

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Sumter County

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES LEE BARNO,

APPELLANT

APPELLATE CASE NO 2017-002176

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED OCTOBER 16-17, 2017	1
JURY VOIR DIRE	3
JURY SELECTION	17
MOTION TO SEQUESTER WITNESSES GRANTED	25
OPENING REMARKS BY THE COURT	30
OPENING STATEMENT BY SOLICITOR	35
OPENING STATEMENT BY DEFENSE COUNSEL	38
TRIAL TESTIMONY	
ROSE MICKINS	42
JAMIE MCKNIGHT	52
JOHN A. MCKNIGHT	57
WILLIAM SINGLETON	82
SHAUNE GILL	101
STATE RESTS	112
MOTION FOR DIRECTED VERDICT	112
RULING BY THE COURT	114
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	115
TRIAL TESTIMONY	
SANDRA ALSTON	119
JAMES BARNO, JR.	130

SHIRLEY FRIERSON	162
DEFENSE RESTS	169
DIRECTED VERDICT MOTION RENEWED	171
RULING BY THE COURT	172
CHARGE ON THE LAW	172
CLOSING ARGUMENT BY SOLICITOR	175
CLOSING ARGUMENT BY DEFENSE COUNSEL	184
REPLY BY SOLICITOR	191
VERDICT	202
SENTENCING	205
INDICTMENT	209
CERTIFICATE OF COUNSEL	211

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
STATE,)

TRANSCRIPT OF RECORD
16-GS-43-0082

v.)
JAMES L. BARNO,)

DEFENDANT.)

October 16-17, 2017
Sumter, South Carolina

BEFORE :

THE HONORABLE FERRELL S. COTHRAN, JR., JUDGE;
AND JURY

APPEARANCES:

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Assistant Solicitor

JASON E. BRIDGES, ESQ.
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Circuit Court Reporter

INDEX

	Page
Qualifying of jury panel	3
Striking of the jury	16
Motion to sequester witnesses	25
Preliminary remarks by the Court	30
Opening remarks by Mr. Griffin	35
Opening remarks by Mr. Bridges	38
Rose Mickens:	
Direct examination	42
Cross-examination	47
Jamie McKnight:	
Direct examination	52
Cross-examination	55
John McKnight:	
Direct examination	57
Cross-examination	80
William Singleton:	
Direct examination	82
Cross-examination	92
Shaune Gill:	
Direct examination	101
Cross-examination	108
Directed verdict motion	112
Defendant's rights	115
Sandra Alston:	
Direct examination	119
Cross-examination	125
James Barno:	
Direct examination	130
Cross-examination	142
Redirect examination	158
Shirley Barno:	
Direct examination	162
Cross-examination	168
Directed verdict motion	171
Closing argument by Mr. Griffin	175
Closing argument by Mr. Bridges	184
Reply argument by Mr. Griffin	191
Charge to the jury	192
Exceptions to charge	199
Verdict	202
Sentencing	205

EXHIBITS**STATE'S:**

I.D.	Description	I.D./EVD.
1	9-1-1 disk	41/54
2	Gun	65/65
3	Ammunition	101/107

DEFENDANT'S:

1	Voir dire questions	25
2	Witness/victim statement	41
3	Witness statement	41
4	Witness/victim statement	41
5	Record of lawsuit	41/78

COURT'S:

1	Note from the jury	200
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1 THE COURT: Ladies and gentlemen, we're
2 going to pick the jury in the case of the State of
3 South Carolina versus James Lee Barno.

4 Solicitor, do you have the indictments?

5 MR. GRIFFIN: I do, Your Honor.

6 THE COURT: All right, sir. Thank you,
7 sir. And what I'm going to do first is to read to
8 you some information contained in the indictment.
9 Before I do that I'm going to tell you that the
10 indictment is merely the charging document, the
11 document which brings the matter to court. It is
12 not evidence, cannot be considered by anyone as
13 evidence in the case. The only reason that I'm
14 reading it to you is to see if you happen to have
15 any information about this particular matter, if you
16 know anything about this case and need to bring
17 something to the Court's attention.

18 So, the State of South Carolina has
19 charged that the defendant James Lee Barno did in
20 Sumter County on or about July 13th, 2015, point and
21 present a loaded or unloaded firearm, to wit, a
22 shotgun at one John McKnight, in violation of the
23 Code of Laws of State of South Carolina, 1976 as
24 amended. Do we have any member of the jury panel
25 that knows anything about this particular case, has

1 anything that they need to bring to the Court's
2 attention at this time, if so, please stand.

3 (There was no response.)

4 THE COURT: Very good. The possible or
5 potential witnesses that could be called in this
6 case are as follows. John McKnight, Jamie McKnight,
7 William Singleton, Rose Mickens, Shaune Gill of the
8 Sumter Police Department, James Alsbrook, Sumter
9 Police Department, Christopher Blanding, Sumter
10 Police Department, Shirley Judy Barno, Sandra
11 Alston, James Tony Barno. Any member of the jury
12 that's related by blood or marriage or close
13 personal friends, acquaintance of, knows any of
14 these possible or potential witnesses, if so, please
15 stand.

16 Very good. Yes, ma'am.

17 THE POTENTIAL JUROR: I know ---

18 THE COURT: I'm sorry, could you tell me
19 your name and juror number first please.

20 POTENTIAL JUROR: Betty Rembert, 114.

21 THE COURT: And who might you know please,
22 ma'am.

23 POTENTIAL JUROR: I know Judy Barno.

24 THE COURT: All right, ma'am. Can you
25 give to the State of South Carolina and to the

1 Defendant a fair and impartial trial, can you be a
2 fair and impartial juror in this case?

3 THE POTENTIAL JUROR: Yes, because —

4 THE COURT: Well, okay, I don't want you
5 to explain to me, just, I just need to know a yes or
6 no answer, okay.

7 THE POTENTIAL JUROR: Yes.

8 THE COURT: So the answer is yes, all
9 right, very good. Thank you, ma'am, have a seat.

10 POTENTIAL JUROR: Juror 130, Sarah
11 Skinner.

12 THE COURT: All right, ma'am.

13 POTENTIAL JUROR: I know Shaune Gill.

14 THE COURT: All right, ma'am. Can you
15 give to the State of South Carolina and to the
16 Defendant a fair and impartial trial, can you be a
17 fair and impartial juror in this case?

18 THE POTENTIAL JUROR: Yes, sir.

19 THE COURT: Thank you very much. Just so
20 you know, it's really bright in here and out there
21 it's really dark so I'm having a hard time seeing
22 who's standing, who's not standing, so if I'm doing
23 this or something, you let me know. All right. So
24 all right, so the next question is, is there any
25 member of the jury panel, either you yourself or a

1 member of your immediate family, have ever had any
2 matters handled, worked on, the case touched by the
3 Solicitor's Office -- and before I leave some county
4 out, Solicitor, it's Sumter County, what are the
5 other counties in this circuit?

