for his
5 or her opinion.

6 You should consider any expert opinion given by
7 the witness, and like any other evidence in this
8 case, you give it the weight you think it deserves.
9 If you decide that an expert witness' opinion is not
10 based on sufficient education and experience, or if
11 you decide that the reasons given in support of the
12 opinion are not sound, or that the opinion of the
13 expert is outweighed by other evidence, you may
14 disregard the opinion entirely.

15 An expert witness' opinion is to be given no
16 greater weight than that of any other witness simply
17 because the witness is an expert, and you do not
18 have to accept an expert's opinion even though it is
19 uncontradicted.

20 I charge you, ladies and gentlemen, and
21 emphasize the fact that the Defendant did not testify
22 in this case is not a factor for you to be considered
23 in any way in your deliberations and in your
24 consideration of the guilt or innocence of the
25 Defendant.

JURY CHARGE BY THE COURT

1 The fact that the Defendant did not testify must
2 not be considered by you in any manner whatsoever. A
3 Defendant has the constitutional right to remain
4 silent. And the assertion of your constitutional
5 right to remain silent must not be considered by you,
6 the jury, in your deliberations.

7 I repeat, under the oath which you took as a
8 juror, you're going to draw no conclusion whatsoever
9 from the fact that the Defendant in this case did not
10 testify. The fact that the Defendant didn't testify
11 should not be discussed at all in your jury room.

12 The burden of proof, as I stated to you, is on
13 the State of South Carolina. The Defendant is not
14 required to prove innocence. The burden of proof
15 remains on the State to prove guilt beyond a
16 reasonable doubt.

17 I charge you, ladies and gentlemen, and remind
18 you, that the burden of proof in the trial of this
19 case is on the State, and that burden of proof beyond
20 a reasonable doubt extends to every element of the
21 crimes charged, and I am going to go over those
22 elements with you. And this specifically includes
23 the burden of proving beyond a reasonable doubt the
24 identity of the Defendant as the person who committed
25 the crime.

JURY CHARGE BY THE COURT

1 Identification testimony, ladies and gentlemen
2 of the jury, is an expression of belief or an
3 impression by which you, as the jury, must determine
4 the accuracy of the identification of the Defendant.
5 You have to determine the believability or
6 credibility of each identification witness in the
7 same way as any other witness.

8 You must be satisfied as a jury beyond a
9 reasonable doubt of the accuracy of the
10 identification of the Defendant before you may find
11 the Defendant guilty.

12 On the other hand, if after examining the
13 testimony, you have a reasonable doubt as to the
14 accuracy of identification, you must find the
15 Defendant not guilty.

16 You have heard the words during this trial,
17 "stipulation." A stipulation, I've told you during
18 the trial is an agreement, an admission or a
19 concession made in a judicial proceeding by the
20 parties hereto or their attorneys.

21 Stipulations are binding upon the parties or
22 attorneys who make them. A stipulation is an
23 agreement, an understanding that the Court and the
24 jury must accept the stipulation as binding upon the
25 parties.

JURY CHARGE BY THE COURT

1 If counsel for the parties in this case have
2 stipulated to any fact, or any fact has been admitted
3 by counsel, you will regard that fact as a jury as
4 being conclusively true as to the party or parties
5 making the stipulation or admission.

6 Now, ladies and gentlemen, I told you that there
7 were five indictments in this case, and I've got them
8 here on my desk, and they each charge different
9 offenses. Well, in some part they do. We have three
10 different offenses, and then we have three that are
11 charged the same offense.

12 And the Defendant, because there are multiple
13 charges and they do allege different offenses against
14 Defendant, I want you to understand, Defendant
15 Laparis Flowers is charged in Indictment Number --
16 and I gave you at the outset of my charge -- of
17 murder, and that is of Russell Smart.

18 The Defendant, Laparis Flowers, is charged in
19 another indictment number, which I gave you at the
20 beginning of the -- of my charge, 2014 GS 0300231,
21 with attempted murder, and that is the attempted
22 murder of Tyquan Charlton.

23 The third is, Defendant Laparis Flowers is also
24 charged in Indictment 2014 GS 0300232, in the
25 attempted murder of Jarrell Murray.

JURY CHARGE BY THE COURT

1 Fourth, the Defendant Laparis Flowers is charged
2 in Indictment Number 2014 GS 0300233, with the
3 attempted murder of Brandon Lewis.

4 And fifth and last, the Defendant Laparis
5 Flowers, is charged in Indictment Number 2014 GS
6 0300234, with possession of a weapon during the
7 commission of a violent crime.

8 Each charge is a separate and distinct offense,
9 and I'm going to define them for you. You must
10 decide each charge separately on the evidence and the
11 law that applies to it. If you find the Defendant
12 guilty of murder or attempted murder in this case,
13 then you may also find the Defendant either guilty or
14 not guilty of possession of a weapon during the
15 commission of a violent crime.

16 If you find the Defendant not guilty of murder
17 and all the attempted murders in this case, then you
18 cannot find the Defendant guilty of possession of a
19 weapon during the commission of a violent crime
20 because you have to be guilty of a violent crime in
21 order to be guilty of possession of a weapon during
22 the commission of a violent crime.

23 You will be asked to write a separate verdict on
24 a separate verdict of either guilty or not guilty for
25 each indictment and charge following the instructions

JURY CHARGE BY THE COURT

1 that I'm going to give you on your verdict form,
2 which I'll go over with you in a moment.

3 Now, in order to establish criminal liability,
4 criminal responsibility, criminal intent is required.
5 And I'm going to give you some examples of criminal
6 intent.

7 Criminal intent is the mental state required to
8 be proven by the State beyond a reasonable doubt, and
9 it might be for any particular crime. Let me give
10 you examples of criminal intent. It might be --
11 sometimes it might be purpose, it might be intent, it
12 might be knowledge, it might be recklessness, it
13 might be malice, it might be criminal negligence.
14 Those are examples of criminal intent.

15 Criminal intent must be proven by the State
16 beyond a reasonable doubt. Criminal intent is always
17 a matter that must be determined by the jury from the
18 circumstances surrounding the situation based on
19 evidence introduced during the trial of the case.

20 Now, ladies and gentlemen, there is no way to
21 prove intent to a mathematical certainty. There is
22 no way that medical science can dissect a person's
23 brain and determine what that person had in mind. So
24 the law says, ladies and gentlemen, that criminal
25 intent may be inferred from the circumstances shown

JURY CHARGE BY THE COURT

1 to have existed, based on evidence introduced during
2 the trial of the case.

3 This, ladies and gentlemen, is how you, as the
4 jury, make a determination of whether or not any
5 element requiring criminal intent was or was not
6 present.