6 MR. GRIFFIN: Williamsburg, Clarendon, and
7 Lee.

8 THE COURT: Okay. Lee, Williamsburg, and
9 Clarendon, and Sumter. Those are all the circuits,
10 they're all the counties in this circuit. So any
11 member of the jury panel had a matter handled in any
12 of those counties by the prosecutor's office, the
13 Solicitor's Office, if so, please stand.

14 (There was no response.)

15 THE COURT: Any member of the jury panel
16 related by blood or marriage, close personal
17 friends, acquaintances of, anybody employed by the
18 Solicitor's Office in any of those counties, if so,
19 please stand.

20 (There was no response.)

21 THE COURT: Any member of the jury panel
22 has ever had any matters handled by the circuit
23 Public Defender's Office. And again, that would be
24 in any of those four counties, if so, please stand.

25 (There was no response.)

1 THE COURT: Any member of the jury panel
2 that's related by blood or marriage, close personal
3 friends, acquaintances of anybody employed in the
4 Public Defender's Office in any of those four
5 counties, if so, please stand.

6 (There was no response.)

7 THE COURT: All right. Gentlemen, from
8 the State, if you would stand and identify yourself
9 for the jury please.

10 MR. GRIFFIN: Good morning, ladies and
11 gentlemen, my name is Kirk Griffin. I am the deputy
12 solicitor for the Third Judicial Circuit.

13 THE COURT: All right, very good. All
14 right, and for the Defense.

15 MR. BRIDGES: Good morning, ladies and
16 gentlemen, I'm Jason Bridges. I'm assistant public
17 defender here in Sumter County. Do you want me to
18 introduce my client?

19 THE COURT: Yes, sir, certainly.

20 MR. BRIDGES: And this is my client
21 Mr. James Barno. Stand up, sir.

22 THE COURT: All right. Thank you,
23 gentlemen.

24 All right. Any member of the jury panel
25 that's related by blood or marriage, close personal

1 friends, acquaintances of anybody that knows these
2 individuals that have stood and identified
3 themselves to you, if so, please stand.

4 (There was no response.)

5 THE COURT: Very good. Any member of the
6 jury panel have, you believe you have any kind of
7 personal, political, religious, philosophical belief
8 that would prevent you from being a fair and
9 impartial juror, if so, please stand.

10 (There was no response.)

11 THE COURT: Is there any member of the
12 jury panel that you yourself were a former law
13 enforcement officer or you have a current family
14 member who is now in law enforcement or was in the
15 past in law enforcement? If any of that applies to
16 you, please stand.

17 All right, yes, ma'am, you have to say
18 your name and juror number again.

19 THE POTENTIAL JUROR: 130, Sarah Skinner,
20 my husband is in law enforcement.

21 THE COURT: And where please, ma'am?

22 THE POTENTIAL JUROR: Sumter City Police
23 Department.

24 THE COURT: All right, ma'am, can you give
25 to the State and the Defendant a fair and impartial

1 trial, can you be a fair and impartial juror in this
2 case?

3 THE POTENTIAL JUROR: Yes, sir.

4 THE COURT: Thank you very much. Yes,
5 ma'am, your name and juror number?

6 THE POTENTIAL JUROR: I was a dispatcher
7 back in the '70s.

8 THE COURT: Okay, your name and juror
9 number first.

10 THE POTENTIAL JUROR: Jane Bradley, 14.

11 THE COURT: All right, and — I'm sorry,
12 you were a former dispatcher?

13 THE POTENTIAL JUROR: Right.

14 THE COURT: And what was the police
15 department?

16 THE POTENTIAL JUROR: Sumter.

17 THE COURT: Sumter City?

18 THE POTENTIAL JUROR: Uh-huh.

19 THE COURT: Can you give to the State and
20 to the Defendant a fair and impartial trial, can you
21 be a fair and impartial juror in this case?

22 THE POTENTIAL JUROR: Yes, I can.

23 THE COURT: Thank you very much, ma'am.
24 Yes, ma'am.

25 THE POTENTIAL JUROR: 34, Hattie Curry,

1 retired military police.

2 THE COURT: Can you give to the State of
3 South Carolina and to the Defendant a fair and
4 impartial trial, can you be a fair and impartial
5 juror in this case?

6 THE POTENTIAL JUROR: Yes, sir.

7 THE COURT: Thank you very much, ma'am.
8 Yes, sir.

9 THE POTENTIAL JUROR: Military police.

10 THE COURT: All right, sir, your name and
11 juror number please.

12 THE POTENTIAL JUROR: Number 6, Don
13 Ballard.

14 THE COURT: All right, sir. Can you give
15 to the State of South Carolina and to the Defendant
16 a fair and impartial trial, can you be a fair and
17 impartial juror in this case?

18 THE POTENTIAL JUROR: Yes, sir.

19 THE COURT: Thank you very much.

20 Anyone else?

21 (There was no response.)

22 THE COURT: All right. Is there any
23 member of the jury panel that you, yourself, or a
24 member of your immediate family has ever been a
25 member of any kind of victim's rights or law

1 enforcement support organization? Let me give you a
2 couple of examples. This is not an exhaustive list
3 of any kind; I'm just trying to give you a few
4 examples. Citizens Against Violent Crime, Mothers
5 Against Drunk Driving, the South Carolina Law
6 Enforcement Officers Association, South Carolina
7 Sheriff's Association, just some kind of victim's
8 rights or law enforcement support organization
9 either you, yourself, or a member of your immediate
10 family a member, if so, please stand.

11 (There was no response.)

12 THE COURT: All right. This next question
13 I'm gonna ask, ladies and gentlemen, is whether you,
14 yourself, or a member of your immediate family has
15 ever been the victim of a crime. Now, I am not
16 going to ask you what occurred. I do not want you
17 to volunteer any information to me about what
18 occurred. The question is going to be straight
19 forward. Was it yourself or a family member, and
20 then I'll ask the qualification question. So, is
21 there any member of the jury panel, either you
22 yourself, or a member of your immediate family ever
23 been the victim of a crime, if so, please stand.

24 All right, right here. Yes, sir, your
25 name and juror number please, sir.

1 THE POTENTIAL JUROR: Juror number 23, Jay
2 Calvetti.

3 THE COURT: Was it yourself or a family
4 member?

5 THE POTENTIAL JUROR: Both.

6 THE COURT: Can you give to the State of
7 South Carolina and to the Defendant a fair and
8 impartial trial, can you be a fair and impartial
9 juror in this case?

10 THE POTENTIAL JUROR: Yes, Your Honor.

11 THE COURT: Thank you very much.

12 Yes, sir.

13 THE POTENTIAL JUROR: Patricia Trowborst,
14 145.

15 THE COURT: Yourself or family member?

16 THE POTENTIAL JUROR: Family member.

17 THE COURT: Can you give to the State of
18 South Carolina and to the Defendant a fair and
19 impartial trial, can you be a fair and impartial
20 juror in this case?