7 It is not necessary to establish criminal intent
8 by direct and positive evidence, but intent may be
9 established by inference in the same way as any other
10 fact by taking into consideration from the evidence
11 the acts of the parties and all of the facts and
12 circumstances of the case based on the evidence
13 introduced during the trial of the case.

14 Criminal intent is a mental state. It is a
15 conscious wrongdoing. It is up to you, ladies and
16 gentlemen, the jury, to determine what the Defendant
17 intended to do based on the circumstances shown to
18 have existed from evidence introduced during the
19 trial of the case.

20 Ladies and gentlemen, I charge you that in
21 Indictment Number 2014 GS 0300229, all right, the
22 Defendant, Lapolis S. Flowers, is charged with the
23 offense of murder.

24 For this offense, murder, the State must prove
25 beyond a reasonable doubt that the Defendant Lapolis

JURY CHARGE BY THE COURT

1 Flowers, killed another person with malice
2 aforethought.

3 Malice is hatred, ill will, hostility towards
4 another person. It is the intentional doing of a
5 wrongful act without just cause or excuse, and with
6 an intent to inflict an injury or under circumstances
7 that the law will infer an evil intent.

8 Now, malice aforethought does not require the
9 malice exist for any particular time before the act
10 is committed, but malice or ill will, or hostility,
11 or hatred must exist in the mind of a defendant just
12 before and at the time the act is committed.

13 Therefore, there must be a combination of this
14 evil intent, this hostility, and the act based on
15 evidence introduced during the trial of the case.

16 Now, as aforethought may be expressed or
17 inferred. These terms, express and inferred, do not
18 mean different kinds of malice. Malice is exactly
19 what I defined for you.

20 But it merely is the manner in which malice may,
21 be shown to exist. That is, either by direct
22 evidence or by inference from the facts and
23 circumstances which are proven based on evidence
24 introduced during the trial of the case.

25 Expressed malice is shown when a person speaks

JURY CHARGE BY THE COURT

1 words which express hatred or ill will or hostility
2 for another, or when the person prepares beforehand
3 to do the act which was later accomplished.

4 For example, lying in wait for a person or any
5 other act of preparation going to show that the deed
6 was within the Defendant's mind would be expressed
7 malice.

8 Malice may be inferred from conduct showing the
9 total disregard for human life. Inferred malice may
10 also arise when the deed is done with a deadly
11 weapon.

12 A deadly weapon is any article, instrument, or
13 substance which is likely to cause death or great
14 bodily harm. Whether an instrument has been used in
15 the death depends on the facts and circumstances of
16 each case based on evidence introduced during the
17 trial of the case.

18 The law says that if one intentionally kills
19 another with a deadly weapon, the implication of
20 malice may arise. If facts are proven beyond a
21 reasonable doubt by the State sufficient to raise an
22 inference for malice to your satisfaction, this
23 inference would be simply an evidentiary fact to be
24 taken into consideration by you, the jury, along with
25 other evidence in the case.

JURY CHARGE BY THE COURT

1 And you may give it such weight as you determine
2 it should receive, and it can be rebutted, now the
3 evidence in this case based on your view of the
4 evidence.

5 I charge you, ladies and gentlemen, that in
6 Indictment Numbers 2014 GS 0300231, 2014 GS 0300232,
7 and Indictment 2014 GS 0300233, the Defendant,
8 Laparis S. Flowers, is charged with the offense of
9 attempted murder.

10 In order to prove this crime, the State must
11 prove that the Defendant attempted to kill another
12 person with malice aforethought.

13 This event, attempted murder, requires a
14 specific intent to kill another person with malice
15 aforethought.

16 Malice, as I told you, imports wickedness. It
17 springs from depravity, a wicked heart, a depraved
18 spirit, a heart devoid of social duty, and a heart
19 that is fatally bent on mischief.

20 It involves hatred. Malice involves hatred, ill
21 will, or hostility towards another person. It is the
22 intentional doing of a wrongful act without just
23 cause or excuse, and with an intent to kill a person.

24 Malice aforethought, remember as I told you for
25 murder, does not require that malice exists for any

JURY CHARGE BY THE COURT

1 particular time before the act is committed. But
2 malice must exist in the mind of the Defendant just
3 before and at the time the act is committed.

4 Therefore, there must be a combination of this
5 evil intent, or malice, and the act itself based on
6 evidence introduced during the trial of the case.

7 Intent, ladies and gentlemen, means intending
8 the result which occurs, not something that occurs
9 accidentally or involuntarily. Attempted murder then
10 is the attempt to kill a person with expressed
11 malice, or more completely defined, attempted murder
12 is the performance of an act or acts which tend but
13 fail to kill a human being, when such acts are done
14 with expressed malice, namely with a deliberate
15 intention, unlawfully, to kill another human being.

16 I charge you, ladies and gentlemen, and in the
17 last indictment, 2014 GS 0300234, the Defendant,
18 Laparis S. Flowers is charged with the possession of
19 a weapon during the commission of a violent crime.
20 For this offense, the State must prove beyond a
21 reasonable doubt that the Defendant was in possession
22 of a firearm or physically displayed what appeared to
23 be a firearm during the commission of a violent
24 crime.

25 A firearm means, according to our law, any

JURY CHARGE BY THE COURT

1 machine gun, automatic rifle, revolver, pistol, or
2 any weapon which will, is designed to, or may be
3 readily converted to expel a projectile.

4 In order to find the Defendant guilty of
5 possession of a weapon during the commission of a
6 violent crime, you must first find the Defendant
7 guilty of committing a violent crime.

8 I charge you, ladies and gentlemen, that under
9 the laws of the State of South Carolina, the offenses
10 of murder and attempted murder are violent crimes
11 under the laws of the State of South Carolina.

12 The State must prove the possession of a weapon
13 during the commission of a violent crime beyond a
14 reasonable doubt that the weapon furthered, advanced,
15 or helped in the commission of a violent crime.

16 Now, Madam Foreperson, I told you I would
17 prepare a verdict form for you. My law clerk also
18 wants whatever you write on this verdict form, for
19 you to write on the indictments in the block, where
20 it says, "verdict," and sign your name and date.

21 Pay absolutely no attention, Madam Foreperson
22 and ladies and gentlemen, to the order in which I
23 wrote the forms of verdict. We obviously had to
24 write one in front of the other, and the order of the
25 verdict form has no significance whatsoever.

JURY CHARGE BY THE COURT

1 Your verdict form has got one, two, three,
2 four -- five pages because there are five
3 indictments. So we have a separate verdict form on
4 each. And I've got instructions written on the
5 verdict form.

6 So let me explain it to you. The verdict form
7 has the caption of the case at the top. It says,
8 "State of South Carolina, County of Allendale, State
9 of South Carolina versus Laparis S. Flowers,
10 Defendant."

11 In the court of general sessions -- that is this
12 court, ladies and gentlemen, that means criminal
13 court -- and it gives all the indictment numbers on
14 the verdict form at the beginning. So it gives all
15 five indictment numbers that I have been over with
16 you during my charge to you on the law.

17 And then it has the word "verdict." Now, the
18 first question on your verdict form, "We the jury, by
19 unanimous consent, find the Defendant, Laparis S.
20 Flowers, in Indictment Number 2014 GS 0300229, and
21 the first form of verdict is guilty of murder of
22 Russell Smart. If that be your form of verdict,
23 Madam Foreperson, you would check on the line beside
24 that form of verdict for the entire jury.

25 Or the second form of verdict under the first

JURY CHARGE BY THE COURT

1 question, we the jury, by unanimous consent, find the
2 Defendant, Laparis S. Flowers, in Indictment Number
3 2014 GS 0300235, is not guilty of the murder of
4 Russell Smart.

5 If that be your form of verdict, you would check
6 on the line for the entire jury that form of verdict.
7 You must find one form of verdict or the other. You
8 cannot find both. It must be either guilty or not
9 guilty.

10 The second question on your verdict form, we the
11 jury, by unanimous consent, find the Defendant,
12 Laparis S. Flowers, in Indictment Number 2014 GS
13 0300231, and the first form of verdict under the
14 second question is guilty of attempted murder of
15 Tyquan Charlton. If that be your form of verdict,
16 you would make a checkmark on the line beside that
17 form of verdict.

18 The second form of verdict under question two is
19 not guilty of attempted murder of Tyquan Charlton.
20 If that be your form of verdict, you would check on
21 the line beside that form of verdict. You must find
22 one form of the the verdict or the other for question
23 two. You cannot find both. Either guilty or not
24 guilty of the attempted murder of Tyquan Charlton.

25 Your third question on your verdict form, we the

JURY CHARGE BY THE COURT

1 jury, by unanimous consent, find the Defendant,
2 Laparis S. Flowers, in Indictment Number 2014 GS
3 0300232, the first form of verdict under question
4 three is guilty of the attempted murder of Jarrell
5 Murray. If that be your form of verdict, you would
6 check on the line beside that form of verdict.

7 The second form of verdict under question three
8 is not guilty of the attempted murder of Jarrell
9 Murray. If that be your form of verdict, you would
10 check, Madam Foreman, for the entire jury on the line
11 beside that form of verdict.

12 You must find one form of verdict or the other
13 for question three. You cannot find both. Either
14 guilty or not guilty of the attempted murder of
15 Jarrell Murray.

16 Question four, we the jury, by unanimous
17 consent, find the Defendant, Laparis S. Flowers in
18 Indictment Number 2014 GS 0300233, the first form of
19 verdict under question four, guilty of the attempted
20 murder of Brandon Lewis. If that be your form of
21 verdict, Madam Foreperson, you would check on the
22 line beside that form of verdict.

23 The second form of verdict under question four
24 is not guilty of the attempted murder of Brandon
25 Lewis. If that be your form of verdict, you would

JURY CHARGE BY THE COURT

1 check on the line beside that form of verdict.

2 You must, to question four, find one form of
3 verdict or the other. You cannot find both. Either
4 guilty or not guilty of attempted murder of Brandon
5 Lewis, in question four.

6 At the bottom of Page 4 I have put instructions
7 for you. I put them in bold print. If you find the
8 Defendant, Laparis Flowers, not guilty of murder and
9 attempted murder of Tyquan Charlton, and the
10 attempted murder of Jarrell Murray, and the attempted
11 murder of Brandon Lewis, and you find the Defendant
12 not guilty of murder of Russell Smart, then you must
13 find the Defendant in question five not guilty of
14 possession of a weapon during the commission of a
15 violent crime.

16 But if you find the Defendant either guilty of
17 murder of Russell Smart or attempted murder of Tyquan
18 Charlton, or the attempted murder of Jarrell Murray,
19 or the attempted murder of Brandon Lewis, then you
20 would need to answer question five.

21 Question five, which is the last page of your
22 verdict form says, "We, the jury, by unanimous
23 consent, find Laparis S. Flowers on the charge of
24 possession of a weapon during the commission of a
25 violent crime either guilty of possession of a weapon

JURY CHARGE BY THE COURT

1 during the commission of a violent crime," if that be
2 your form of verdict, you would check on the line
3 beside that, or not guilty of possession of a weapon
4 during the commission of a violent crime. If that be
5 your form of verdict, you would check on the line
6 beside that.

7 When you have completed the verdict form and
8 followed my instructions, you would then sign your
9 name on the verdict form, where it says, foreperson,
10 for the entire jury. I have already put in the date.
11 I have already put in the location, Allendale, and I
12 have indicated to you in italics at the bottom of the
13 verdict form to indicate your findings by checking
14 the appropriate line and certify the findings by your
15 foreperson's signature.

16 When you reach a verdict, you would knock on
17 your jury room door and inform the bailiff that
18 you've reached a verdict, and we will bring you back
19 out into the courtroom to publish your verdict.

20 Now, ladies and gentlemen, your verdict must be
21 unanimous. That is, it must be the verdict of each
22 and every one of you. All 12 of you must agree on
23 the verdict.

24 Madam Foreperson, ladies and gentlemen of the
25 jury, I have now charged you on the law in order to

JURY CHARGE BY THE COURT

1 try to help guide you to a just result in this case.
2 You are the judges of the facts in this case. And
3 based on your determination of the facts, from the
4 evidence introduced during the trial of the case,
5 and on the law as I've just explained it to you, you
6 will soon begin your deliberations.

7 You have been selected as fair and impartial
8 jurors. You have taken an oath to fairly and
9 impartially try and determine the facts of this case
10 from the evidence, and when you comply with that
11 oath, ladies and gentlemen, no one can criticize your
12 verdict.

13 But you are to decide the case based solely on
14 the testimony from the witness stand that you have
15 heard, on any exhibits which have been introduced
16 into evidence, and any stipulation which you may have
17 heard.

18 You will have the exhibits with you. I will
19 send them into your jury room. They will be with you
20 during your deliberations.

21 And if we have an exhibit that requires
22 equipment to play it, just write a note to me,
23 through the bailiff, knock on the door, tell the
24 bailiff you want to hear the exhibit, and we'll bring
25 you back out in the courtroom and use the equipment

JURY CHARGE BY THE COURT

1 in the courtroom for you to listen or view the
2 exhibit.