21 THE POTENTIAL JUROR: Yes.

22 THE COURT: Thank you very much.

23 Yes, sir.

24 THE POTENTIAL JUROR: David Lynch, 80.

25 THE COURT: And yourself or family member?

1 THE POTENTIAL JUROR: Myself.

2 THE COURT: Can you give to the State of
3 South Carolina and to the Defendant a fair and
4 impartial trial, can you be a fair and impartial
5 juror in this case?

6 THE POTENTIAL JUROR: Yes, sir.

7 THE COURT: Thank you very much.

8 Yes, sir, in the back.

9 THE POTENTIAL JUROR: Yes, sir, family
10 member.

11 THE COURT: All right. Your name and
12 juror number please?

13 THE POTENTIAL JUROR: Steven Galloway, 54.

14 THE COURT: Can you give to the State of
15 South Carolina and to the Defendant a fair and
16 impartial trial, can you be a fair and impartial
17 juror in this case?

18 THE POTENTIAL JUROR: Yes.

19 THE COURT: Thank you very much.

20 All right, I'm gonna ask you what I
21 classify as my general or catch-all question. Do
22 you know of any reason, have any question in your
23 mind, any doubt in your mind that you believe you
24 cannot give to the State of South Carolina and to
25 the Defendant a fair and impartial trial? That is,

1 for any reason whatsoever, you believe you cannot be
2 a fair and impartial juror, if so, please stand.

3 (There was no response.)

4 THE COURT: Further questions from the
5 State?

6 MR. GRIFFIN: None from the State, Your
7 Honor.

8 THE COURT: Further questions from the
9 Defense?

10 MR. BRIDGES: None, Your Honor.

11 THE COURT: Very good. All right, ladies
12 and gentlemen, what we're gonna do in picking this
13 jury is the Clerk of Court's Office has run a
14 computer program and basically puts your names in a
15 random order so we're working on that. And so
16 what'll happen is, it will come out with a list and
17 it won't be your juror number, it won't be in
18 alphabetical order; it will just be in some random
19 number or random order. We do this by computer
20 program. And I'll tell you that the reason we used
21 to do it, we used to have this huge drum and we had,
22 we, all of your names were typewritten on a little
23 sheet of paper and they would cut out your name, put
24 it in a little tube and they'd put it in the big
25 drum. They'd roll it around and pull them out one

1 by one. The reason this is so fresh in my mind is
2 the computer system broke down in Horry County last
3 week and guess what we had to do? We had to cut out
4 everybody's little name and little piece of paper
5 and put it in a plastic tube, and they found a drum.
6 Didn't have the big old drum they had, you know,
7 years ago, but they found one. So that's why we did
8 it so. But so Mr. Clerk, computers do break down so
9 if you don't have a drum, you can have mine.

10 THE CLERK OF COURT: Yes, sir, we got it.

11 THE COURT: All right. So, in just a
12 minute the clerk will be calling out a name. If and
13 when your name is called, you will stand up and you
14 will come forward and you will come to a place
15 basically right in front of the podium. And you
16 will turn and you will face to the back of the
17 courtroom. At that point in time the clerk will
18 inquire of the State to present or excuse the juror.
19 After that the clerk will inquire of the Defense to
20 seat or excuse the juror. If you are presented by
21 the State and you are seated by the Defense, the
22 clerk will instruct you to go to the jury box over
23 there and have a seat in the jury box as one of the
24 members of the jury. If you're excused by the State
25 or the Defense you go back and have a seat from

1 whence you came. If you happen to have any kind of
2 item, purse, book, whatever that might be, please
3 bring that along with you in case you are seated you
4 can go directly to the jury box.

5 All right, Mr. Clerk.

6 THE CLERK: If it please the Court, Your
7 Honor.

8 THE COURT: Yes, sir.

9 THE CLERK: Juror number 90, Brittany
10 McClement (Hispanic female). What saith the State?

11 MR. GRIFFIN: Please present the juror.

12 THE CLERK: What saith the Defendant?

13 MR. BRIDGES: Please present the juror.

14 THE CLERK: Have a seat over here in the
15 jury box please, ma'am.

16 Juror number 94, Charles Metcalfe (white
17 male). What saith the State?

18 MR. GRIFFIN: Please present the juror.

19 THE CLERK: What saith the Defendant?

20 MR. BRIDGES: Please present the juror.

21 THE CLERK: Have a seat in the jury box.

22 Juror number 4, Lisa Bailey (white
23 female). What saith the State?

24 MR. GRIFFIN: Please present the juror.

25 THE CLERK: What saith the Defendant?

1 MR. BRIDGES: Please excuse the juror.

2 THE CLERK: Please have a seat back with
3 the panel. You've been excused from this trial
4 please, ma'am.

5 Juror number 15, Rhykwon Bradley (black
6 male). What saith the State?

7 MR. GRIFFIN: Please present the juror.

8 THE CLERK: What saith the Defendant?

9 MR. BRIDGES: Please seat the juror.

10 THE CLERK: Have a seat in the jury box.

11 Juror number 158, Lee Hendrickson (white
12 male). What saith the State?

13 MR. GRIFFIN: Please present the juror.

14 THE CLERK: What saith the Defendant?

15 MR. BRIDGES: Please seat the juror.

16 THE CLERK: Have a seat in the jury box
17 please, sir.

18 Juror number 54, Steven Galloway (white
19 male). What saith the State?

20 MR. GRIFFIN: Please present the juror.

21 THE CLERK: What saith the Defendant?

22 MR. BRIDGES: Please excuse the juror.

23 THE CLERK: Have a seat back in the panel.
24 You've been excused from this trial please, sir.

25 Juror number 114, Betty Rembert (black

1 female). What saith the State?