3 Do you understand?

4 (No response.)

5 THE COURT: So we won't have to try to move the
6 equipment into the jury room, we will play it in the
7 courtroom at your request whenever you decide.

8 You must decide the issues in this proceeding
9 without any bias or prejudice for either party. You
10 cannot allow yourself to be governed by prejudice for
11 or against any person. You can't allow yourself to
12 be governed by public opinion or by any other
13 arbitrary factor, such as emotion.

14 You must base your decision solely on the
15 evidence which has been introduced during the trial
16 of the case. Both the Defendant, Lapolis Flowers,
17 and the State of South Carolina have the absolute
18 right to expect that each of you will carefully and
19 impartially consider all of the evidence in this
20 case, and that you will follow the law as I have
21 instructed to you it will be in reaching your verdict
22 in this case.

23 Now, ladies and gentlemen, I'm going to ask you,
24 if you would, at this time, my jury, please retire to
25 your jury room. Do not begin your deliberations. It

JURY CHARGE BY THE COURT

1 it may be necessary for me to bring you back for some
2 additional instruction.

3 When it is time for you to begin your
4 deliberations, I will send the verdict form in to you
5 by the bailiff along with all of the exhibits which
6 have been introduced into evidence during the trial
7 of the case, and have the bailiff inform you that you
8 may then commence your deliberations.

9 Madam Foreperson, please do not forget that when
10 you publish the verdict later on, after you reach a
11 verdict in this case, that my law clerk will want you
12 to write on the indictments, whatever words you have
13 written on the indictments whatever words you've
14 written on the verdict form that I have explained to
15 you. So do not leave the courtroom without him
16 coming to you and having you do that. He will bring
17 it to you.

18 All right. Please retire to your jury room. My
19 alternates please remain in the courtroom with me.
20 Jury will retire to the jury room.

21 (The Jury exits the courtroom at 1:21 p.m.)

22 THE COURT: First of all, on behalf of Allendale
23 County and this court, I want to thank all three of
24 you. I watched you this entire week, and all a Judge
25 can ask of a juror is that you listen and listen

ALTERNATE JURORS RELEASED BY THE COURT

1 carefully. And all three of you did that.

2 And I want you to know how much I appreciate
3 your service, your willingness to serve. No one
4 became ill, or for some legal reason couldn't
5 continue. You never know when you start. I have
6 actually had a case -- it wasn't these lawyers --
7 I've had a case where I had five alternates and had
8 to use all five in three days. There's not many
9 people get sick. Our court reporter, bless her
10 heart, came to work sick today. And, you know,
11 things happen. So we have to meet all.

12 This concludes your service for the week. I
13 told you I was going to get you home early. I'm
14 going to keep my word to you.

15 I realize that we don't pay you a lot. Did we
16 treat you okay? I hope so. I always look for ways
17 to try to improve it.

18 And I can't let you go back in the jury room.
19 This concludes your service. I'd like you to stay,
20 if you would like to. If you're interested in the
21 outcome, I'd be happy for you to stay.

22 And sentencing, if the jury votes for
23 conviction, will occur right after the verdict. And
24 you can stay for that as well, if you prefer. Or if
25 you would like to get on home to your family, I will

ALTERNATE JURORS RELEASED BY THE COURT

1 now send you back.

2 If anybody needs a work excuse, where did they
3 need to go?

4 THE CLERK: Angela has them.

5 THE COURT: Angela has got them. See Angela.

6 We'll give you a work excuse for serving on the jury.

7 We're going to mail you your check in the mail, that
8 exorbitant -- how much do we pay?

9 THE CLERK: Twenty-five a day.

10 THE COURT: Twenty-five a day. We're going to
11 pay you \$25 a day for this important service which
12 will be mailed to you at the address you got your
13 subpoena on. And we thank you for that service.

14 Anybody have a question they want to ask me
15 about anything? Now is the time. If you got a
16 problem or a question, ask me. Because you're off
17 the jury now, and I can answer a question. I can't
18 do it with a jury, but I can do it for y'all.

19 Everybody happy to be going home?

20 Thank you for your service. This concludes your
21 service. You may leave the courtroom or remain with
22 us as you desire. You may leave at this time.

23 Thank you.

24 (Alternate jurors dismissed from the courtroom.)

25 THE COURT: Everyone else remain seated while

ALTERNATE JURORS RELEASED BY THE COURT

1 the jury is leaving.

2 THE JURORS: If we're going to remain, where do
3 we go?

4 THE COURT: Just have a seat anywhere you want
5 to. We'd love to have you.

6 Any exceptions or additions to the Court's
7 charge from the State of South Carolina?

8 MS. LEGETTE: None from the State, Your Honor.

9 THE COURT: From the Defendant?

10 MR. KOGER: None from the Defense, Your Honor.

11 THE COURT: I'm going to ask you both to come
12 forward, and carefully. I know Mona has been feeling
13 a little under the weather, but y'all got to get with
14 Mona. I want you to certify with me on the record,
15 you are satisfied the court reporter has all the
16 exhibits. Go through them with her. I've got a
17 list. She knows that. She says I'm the only Judge
18 -- am I the only one that does that?

19 THE COURT REPORTER: Yep.

20 THE COURT: She said the rest of the judges
21 don't even pay any attention to the exhibits. I
22 don't understand how you try a case without that. We
23 have had some real problems with exhibits.

24 My biggest problem has been the lawyers take
25 the exhibit back to their table and put it in their

ALTERNATE JURORS RELEASED BY THE COURT

1 file, and give it to their investigator, and they
2 take it home with them. And then they don't
3 understand why the court reporter doesn't have it.

4 You've got some stuff leaning on your table.
5 You better -- or on the floor, or you did have. You
6 make sure it hasn't been introduced into evidence.

7 Please come forward with the court reporter and
8 do it at this time.

9 (Attorneys confer with court reporter regarding
10 exhibits.)

11 THE COURT: All right. Let's come to order.

12 Is the State satisfied that the court reporter
13 has all the exhibits?

14 MR. HOLLEN: We are, Your Honor.

15 THE COURT: Does the State have any objection to
16 my giving the verdict form, which I've been over with
17 and you've approved, to the bailiff along with the
18 exhibits and telling the bailiff they may take the
19 exhibits and the verdict form into the jury, and
20 telling the jury they may now commence their
21 deliberations?

22 MR. HOLLEN: We have no objection, Your Honor.

23 THE COURT: Mr. Koger, is the Defendant
24 satisfied that the court reporter has all the
25 exhibits?

ALTERNATE JURORS RELEASED BY THE COURT

1 MR. KOGER: Yes, Your Honor.

2 THE COURT: Does the Defendant have any
3 objection to my giving the bailiff the verdict form
4 and all the exhibits and having the bailiff go to the
5 jury room, take the verdict form and the exhibits,
6 and tell the jury they may now commence their
7 deliberations?

8 MR. KOGER: No objection, Your Honor.

9 THE COURT: Very well. Here's the verdict form,
10 take all the exhibits and the verdict form into the
11 jury and tell them, the jury, they may now commence
12 their deliberations and make sure they have a pad and
13 a pen in the jury room.

14 THE BAILIFF: Yes, sir. All of them have it.

15 THE COURT: We will be at ease while we wait for
16 the jury. If you are going to leave, give a cell
17 number to my law clerk, because we may get a question
18 from the jury -- I'm talking about the lawyers now.
19 We may get a question from the jury, and we might get
20 a verdict. I don't know when. And in order for you
21 to know, I want you to get lunch, but dog gone it, I
22 don't know when the jury is going to come back with
23 anything. And we are not going to sit around here
24 and go on the Easter egg hunt for lawyers.

25 So you give me a cell number. If we call you,

ALTERNATE JURORS RELEASED BY THE COURT

1 you better be able to get here in five minutes. So
2 don't go too far.

3 MR. HOLLEN: I'm not going anywhere.

4 (Whereupon, the Court was in recess.)

5 (Jury deliberations.)

6 THE COURT: I understand, Counsel, that the jury
7 has reached a verdict. Anything from the State
8 before we publish the verdict?

9 MS. LEGETTE: Nothing from the State,
10 Your Honor.

11 THE COURT: Anything from the Defendant before
12 we publish the verdict?

13 MR. KOGER: No, Your Honor.

14 THE COURT: Now, ladies and gentlemen, I'm happy
15 for you to be in the courtroom, but I will not allow
16 any type of emotional outburst of any type when this
17 verdict is published. If you cannot control your
18 emotions, I'm going to ask you to get up and leave
19 now.

20 If anyone has any outbursts, I'm going to
21 enforce this rule of contempt powers in this court,
22 and I'm going to have you arrested and held in
23 contempt. The jury deserves respect, and I don't
24 expect there to be any type of outburst. So if you
25 can't control your emotions, please leave now.

ALTERNATE JURORS RELEASED BY THE COURT

1 Very well. All right. Bring us the jury.

2 (The Jury enters the courtroom.)

3 THE COURT: Madam Foreperson, the jury has
4 reached a unanimous verdict; is that correct?

5 THE FOREPERSON: Yes, correct.

6 THE COURT: Madam Clerk, you may publish the
7 verdict.

8 The Defendant and counsel will rise.

9 THE CLERK: In the Court of General Sessions, in
10 the town of Allendale, State of South Carolina versus
11 Laparis Flowers: We the jury, by unanimous consent,
12 find the Defendant, Laparis S. Flowers, in Indictment
13 2014 GS 03229, guilty of murder of Russell Smart.

14 We, the jury, by unanimous consent, find the
15 Defendant, Laparis S. Flowers in Indictment 2014 GS
16 03231, guilty of attempted murder of Tyquan Charlton.

17 We, the jury, by unanimous consent, find the
18 Defendant, Laparis S. Flowers, in the Indictment 2014
19 GS 03232, guilty of attempted murder of Jarrell
20 Murray.

21 We, the jury, by unanimous consent, find the
22 Defendant, Laparis S. Flowers, in the Indictment 2014
23 GS 03233, guilty of attempted murder of Brandon
24 Lewis.

25 We, the jury, by unanimous consent, find Laparis

VERDICT

1 S. Flowers on the charge of possession of a weapon
2 during the commission of a violent crime in
3 Indictment 2014 GS 03234, guilty of possession of a
4 weapon during the commission of a violent crime.

5 Ladies and gentlemen of the jury, is this your
6 verdict?

7 (The Jury indicates.)

8 THE COURT: If this be your verdict as published
9 by the clerk, would you indicate by raising your
10 right hand, please.

11 (All jurors raise right hand.)

12 THE COURT: Thank you. Let the record reflect
13 12 hands raised.

14 Mr. Koger, anything further from the jury before
15 I dismiss the jury, from the Defendant?

16 MR. KÖGER: Yes, Your Honor. I would ask that
17 the jury be polled.

18 THE COURT: Madam Clerk, I'm going to ask if you
19 would poll the jury.

20 Ladies and gentlemen of the jury, the clerk is
21 going to ask -- call your name. When your name is
22 called, I'm going to ask you to please stand. She's
23 going to ask you two questions.

24 The first question will be, "Was that your
25 verdict as published by the clerk?" You answer yes.

VERDICT.

1 or no.

2 "And is that still your verdict?" You would
3 answer yes or no.

4 Madam clerk, please poll the jury.

5 Counsel, Defendant, please be seated.

6 THE CLERK: Ms. Crystal Ward, was that your
7 verdict?

8 JUROR: Yes.

9 THE CLERK: Is that still your verdict?

10 JUROR: Yes.

11 THE COURT: Thank you. You may be seated.

12 THE CLERK: Ms. Jennie Wilson, was that your
13 verdict?

14 JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR: Yes.

17 THE CLERK: Ms. Shaqueta Wright, was that your
18 verdict?

19 JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 JUROR: Yes.

22 THE CLERK: Ms. Mary Willingham, was that your
23 verdict?

24 JUROR: Yes.

25 THE CLERK: Is it still your verdict?

VERDICT

1 JUROR: Yes.

2 THE CLERK: Mr. Darian Brooks -- Ms. I'm sorry.

3 Was that your verdict?

4 JUROR: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR: Yes.

7 THE CLERK: Shalice Penn, was that your verdict?

8 JUROR: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR: Yes.

11 THE CLERK: Mr. Kenneth Boynton, was that your
12 verdict?

13 JUROR: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR: Yes.

16 THE CLERK: Ms. Deborah Jones, was that your
17 verdict?

18 JUROR: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR: Yes.

21 THE CLERK: Ms. Ciera Sanders, was that your
22 verdict?

23 JUROR: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR: Yes.

VERDICT

1 THE CLERK: Mr. Kristopher Finley, was that your
2 verdict?

3 JUROR: Yes.

4 THE CLERK: Is it still your verdict?

5 THE CLERK: Yes.

6 THE CLERK: Mr. Freddy Moore, was that your
7 verdict?

8 JUROR: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR: Yes.

11 THE CLERK: Ms. Eva Williams, was that your
12 verdict?

13 JUROR: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR: Yes.

16 THE COURT: Counsel, the jury has been polled,
17 the verdict stands. Anything further from the
18 Defendant as to the jury?