2 MR. GRIFFIN: Please excuse the juror from
3 the trial of this case.

4 THE CLERK: Have a seat back in the panel.
5 You've been excused from this trial please, ma'am.

6 Juror number 9, Daniel Benenhaley (white
7 male). What saith the State?

8 MR. GRIFFIN: Please present the juror.

9 THE CLERK: What saith the Defendant?

10 MR. BRIDGES: Please seat the juror.

11 THE CLERK: Have a seat in the jury box
12 please, sir.

13 Juror number 30, Mary Clare Collen (white
14 female). What saith the State?

15 MR. GRIFFIN: Please present the juror.

16 THE CLERK: What saith the Defendant?

17 MR. BRIDGES: Please excuse the juror.

18 THE CLERK: Have a seat back in the panel.
19 You've been excused from this trial, please, ma'am.

20 Juror number 80, David Lynch (white male).
21 What saith the State?

22 MR. GRIFFIN: Please present the juror.

23 THE CLERK: What saith the Defendant?

24 MR. BRIDGES: Please excuse the juror.

25 THE CLERK: Have a seat back in the panel.

1 You've been excused from this trial please, sir.

2 Juror number 53, Casey Gainey (white
3 male). What saith the State?

4 MR. GRIFFIN: Please present the juror.

5 THE CLERK: What saith the Defendant?

6 MR. BRIDGES: Please seat the juror.

7 THE CLERK: Have a seat in the jury box
8 please, sir.

9 Juror number 21, Tykira Brown (black
10 female). What saith the State?

11 MR. GRIFFIN: Please present the juror.

12 THE CLERK: What saith the Defendant?

13 MR. BRIDGES: Please seat the juror.

14 THE CLERK: Have a seat in the jury box
15 please, ma'am.

16 Juror number 6, Donald Ballard (white
17 male). What saith the State?

18 MR. GRIFFIN: Please present the juror.

19 THE CLERK: What saith the Defendant?

20 MR. BRIDGES: Please seat the juror.

21 THE CLERK: Have a seat in the jury box
22 please, sir.

23 Juror number 2, Jaden Arrieta (Hispanic
24 male). What saith the State?

25 MR. GRIFFIN: Please present the juror.

1 THE CLERK: What saith the Defendant?

2 MR. GRIFFIN: Please seat the juror.

3 THE CLERK: Have a seat in the jury box
4 please, sir.

5 Juror number 101, Rebecca Meyers (black
6 female). What saith the State?

7 MR. GRIFFIN: Please present the juror.

8 THE CLERK: What saith the Defendant?

9 MR. BRIDGES: Please seat the juror.

10 THE CLERK: Have a seat in the jury box
11 please, ma'am.

12 Juror number 14, Betty Bradley (white
13 female). What saith the State?

14 MR. GRIFFIN: Please present the juror.

15 THE CLERK: What saith the Defendant?

16 MR. BRIDGES: Please excuse the juror.

17 THE CLERK: Have a seat back in the panel.
18 You've been excused from this trial please, ma'am.

19 Juror number 125, Pamela Scott (white
20 female). What saith the State?

21 MR. GRIFFIN: Please present the juror.

22 THE CLERK: Any reason for cause from the
23 Defendant?

24 MR. BRIDGES: None.

25 THE CLERK: Have a seat in the jury box

1 please, ma'am.

2 Juror number 24, Ronald Campbell (white
3 male). What saith the State?

4 MR. GRIFFIN: Please present the juror.

5 THE CLERK: Any reason for cause from
6 Defendant?

7 MR. BRIDGES: None.

8 THE CLERK: Have a seat in the jury box
9 please, sir.

10 THE COURT: We'll have one alternate.
11 Then it will be one and two on the alternate.

12 THE CLERK: Alternate juror, juror number
13 157, Tabitha Yarborough (white female). What saith
14 the State?

15 MR. GRIFFIN: Please present the juror.

16 THE CLERK: What saith the Defendant?

17 MR. BRIDGES: Please seat the juror.

18 THE CLERK: Have a seat in the jury box
19 please, ma'am.

20 THE COURT: Ms. Yarborough, you're the
21 alternate in this particular case. Thank you,
22 ma'am.

23 Any objections to the jury as impaneled
24 from the State?

25 MR. GRIFFIN: None from the State.

1 THE COURT: From the Defense?

2 MR. BRIDGES: None from the Defense.

3 THE COURT: Very good. I find the jury
4 has been properly impaneled then to pursuant Batson
5 versus Kentucky and Jett versus Alabama. All right,
6 ladies and gentlemen of the jury, I'm going to ask
7 that you do one thing for me before we get started.
8 That's going to be pick your foreperson for this
9 particular jury. So in a few minutes I'm gonna send
10 you into the jury room to do that. So let me tell
11 you what the basic duties of the foreperson are. If
12 we are here in the courtroom and the jury needs
13 attention to some matter, the witness needs to speak
14 up or lawyers or whatever the situation is, the
15 foreperson is gonna raise their hand, gets the
16 Court's attention, we'll handle that matter whatever
17 it is. If you're back in the jury room the Clerk's
18 Office will provide a pad and pen in there, and you
19 will write out a note, sign it, give it to the
20 bailiff, it will come to me. And again, in that,
21 we'll handle that matter, whatever it might be.

22 Now, when we have gone through the
23 evidentiary portion of the trial, you've heard all
24 witnesses come before you and testified under oath,
25 there might have been received into evidence some

1 kind of documentary, physical evidence, photograph
2 of some kind, that might be introduced in this
3 particular case, we've received all that evidence,
4 then we've had the closing arguments of the
5 attorneys and then I have given to you the law that
6 you will apply to the facts and evidence that you
7 have heard in this particular case, after that I
8 will give the case to you and send you back to the
9 jury room for your deliberations and your unanimous
10 decision in this particular matter.. The
11 foreperson's duties and responsibilities change in
12 this regard. The foreman is gonna act like the
13 chairperson at a meeting, guide the discussions if
14 necessary.

15 Now the foreperson, foreperson's voice and
16 vote carries no more weight than any other member of
17 the jury. Everybody's equal in that regard, but
18 somebody needs to remain in charge. The foreperson
19 remains in charge. Again, if some issue comes up,
20 you write out that note, you sign it, you give it to
21 the bailiff and it will come to me and we'll handle
22 that matter, whatever it is.

23 The final duty and responsibility of the
24 foreperson is once the jury has well and truly
25 deliberated, you have reached your unanimous

1 decision in this particular matter, the foreperson
2 is gonna take the verdict form that the Court will
3 provide to you, and check the appropriate block or
4 write out the appropriate word thereafter signing
5 your name as the foreperson indicating that is your
6 unanimous verdict of the jury in this particular
7 matter. So, if called upon when the jury comes back
8 and the clerk of court reads the verdict in this
9 particular matter, the jury can all raise their
10 right hand and indicate that is their verdict.

11 So understanding then the duties and
12 responsibilities of the foreperson, now madam
13 alternate, you can't be the foreperson. You can
14 vote on being the foreperson, but being the
15 alternate you can't be the foreperson. Everybody
16 else is eligible for that. So if you would all
17 accompany the bailiff to the jury room, select your
18 foreperson, knock on the door, let the bailiff know
19 who it is please. Thank you very much.

20 (WHEREUPON, the jury was removed from the
21 courtroom at 11:18 a.m.)

22 THE COURT: All right. From the
23 Solicitor's Office, Mr. Griffin, any matters we need
24 to go over or any motions or anything from the
25 State?

1 MR. GRIFFIN: None from the State, Your
2 Honor.

3 THE COURT: All right. And then from the
4 Defense, Mr. Bridges?

5 MR. BRIDGES: Thank you, Your Honor, just
6 two. I'd just like to request my voir dire
7 questions be made an exhibit.

8 THE COURT: All right.

9 (WHEREUPON, Defense Exhibit No. 1 was
10 marked for identification only.)