19 MR. KOGER: No, Your Honor.

20 THE COURT: Ladies and gentlemen of the jury,
21 Madam Foreperson, I'm sending my law clerk to hand it
22 to you right now, so that you can write the same
23 words he's going to show you on the indictment that
24 you wrote on the verdict form.

25 On behalf of Allendale County and this court, I

VERDICT

1 want to thank you for your service. This concludes
2 your service for the entire week.

3 If anybody needs a work excuse for serving on
4 the jury this week, Angela with the clerk's office,
5 is going is to be standing outside this door right
6 here. She will provide you with a work excuse.

7 We are going to send you a check. Allendale,
8 according to the clerk, pays \$25 a day. We going to
9 be sending you a check for your service this week.

10 If you listened to me, you know that you are now
11 exempt from jury service for three years, if you want
12 to claim your exemption by work of your service this
13 week.

14 Now, sometimes people are going to want to talk
15 to you about your verdict. They try to improve the
16 way they do business. If you want to discuss with
17 anyone about your verdict, you can. If you don't
18 want to discuss with anyone about the verdict, you
19 don't have to.

20 If somebody tries to persist in talking to you
21 and you don't want to talk about it, you get their
22 name and you give it to me, and I'll handle that
23 problem for you. You don't have to discuss with
24 anybody about your deliberations if you desire not to
25 do so.

VERDICT

1 I want to thank you. All a judge can do is ask
2 the jury to listen, and that is exactly what the 12
3 of you did in this case. I want to thank you for
4 your service in this case. This concludes your
5 service in the case.

6 Did we treat you okay? Anybody have a problem
7 with how you were treated on the jury? I'm always
8 looking for ways to try to improve it. So if there's
9 any way, you tell me about it, and I'll try to change
10 it. I can promise you, my skin is tough, so you can
11 give us any criticism you need.

12 I hope that we did treat you all right. I want
13 to thank you for your service. I'm going to return
14 you now to your homes and your families and your jobs
15 with my thanks.

16 Now, I want you to know, when you leave here, if
17 you'd like to stay for sentencing, all you have to do
18 is walk around and you have got some of your fellow
19 jurors, your alternates are on the back row, back/
20 there. They stayed after I excused them.

21 You can come in and have a seat on the back row,
22 or you can watch sentencing, which will occur in just
23 a few minutes. If you don't want to, that's fine,
24 you can head on home.

25 But sentencing is going to occur in just a few

VERDICT

1 moments after I hear post verdict motions.

2 Does anybody have any questions they want to ask
3 the Court about anything involving their service?

4 Everybody ready to get home?

5 I want to thank you for that service. We got
6 everything signed out now? Thank you, Madam
7 Foreperson for your service as foreperson, and thank
8 you for signing these indictments.

9 You are now excused through this door. Everyone
10 else remain seated while the jury is leaving.

11 (The Jury exits the courtroom at 1:38 p.m.)

12 THE COURT: Mr. Koger, are there any post
13 verdict motions from the Defendant?

14 MR. KOGER: Yes, Your Honor. May it please the
15 Court.

16 I move -- at this time, I move for a new trial
17 on all of the charges that were set forth this week
18 based upon the evidence that came out this week. It
19 does not warrant guilty convictions on all of the the
20 indictments.

21 THE COURT: Solicitor.

22 MS. LEGETTE: Your Honor, we would ask the Court
23 to deny the motion and keep the verdict intact as
24 spoken by the jury. We believe that there was
25 adequate evidence that had gone to the jury as well

DEFENSE MOTION

1 as to having convicted Mr. Flowers of these offenses.

2 THE COURT: Mr. Koger, I think there was -- at
3 least I told you that at the close of the State's
4 case and close of all the evidence, when you renewed
5 your motions, I think there was adequate evidence to
6 submit the case to the jury. Your motion for new
7 trial is respectfully denied.

8 Mr. Koger, I'm going to ask you to bring your
9 client as soon as -- just hold on for a minute. You
10 see the Solicitor has got to fill out sentencing
11 guidelines. Once she's filled it out, I'm going to
12 ask you and your client to come forward along with
13 the Solicitor.

14 Peggy, I want you to canvas -- I've got a number
15 of victims here and families. Please explain to them
16 the procedure, which you can do at victim's
17 assistance office, and let me know if any of the
18 victims wish to be heard for purposes of sentencing.
19 I'll be happy to hear from them.

20 (Pause.)

21 THE COURT: You ready?

22 MS. LEGETTE: Yes, Your Honor, I believe so.

23 THE COURT: Mr. Koger, you and Mr. Flowers may
24 come around for sentencing at this time.

25 MS. LEGETTE: If I may inquire of his address,

SENTENCING

1 Your Honor. I just want to get the correct address.

2 THE COURT: Get it from Mr. Koger. He will get
3 it.

4 I need a Social Security number and date of
5 birth.

6 MS. LEGETTE: Yes, sir. I have that on there.

7 THE COURT: Counsel approach.

8 (Off-the-record discussion held.)

9 THE COURT: Put your bar number on there also.

10 All right. Solicitor, obviously, I have heard
11 the evidence in this case, and I am familiar with the
12 evidence in this case. I'm happy to hear from you
13 now as the jury has spoken.

14 And, of course, Mr. Koger, I'm happy to hear
15 from you and your client, if he wishes to address the
16 Court.

17 And I understand from the victim assistance
18 officer that the victims that are in the courtroom do
19 not wish to address the court.

20 Is that right, Peggy?

21 VICTIMS ASSISTANCE OFFICER: No, Your Honor.

22 THE COURT: All right. Let me hear from you.

23 MS. LEGETTE: Thank you, Your Honor.

24 Your Honor, Mr. Laparis Flowers has a criminal
25 record.

SENTENCING

1 THE COURT: Let me hear it.

2 MS. LEGETTE: It extends back -- we even have
3 his juvenile record. Just for sentencing, we had the
4 juvenile record unsealed as well. We provided a copy
5 to Mr. Koger.

6 As far as juvenile is concerned, he has a
7 burglary second conviction, a burglary third
8 conviction, and a simple assault and battery. Those
9 were all from 2007 that stem from Allendale County.

10 He also had --

11 THE COURT: And what year was that?

12 THE COURT: 2007.

13 THE COURT: 2007. That's all juvenile?

14 MS. LEGETTE: They were all juveniles out of
15 Allendale County.

16 In 2008, Your Honor, he had a conspiracy to
17 commit armed robbery, which stemmed out of Charlotte
18 Mecklenburg, North Carolina, and he ended up serving
19 three years probation here in South Carolina, and
20 that was in 2008.

21 I believe he still has a pending charge right
22 now for something that actually happened while he was
23 out in jail, in custody --

24 THE COURT: And what is that charge?

25 MS. LEGETTE: The charge, I believe, is assault

SENTENCING

1 on a correctional officer at the Allendale County
2 Detention Center as well as threatening a public
3 official.

4 THE COURT: But he has not been convicted of
5 that?

6 MS. LEGETTE: That is correct, Your Honor.

7 THE COURT: So it's a charge.

8 MS. LEGETTE: Yes, they're just charges.

9 Additionally, Your Honor, Mr. Flowers, while he
10 was in custody at the Charleston County Detention
11 Center, the gang unit at the Charleston County
12 Detention Center has verified or validated him as a
13 gang member while he's in house in Charleston County.

14 And that is gangster Disciples out of Allendale.
15 So, Your Honor, we believe that Mr. Laparis Flowers
16 -- you heard the evidence, we believe he is
17 dangerous. We believe that he poses an undue threat
18 to the community of Allendale, and to other people
19 throughout the community, Your Honor.

20 Given his history with the criminal justice
21 system, his propensity to do violence, at this time,
22 Your Honor, we would ask the Court, humbly but
23 respectfully, to sentence Mr. Laparis Flowers to life
24 in prison.

25 Your Honor, I hate to ask that question, I hate

SENTENCING

1 to ask, Your Honor, but unfortunately Mr. Laparis
2 Flowers I've seen again and again. The three young
3 men he almost killed, and Russell Smart who he did
4 kill, Your Honor, those lives will forever be
5 changed. They came in here with fear in their hearts
6 and in their eyes. And, Your Honor, they stood up
7 anyway.

8 And so I would ask this Court, Your Honor, to
9 remand Mr. Laparis Flowers to the State Department of
10 Corrections for the balance of his life. I don't ask
11 you to stand on top of 30 plus 30 plus 30. But Your
12 Honor, we have to send a message.

13 I would ask the court to send a message, and
14 even if it's not life, I would ask you to send a
15 message to the community, send a message to Laparis
16 Flowers that these things will not be tolerated in
17 Allendale County.

18 Thank you.

19 THE COURT: Does anyone else on behalf of the
20 State wish to be heard?

21 MS. LEGETTE: No, Your Honor.

22 THE COURT: Mr. Koger, I'm now willing to hear
23 from you in mitigation.

24 MR. KOGER: Yes, Your Honor. May it please the
25 Court.

SENTENCING

1 Mr. Flowers is 27 years of age. He received a
2 diploma from (inaudible) Christian Academy. And as
3 far as his employment past, he worked several jobs as
4 a laborer. He worked security work in 2009 at
5 MCGGRE. Most recently he was a lead person at a
6 (inaudible) in Aiken, South Carolina.

7 In the courtroom here today, on behalf of
8 Mr. Flowers, his mother, Jennifer Bates, and his
9 father. I have known now his mother for
10 approximately nine years. She is very supportive of
11 Mr. Flowers, has always, from my conversations with
12 her, and meeting with her, had Mr. Flowers' best
13 interest at heart.

14 I had the opportunity to also meet with the
15 father, Mr. Flowers, and he was very concerned about
16 his son's plight. We talked on several occasions
17 about how things could go this week, and, you know,
18 we talked about how things were going at the time.

19 Mr. Flowers has a son that is three years of
20 age.

21 THE COURT: How old is his child?

22 MR. KOGER: Three. Three years of age. And
23 basically, we would ask that you would -- of course,
24 the State has asked to send a message --

25 THE COURT: The State has asked for the maximum

SENTENCING

1 penalty for murder, and you realize that there's a
2 mandatory minimum for murder. And you have advised
3 your client also that whatever sentence I give for
4 murder, he would have to serve day for day.

5 MR. KOGER: Yes, Your Honor. Yes, Your Honor.
6 And we would ask that, you know, as a Judge, because
7 you have been a Judge for quite a while, Judge
8 Buckner, but in balancing the aims of society and the
9 needs of society and to send a message, a Judge also
10 has the discretion to utilize some mercy.

11 And we would ask in this case take into
12 consideration that his son is three years of age, and
13 that he's going to miss all of his childhood, and all
14 of his young adulthood. But you have an opportunity,
15 Your Honor, by imposing -- by considering imposing
16 the minimum of 30 in this particular case that may be
17 that some type of relationship that can be there
18 after 30 years.

19 Your Honor, I utilize the same request on behalf
20 of his mother. I know his mother, and I know she is
21 broken up about this. And now she's not hating the
22 victims, you know, during my course of trial, of
23 course I don't talk with the victims, the victims's
24 family, anything like that. But I always at this
25 point like to express my sympathy for family members

SENTENCING

1 that was unfortunately the victims in this case.

2 So, as with any case, there are two sides, Your
3 Honor, and seeing how to balance aims to society, the
4 crime that was committed, but we would also like you
5 to consider on this side of the scale, some mercy in
6 reference to Mr. Flowers, in reference to his son, in
7 reference to his mother.

8 So maybe one day she will still be able to see
9 her son come home, and his father.

10 So we would ask that you would consider imposing
11 the minimum -- the mandatory minimum in this case as
12 opposed to life in prison.

13 THE COURT: Very well.

14 Mr. Flowers, is there anything you would like to
15 tell me before I sentence you? I'll be happy to hear
16 from you.

17 THE DEFENDANT: Yes, sir. I ask that you have
18 mercy even though that I was found guilty by the jury
19 by unanimous decision. Me and the deceased victim
20 were friends, and this is a big misunderstanding,
21 sir. That is all that I have to say, sir.

22 THE COURT: Anyone else wish to be heard from
23 the Defendant, Mr. Koger?

24 MR. KOGER: No, Your Honor. They indicated that
25 they would not like to speak.

SENTENCING

1 THE COURT: Mr. Flowers, I have listened to the
2 testimony in this case, and I clearly believe there
3 was sufficient evidence for the jury to convict you.

4 I have listened also to the Solicitor tell me
5 your previous criminal record, and I realize that I
6 don't take into account the charge for which you have
7 not been convicted, the charge of assaulting a police
8 officer, because you haven't been convicted of that
9 charge. But you have been convicted of burglary
10 second, burglary third, and conspiracy to commit
11 armed robbery as well as assault, one of which as a
12 juvenile, and one of which as an adult. I have to
13 take that into consideration.

14 The Solicitor asked me to impose the maximum
15 penalty allowed by law. As your lawyer knows,
16 Mr. Koger, the minimum sentence for murder is 30
17 years, and you have to serve each day of that.