11 MR. BRIDGES: Thank you, Your Honor. And
12 just request the witnesses be sequestered once the
13 trial starts.

14 THE COURT: Any objection to that, Mr.
15 Griffin?

16 MR. GRIFFIN: No objection, Judge. Just
17 that it be made, since he has produced a witness
18 list that his witnesses be sequestered as well.

19 THE COURT: All right so, obviously -- who
20 is the victim in this particular matter?

21 MR. GRIFFIN: Your Honor, Mr. John
22 McKnight is the victim.

23 THE COURT: So he'll remain in the
24 courtroom at all times, all right. The other
25 witnesses will be sequestered and then after they're

1 called as a witness, then they can remain in the
2 courtroom. Anything else from the Defense?

3 MR. BRIDGES: No, Your Honor.

4 THE COURT: All right, very good. So
5 let's take a short break for about five, ten
6 minutes, and then we'll get started and we'll
7 certainly go into the, at least the opening
8 statements. We'll see where we might be after that,
9 okay.

10 (WHEREUPON, a recess was taken from the
11 proceedings.)

12 THE COURT: What we're gonna do is, we're
13 going to bring the jury in and obviously swear them
14 and then do the opening statements and then we'll
15 break for lunch. Apparently there's a plea or two
16 that we need to get done this morning so we'll go
17 and do those and just go into the body of the case
18 afterwards, all right. With that, is the State
19 ready for the jury to come in?

20 MR. GRIFFIN: Your Honor, the State is
21 ready; however, we need to put one thing on the
22 record.

23 THE COURT: Okay.

24 MR. GRIFFIN: I spoke with defense counsel
25 with regard to the motion for sequestration. I do

1 have a evidence custodian here. There is a firearm
2 that's central to this case, and the Defense has
3 agreed to allow the evidence custodian to remain in
4 the courtroom since we'll be showing that exhibit.
5 And he's not gonna testify to anything other than, I
6 brought the gun over to, to the judicial center this
7 morning, it's been in my continuous care and custody
8 and control.

9 THE COURT: All right. And so, no problem
10 with that?

11 MR. BRIDGES: No objection to that at all.

12 THE COURT: Very good. I understand it's
13 a shotgun, correct?

14 MR. GRIFFIN: Correct, Judge.

15 THE COURT: So are we able to secure the
16 shotgun?

17 MR. GRIFFIN: Judge, it has been secured.

18 THE COURT: Okay, very good. Thank you
19 very much.

20 THE CLERK: Judge, once it's presented I
21 have it locked right outside and secured.

22 THE COURT: All right, so, if you want to,
23 I mean, I'm fine with y'all, you know, locking it up
24 before it gets, before we get going. I don't think
25 we have to spend time doing that so if -- is there

1 one on there already or no?

2 THE INVESTIGATOR: Yes, sir.

3 THE COURT: Oh, there's a lock on it
4 already, good deal. Great. All right, so with that
5 then, Mr. Bridges, you ready for the jury?

6 MR. BRIDGES: Yes, Your Honor.

7 THE COURT: All right, very good. Ask the
8 jury to come in please. I believe, gentlemen, they
9 selected juror number 90 as the foreperson, but
10 we'll confirm that when they come in.

11 THE CLERK: 94.

12 THE COURT: 94? I'm sorry, 94.

13 (WHEREUPON, the jury was returned to the
14 courtroom at approximately 11:35 a.m.,
15 and the following proceedings commenced
16 in open court.)

17 THE COURT: Front row, y'all scoot down
18 one seat please. Juror number, the foreperson juror
19 number 94.

20 THE CLERK: 90, Judge.

21 THE COURT: 90, okay. And is that
22 Ms. McClement? All right, very good. So
23 Ms. McClement, you're the foreperson. You'll always
24 occupy that particular seat when you come in. And
25 then Ms. Yarborough, where are you at? Okay, Ms.

1 Yarborough, you need to switch with this gentleman
2 here at the end. You're the alternate so you'll
3 always need to occupy that particular seat at the
4 end and Ms. McClement, have that seat. The rest of
5 you kind of fill in wherever it is that you happen
6 to get when y'all come on in, all right. So, the
7 very first thing that's gonna happen in this matter
8 is the clerk's representative is gonna administer
9 your oath, so if you would all please stand at this
10 time.

11 THE CLERK: Raise your right hand please.
12 For the State of South Carolina, County of Sumter in
13 the Court of General Sessions, docket number
14 2016-GS-43-482, the State of South Carolina versus
15 James Barno.

16 (WHEREUPON, the jury was sworn.)

17 THE CLERK: Please respond by saying I
18 will.

19 (Jurors responded.)

20 THE CLERK: Thank you. You may be seated.

21 THE COURT: Is there any member of the
22 jury panel that did not affirmatively take the oath
23 as just given by the Clerk's representative, if so,
24 please stand.

25 (There was no response.)

1 THE COURT: No juror having stood, I find
2 the jury properly sworn in this matter. All right.
3 I'm sure you're sitting there and wondering what's
4 my job, what am I supposed to do in this particular
5 case. Ladies and gentlemen, you're gonna be the
6 judges of the facts of this particular case. I will
7 not indicate to you in any way what I think the
8 facts of this case are because it's not my job or my
9 responsibility. It's gonna be your job and your
10 responsibility to listen to the facts and evidence
11 presented in this matter and then make your decision
12 based upon those facts and evidence that have been
13 presented to you. You will be called upon to judge
14 the credibility and the believability of witnesses
15 that come before you and testify under oath in this
16 particular matter. And again, if you're thinking,
17 well, how am I gonna be judging somebody's
18 credibility and believability? You do it every
19 single day of your life. When somebody tells you
20 something you're judging automatically in your own
21 mind whether or not you believe them. You use your
22 good common sense. You use your good judgment that
23 you use in conducting your own affairs. That's what
24 we're gonna ask you to do. Use your good common
25 sense. Listen to the facts and evidence, find that

1 evidence you find to be credible and believable.
2 And then you're gonna have to basically take that
3 evidence and weigh it against the State's
4 presentation.

5 Now, we'll talk about that. The
6 indictment, the charging document, you remember what
7 I read to you. Remember, again, that's not
8 evidence, can't be considered by you as evidence in
9 the case. It's the charging document, the document
10 which brings the matter to the Court. To that
11 indictment, that charge, the defendant has pled not
12 guilty. That put immediately the burden of proof
13 upon the State of South Carolina to prove the
14 defendant guilty beyond a reasonable doubt. So
15 that's gonna be your job. You're gonna take that
16 evidence that's presented in this case; and you're
17 gonna look at, has the State proven the defendant
18 guilty beyond a reasonable doubt of the crime
19 charged.

20 In being presumed innocent the defendant
21 has nothing to prove to you. The defendant has
22 nothing to show to you. I tell juries all the time,
23 defendant need not even show up for trial because
24 they don't have to prove anything to you. It's the
25 State's job, it's the State's responsibility to

1 bring to you the evidence from which you are to
2 judge whether or not the State has proven to you the
3 guilt of the defendant of the crime charged beyond a
4 reasonable doubt. So that's what you're gonna end
5 up doing when you deliberate and make your unanimous
6 decision in this particular matter.

7 Now, I'm gonna ask you're not to talk
8 about this case until I give it to you at the very
9 end. If you were to talk about it or start making
10 mental deliberations as to, you know, what you
11 believe or don't believe after you've heard one
12 witness, it could be either the very next witness
13 totally changes your mind. So as best you can, keep
14 an open mind, listen to all the facts and evidence.
15 Don't talk about the case until I give it to you at
16 the end. You'll have all the time you need
17 necessary to talk about it before you reach your
18 unanimous decision.

19 During the course of the trial and how
20 this trial will proceed, have these comments to you,
21 we'll have the opening statements of the attorneys.
22 Thereafter, we'll have the evidentiary portion.
23 Witnesses will come before you to testify under
24 oath. There might be the introduction of some kind
25 of physical evidence or some other type of evidence

1 in this particular case. After that we'll have the
2 closing arguments of the attorneys, and then I will
3 give you the charge on the law, the law that you're
4 going to apply to the facts and evidence that have
5 been presented to you in this particular matter.
6 And then I'll submit the case to you for your
7 deliberations and unanimous decision in this
8 particular matter.

9 During the course of the trial the
10 attorneys may raise certain motions or objections,
11 ask for a ruling by the Court on a certain matter.
12 Please remember, I'm not commenting on the facts.
13 I'm not commenting on anybody's credibility or
14 believability; that's all your job. What I do have
15 the duty and responsibility, to make sure that only
16 proper evidence is presented to you and so that
17 might be an issue or some other issue. All this to
18 say is if I make a decision on a matter in court,
19 please remember, what I'm doing is deciding that the
20 matter is proper for you to hear or not proper for
21 you to hear. How you view it, what your
22 determination of it, that's your job and
23 responsibility.

24 The opening statements, closing arguments,
25 both of those are important. Opening statements,

1 their introduction to you, closing argument is their
2 summation to you, but they're not evidence, okay.
3 Opening statements, closing arguments, those are
4 comments by the attorneys on the case. That's not
5 evidence. The evidence comes to you from the
6 witness stand, and again, any kind of physical
7 evidence that might be introduced in this particular
8 matter. That's what you're going to be basing your
9 decision on in making your determination whether or
10 not the State proved the defendant guilty beyond a
11 reasonable doubt of the crime charged. So with
12 that, I'm gonna turn it over to the lawyers for
13 their opening statements.

14 Solicitor.

15 MR. GRIFFIN: Thank you, Your Honor. May
16 it please the Court.

17 THE COURT: Yes, sir.

18 MR. GRIFFIN: Ladies and gentlemen, John
19 McKnight was born in Sumter. John McKnight grew up
20 in Sumter. After graduating from high school he
21 joined the army. He served as a paratrooper,
22 retired as a master sergeant. He makes his home in
23 Fayetteville, North Carolina. You may be asking,
24 what is a guy that lives in Fayetteville, North
25 Carolina, doing in Sumter county in July of 2015,

1 July 13th. Well, Mr. McKnight, after he — or after
2 he retired from the army he bought up some rental
3 property here in Sumter. He buys up old homes,
4 refurbishes them, rents them out. And ladies and
5 gentlemen, one of these rental properties is what
6 brings all of us inside this courtroom here today.
7 Mr. McKnight had contracted with the defendant James
8 Barno to make some improvements to a piece of
9 property on Byrd Street here in the city of Sumter.
10 Mr. McKnight came down from Fayetteville to check on
11 the progress of the work. And ladies and gentlemen,
12 the progress of the work being done on that rental
13 property is what brings this whole matter to the
14 courtroom.

15 Mr. McKnight felt that the work had not
16 been done satisfactorily, the work was not finished.
17 Ladies and gentlemen, this dispute started over
18 money. It started over whether Mr. McKnight should
19 pay Mr. Barno for work that Mr. McKnight didn't feel
20 had been completed. An argument took place over the
21 payment of this money. But instead of settling the
22 argument through words, Mr. Barno decided he was
23 gonna settle the argument by going to his vehicle,
24 opening the trunk, taking a shotgun out of the
25 truck, pointing it to Mr. McKnight here.

1 Now ladies and gentlemen, His Honor told
2 you that evidence will be presented in this case and
3 it will come primarily from that witness stand.
4 It'll come through the testimony of the witnesses at
5 the scene. Now there were more individuals at this
6 scene than just Mr. McKnight and Mr. Barno. You'll
7 hear from those witnesses. You'll hear from Rose
8 Mickens, Mr. McKnight's sister. You'll hear from
9 William Singleton who was working for Mr. Barno on
10 the repairs to Mr. McKnight's property. You'll hear
11 them tell you about what they saw, what they heard,
12 what they observed. Ladies and gentlemen, you'll
13 hear testimony about this shotgun from the witness
14 stand. Ladies and gentlemen, you will see this
15 shotgun. You get to look at it. It will be here in
16 this courtroom as an exhibit. His Honor told you
17 that exhibits may be presented. That's what he was
18 talking about, items that you can touch, see, not
19 just testimony, something tangible.

20 Ladies and gentlemen, this case is about
21 this rental property; but it's about how a person
22 responds to a disagreement; how one person decides
23 to handle an argument by pulling a gun, pointing it
24 at the other person and threatening to kill them.
25 That's why we're here. Ladies and gentlemen, this

1 will not be a lengthy trial, but it is important to
2 Mr. McKnight. It's important to the city and county
3 of Sumter. It is important because these type of
4 things put individuals, put the community at risk.
5 Ladies and gentlemen, all we can ask is that you
6 listen closely to the testimony, view the exhibits
7 that are presented to you, judge the witnesses'
8 credibility. Does the witness have anything to gain
9 or lose by his testimony? That's your job. You're
10 the judges of the facts and it's incumbent upon you
11 as jurors. You have to decide which of these
12 witnesses you believe. Judge John can't do it, I
13 can't do it, the defense can't do it. It's your job
14 as the jurors to make a determination as to the
15 facts; and necessarily, that'll be done by viewing
16 these witnesses, hearing their testimony, and
17 deciding who you believe. You boil everything down
18 in this case, and it comes down to who you believe.

19 Ladies and gentlemen, we believe that we
20 will prove to you that Mr. Barno, the defendant
21 here, pointed the gun at Mr. McKnight. We believe
22 that we'll prove that to you beyond a reasonable
23 doubt. Thank you.