18 I take into consideration your age and the fact
19 that you have a child, and that I'm certain that your
20 family cares deeply for you.

21 On the other side of that fence, I also have to
22 think about the families of the victims that are out
23 there. Not only the victims that survived, but the
24 family of the victim whose life we cannot restore.
25 Whether he was a friend of yours or not, there is a

SENTENCING

1 loss of life involved here, all of which I have to
2 balance in fashioning my sentence.

3 Accordingly, the sentence of the Court on,
4 Indictment 2014 GS 0300229, State versus Lapolis S.
5 Flowers, for the offense of murder, sentence of the
6 Court is the Defendant is committed to the State
7 Department of Corrections for a term of 45 years.

8 On Indictment 2014 GS 0300231, attempted murder,
9 on Indictment 2014 GS 0300234 -- excuse me, 233,
10 attempted murder, and on Indictment 2014 GS 03 00232,
11 attempted murder, on the three attempted murder
12 charges, the sentence of the Court is that you be
13 committed to the State Department of Corrections for
14 a term of 30 years.

15 Finally, on Indictment 2014 GS 0300234,
16 possession of a weapon during the commission of a
17 violent crime, the sentence of the Court is that the
18 Defendant is committed to the State Department of
19 Corrections for a term of five years. That sentence
20 will run consecutive to the murder sentence of 45,
21 for a total of 50 years.

22 The sentences of 30 years for attempted murder
23 will run concurrent to the other charges.

24 Thank you very much. The jury is dismissed.
25 This concludes this case.

SENTENCING

1 MS. LEGETTE: Thank you, Your Honor.

2 (Whereupon, the case concluded.)

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SENTENCING

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2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the
8 foregoing proceedings and that the transcript is a true
9 and complete record of my stenographic notes.

8

DATED this 16th day of July, 2018.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

14

Circuit Reporter for the 14th Circuit

15

(850) 893-6662

16

mmanley@sccourts.org

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STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)

INDICTMENT

2014-GS-03-00229

At a Court of General Sessions, convened on July 23, 2015, the Grand Jurors of Allendale County present upon their oath:

Murder / Murder

That in Allendale County on or about December 6, 2014, with malice aforethought, Lapolis S. Flowers did kill and murder Russell Smart by means of shooting him with a firearm, and that Russell Smart did die in Allendale County as a proximate result thereof on December 6, 2014; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976), as amended.

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

WITNESSES

S/A Brown, SLED ✓

DOCKET NO. 2014-GS-03-00229

The State of South Carolina

County of Allendale

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

Defendant

COURT OF GENERAL SESSIONS

July Term 2015

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

A. EST WARRANT NUMBER

2014A0320100103

Date of Arrest: December 7, 2014

THE STATE

vs.

Laparis S. Flowers

Defendant

ACTION OF GRAND JURY

True Bill

Paula K. Wall 7-23-15
Foreperson of Grand Jury

VERDICT

Guilty

Indictment for

Murder / Murder

Witness:

Dawn Brown
Foreperson of Petit Jury

Date: Jan. 11, 2018

SC Code: 16-03-0010; 16-03-0020
CDR Code: 0116

C.C.C. PLS. and G.S.

INDICT

WITNESSES

S/A Brown, SLED ✓

DOCKET NO. 2014-GS-03-00231

The State of South Carolina

County of Allendale

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

Defendant

COURT OF GENERAL SESSIONS

July Term 2015

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

EST WARRANT NUMBER

2014A0310100135

Date of Arrest: December 9, 2014

THE STATE

vs.

ACTION OF GRAND JURY

Lapolis S. Flowers

Defendant

VERDICT

Guilty

Indictment for

Attempted Murder

Witness:

SC Code: 16-03-0029

CDR Code: 3410

C.C.C. PLS. and G.S.

Foreperson of Petit Jury

Date: Jan. 11, 2018

INDICT

WITNESSES

S/A Brown, SLED ✓

DOCKET NO. 2014-GS-03-00232

The State of South Carolina

County of Allendale

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

Defendant

COURT OF GENERAL SESSIONS

July Term 2015

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

A EST WARRANT NUMBER

2014A0310100136

Date of Arrest: December 9, 2014

THE STATE

vs.

Lapolis S. Flowers

ACTION OF GRAND JURY

Donna K. Wau *True Blue*

Donna K Wau 7/23/15
Foreperson of Grand Jury

Defendant

VERDICT

Guilty

Indictment for

Attempted Murder

Witness:

Donna K Wau

Foreperson of Petit Jury
Date: Jan. 11, 2018

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

C.C.C. PLS. and G.S.

INDICT

WITNESSES

S/A Brown, SLED ✓

DOCKET NO. 2014-GS-03-00233

The State of South Carolina

County of Allendale

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

Defendant

COURT OF GENERAL SESSIONS

July Term 2015

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

A EST WARRANT NUMBER

2014A0310100137

Date of Arrest: December 9, 2014

THE STATE

vs.

ACTION OF GRAND JURY

True Bill

Laparis S. Flowers

Defendant

Ronald K. Wall 7-23-15

Foreperson of Grand Jury

VERDICT

Guilty

Indictment for

Attempted Murder

Witness:

SC Code: 16-03-0029

CDR Code:3410

C.C.C. PLS. and G.S.

[Signature]

Foreperson of Petit Jury

Date: Jan. 11, 2018

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF ALLENDALE)

INDICTMENT

2014-GS-03-00234

At a Court of General Sessions, convened on July 23, 2015, the Grand Jurors of Allendale County present upon their oath:

Weapons / Poss. weapon during violent crime, if not also sen

That in Allendale County, South Carolina, on or about December 6, 2014, the Defendant, Lapolis S. Flowers, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: murder, or attempted murder, a violent crime for which he is convicted of committing or attempting to commit; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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



Isaac M. Stone, III
Solicitor, 14th Judicial Circuit

WITNESSES

S/A Brown, SLED ✓

[Handwritten signature]

A. EST WARRANT NUMBER

2014A0310100138

Date of Arrest: December 9, 2014

ACTION OF GRAND JURY

True Bill

Rosa K Ware 7-23-15
Foreperson of Grand Jury

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: Jan. 11, 2018

INDICT

DOCKET NO. 2014-GS-03-00234

The State of South Carolina

County of Allendale

COURT OF GENERAL SESSIONS

July Term 2015

THE STATE

vs.

Laparis S. Flowers

Indictment for

Weapons / Poss. weapon during violent crime,
if not also sen

SC Code: 16-23-0490
CDR Code:0549

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

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 1st day of February, 2019.

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 1st day of February, 2019.