24 THE COURT: For Defense?

25 MR. BRIDGES: Thank you, Your Honor.

1 THE COURT: Yes, sir.

2 MR. BRIDGES: May it please the Court.

3 Ladies and gentlemen, let me start by extending my
4 thanks and the solicitor joins in with my thanks in
5 you being here today and you offering your service
6 and attention. I know jury duty is probably not in
7 the top fifty of things you want to be doing today,
8 but it's essential to the system that we all get a
9 fair trial that you're here. So again, I extend my
10 thanks and I'm sure the State extends their thanks
11 as well.

12 Furthermore, on the State's case there's
13 actually a lot of basic facts that we're not in
14 disagreement with. Mr. Barno, Mr. James Barno, you
15 will hear that goes by Tony. He's been going by
16 Tony his whole life, was hired by Mr. McKnight to do
17 some work on this rental property. The work was
18 underway, and then on July 13th there was a dispute
19 over the course of this work and the completion of
20 this work. And we're not contesting that there's a
21 dispute, but then it's at this point that
22 Mr. McKnight contends that Mr. Barno pointed a
23 shotgun at him in an effort to settle this debt.
24 And we're not gonna dispute that. Mr. Barno had a
25 shotgun that he lawfully owned, that he had in his

1 car that day, but that he did not brandish it. He
2 actually settled this dispute in a lawful way,
3 through a court of law, and you will see that. You
4 will see he did not act impulsively to try to take
5 money or threaten Mr. McKnight on the scene, that he
6 took his case for the debt that was owed him to a
7 court of law and he prevailed. You'll hear his side
8 of the story over the course probably at most the
9 next two days of what happened, and that there's
10 another side from Mr. McKnight's that Mr. Barno was
11 owed money and he was actually kind of intimidated
12 that day; and but he pursued his debt in a lawful,
13 legal way, and he did not, he did not point or
14 present any firearm that day.

15 As the judge noted, it's not up for me or
16 Mr. Barno to prove his innocence. It's for the
17 State to prove his guilt beyond a reasonable doubt.
18 So keep that in mind, ladies and gentlemen, as you
19 see and hear the testimony and the evidence. Has
20 the State proven their point? Has the State
21 actually connected this theory that Mr. Barno
22 pointed a gun at Mr. McKnight. So I thank you for
23 your time and your attention and I look forward to
24 you working with you over the next couple of days.

25 THE COURT: All right, ladies and

1 gentlemen, it's Monday and there are other matters
2 that were scheduled that the Court has to deal with
3 this morning before lunch so what we're gonna do is
4 I'm gonna give you an extended lunch break so I can
5 handle those other matters that need to be taken
6 care of. We'll resume this trial at 2:00. So you
7 -- the bailiff will, y'all go back to the jury room.
8 The bailiff, they'll tell you where to assemble and
9 that, and where to come back; but just so that we
10 can come back into the courtroom at 2, all right.
11 So if you would all please accompany the bailiff at
12 this time.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 11:55 a.m.)

15 THE COURT: All right. Gentlemen,
16 anything from the State before we take a recess?

17 MR. GRIFFIN: Nothing from the State,
18 Judge.

19 THE COURT: From Defense?

20 MR. BRIDGES: Nothing from Defense, Your
21 Honor.

22 THE COURT: All right, 2:00. We'll get
23 started right at 2.

24 (WHEREUPON, State's Exhibit No. 1 and
25 Defense Exhibit Nos. 2 through

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1 5 were marked for identification only.)

2 THE COURT: Okay. Is the State ready for
3 the jury to come in?

4 MR. GRIFFIN: State's ready, Your Honor.

5 THE COURT: All right, and Defense?

6 MR. BRIDGES: Defense is ready, Your
7 Honor.

8 THE COURT: Very good. Ask the jury to
9 come in please.

10 (WHEREUPON, the jury was returned to the
11 courtroom at approximately 2:15 p.m., and
12 the following proceedings commenced in
13 open court.)

14 THE COURT: All right, Solicitor, your
15 first witness please.

16 MR. GRIFFIN: Your Honor, the State calls
17 Rose Mickins.

18 THE COURT: All right.

19 THE CLERK: Place your left hand on the
20 Bible, raise your right hand. State your name
21 please.

22 THE WITNESS: Rose Mae Mickins.

23 WHEREUPON,

24 **ROSE MICKINS,**

25 having been duly sworn by the Clerk, testified

SW - M. MICKENS - DIRECT

1 as follows:

2 THE CLERK: Please state your full name,
3 spell your last name for the record.

4 THE WITNESS: Rose Mae Mickens,
5 M-I-C-K-E-N-S.

6 THE COURT: All right, Solicitor, you may
7 proceed.

8 **DIRECT EXAMINATION**

9 BY MR. GRIFFIN:

10 Q Ms. Mickens, where do you live?

11 A [REDACTED].

12 Q Is that here in Sumter?

13 A Yes, sir.

14 Q Okay. Ms. Mickens, are you related to John
15 McKnight?

16 A Yes, sir, I'm his sister.

17 Q You're his sister, okay. Now back on July 13th
18 of 2015, were you on Byrd Street that day?

19 A Yes, sir.

20 Q Okay. And tell the jury what was going on on
21 Byrd Street that day.

22 A Well, I usually go by my brother house every day
23 and, you know, and check on everything 'cause he
24 usually get in contact with me, you know, 'cause he
25 lives in North Carolina.

SW - M. MICKENS - DIRECT

1 Q Okay.

2 A And I went over to the house. Well, first I
3 stopped by his house 'cause he has a house that he
4 had been fixing on there he was going to be renting
5 out. So, we went down to his trailer down the
6 street, the trailer he was working on. And him and
7 Mr. Barno, you know, they was outside talking about,
8 you know, some things wasn't even finished yet on
9 the house and work should have already been done.
10 And it went down like, Mr. Barno called William from
11 off the roof, William, the man that fix the roof,
12 William off the roof and told William to come in the
13 house. And so him and William was in the house
14 getting loud, you know, they was in there having
15 words. My brother stepped in the room and, you
16 know, kind of like breaking up the argument, what
17 was going on.

18 Q Let me stop you right there. So William
19 Singleton and Mr. Barno were having words?

20 A Yes, sir.

21 Q And your brother stepped in to do what?

22 A Yeah, he stepped in the room 'cause it was
23 getting too loud like, you know, about to fire
24 something, you know, and he called both of them
25 outside and so. And he told Mr. Barno, he said,

SW - M. MICKENS - DIRECT

1 okay, I put it like this, well, for what the work
2 that you already have done for me, let's come to an
3 agreement, what do I owe you. And Mr. Barno stated,
4 I want it all. He said, I can't give you all
5 because the work is not finished. Okay, we is two
6 grown adults, for what you have already done for me,
7 what you think I owe you? Mr. Barno said, I want it
8 all, and if you don't give me all of my money
9 something is gonna happen.

10 Q Okay. And after they talked what did you see
11 happen then?

12 A Mr. Barno walked to the trunk of his car and
13 popped the trunk and pulled out a shotgun; and
14 William and my brother, they walked towards in the
15 house. I went running before they went walking. I
16 went running to Mr. Barno, and I grabbed the handle
17 of the shotgun and I was talking to him. And he
18 stated something, but I'm gonna hurt you. I said,
19 no, you're not gonna hurt me. And he start reaching
20 back in the trunk in his bag for some shells 'cause
21 he notice that he didn't have it loaded when he
22 first pulled it out and draw the gun. And he start
23 reaching for shells and keeping his eyes on them and
24 I grabbed it, the barrel of the gun, and talked to
25 him. And we both get our hands like, put it back in

SW - M. MICKENS - DIRECT

1 the trunk and I had the trunk down some. And I
2 said, you have a license for this, you know, just
3 talking to him trying to calm him down. He stated,
4 yes, he do. I said, you know, the police is coming;
5 and he said, yes, I'm not running from the police.
6 And at that time my brother and William was coming
7 out the house and he stated, you're lucky for your
8 sister, boy.

9 Q He said you're lucky you got a sister?

10 A Yes.

11 Q Did you see him point the gun?

12 A Yes, sir. He went in the trunk and pulled the
13 gun out and he did like this. He must be realized
14 that it wasn't loaded and that when he start
15 reaching back in the trunk and looking at, you know,
16 feeling for something.

17 MR. BRIDGES: Objection, that's
18 speculation about Mr. Barno's intent.

19 THE COURT: I'm gonna overrule the
20 objection. I believe the witness is stating what
21 she saw. She may testify as to what she saw.

22 BY MR. GRIFFIN:

23 Q And do you remember what color the gun was?

24 A I think it was a brown handle gun, but the barrel
25 and stuff, I think it was black but I think, you

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1 know, like the wood part of something was like
2 brown.

3 Q Okay. Now Ms. Mickens, have you ever seen that
4 gun before July 13th, 2015?

5 A No, sir.

6 Q Had you ever looked inside the trunk of
7 Mr. Barno's vehicle before ---

8 A No, sir.

9 Q ---July 13, 2015?

10 A No, sir.

11 Q Okay. All right, Ms. Mickens, answer any
12 questions Mr. Bridges may have for you.

13 A Yes, sir.

14 THE COURT: All right, cross-examination.

15 **CROSS-EXAMINATION**

16 BY MR. BRIDGES:

17 Q Ms. Mickens, on the day of June 13th how, when
18 you first showed up to the address at [REDACTED],
19 were you close to Mr. Barno and Mr. Singleton?

20 A Yes, sir.

21 Q Were you, like, next to where you said he was
22 having words with Mr. Singleton?

23 A Well, at the time it was me and my brother and
24 Mr. Barno and William. We all was out in the yard.
25 And William called -- well, William was up on the

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1 roof. He called, Barno called William down off the
2 roof, and Mr. William came down and they went in the
3 house and you could hear them in the house from the
4 outside -- me and my brother was outside -- arguing
5 steady, you know, they was getting loud with each
6 other.

7 Q So you were outside the house with --

8 A Yes.

9 Q --your brother Mr. McKnight?

10 A Yes.

11 Q And then you said Mr. Barno left the house and
12 went to his car after having words?

13 A No. My brother went inside and stop them from,
14 you know, getting loud in there from arguing because
15 more workers was in there too. And so the three of
16 them came back outside and all of us was outside in
17 the yard; and that when my brother tried to, you
18 know, make agreement to what do I owe you.

19 Q Okay.

20 A And that when Mr. Barno say he want it all and my
21 brother was saying that I couldn't give you all
22 because the work is not done yet. And then
23 Mr. Barno was steady, if you don't give all his
24 money something was gonna happen and he walked
25 towards his car and popped the trunk.

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1 Q Okay. Did Mr. McKnight tell him to leave at any
2 point during that conversation?

3 A Well, at that time he told Mr. Barno before he
4 walked to the car best to leave because we couldn't
5 come to agreement and, you know, I'm gonna pay you
6 your money but I can't give you it all to you and...

7 Q And then you saw Mr. Barno go to his car and pop
8 the trunk?

9 A Yes.

10 Q And how close were you to Mr. Barno's car at this
11 time?

12 A I say about from here to that hallway.

13 Q Okay. Were you where you could see into the
14 trunk where you were standing?

15 A No, I couldn't see in the trunk where I was
16 standing to it; but when I went up to him and I grab
17 the barrel of the gun, I could have see in the trunk
18 because I was right there at his trunk with him
19 then.

20 Q So then you walked up to the trunk?

21 A I ran up to the trunk.

22 Q So did he, so you're saying he pulled out the
23 shotgun from the trunk?

24 A Yes.

25 Q And then that's when you went up towards him?

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1 A He pulled out the shotgun. He pointed the
2 shotgun. Must be didn't realize didn't have any
3 bullets in it 'cause he start looking at it. That's
4 when my brother reaching back in the trunk. By that
5 time I was there and I had the end of the gun, and I
6 said, no, you is not gonna kill my brother, this is
7 my baby brother. And I seen him feel for the
8 shells. I could see the shells in this little bag.

9 Q So the shells were in a separate bag?

10 A Yeah, it was in a bag, you know, like where a gun
11 go down in a bag, and he had the shells down there.

12 Q And you, do you remember, you distinctively
13 remember you touched the gun?

14 A I touched the gun. And I even stated to the
15 police they could fingerprint it.

16 Q And it was over the barrel?

17 A Right. The gun right here, and I grab it just
18 like this.

19 Q Okay. And did you touch the bag that the shells
20 were in?

21 A I probably did, but I'm not quite sure, you know,
22 things just happened so fast.

23 Q Do you remember if Mr. Barno put any of those
24 bullets in the gun?

25 A No, sir, he didn't put any bullets in the gun.

SW - R. MICKENS - CROSS

1 Q Do you remember -- well, did you call 9-1-1?

2 A No, sir, my sister-in-law did, my brother's wife.

3 Q Your brother's wife, okay. Did you have a phone
4 on you at this time?

5 A I had my phone in my car.

6 Q Okay.

7 A At the time I was talking to Mr. Barno I stayed
8 up to the car with him.

9 Q Until the police got there?

10 A Until the police got there.

11 Q And then you spoke to the police when they got
12 there?

13 A Yeah, probably about 10 or 15 minutes prior after
14 police got there they had want to speak to me.

15 Q Okay. And then you remember talking to Detective
16 Gill at a later date after that? I think it was
17 maybe --

18 A I believe so at the police station. I believe I
19 believe did.

20 Q And that was around probably the 27th or so?

21 A Probably so, I can't remember the exact date.

22 Q Okay, all right. Thank you, Ms. Mickens, no
23 further questions.

24 THE COURT: Any redirect?

25 MR. GRIFFIN: No redirect, Judge.

SW - J. MCKNIGHT - DIRECT

1 THE COURT: All right. Ma'am, you may
2 step down.

3 MR. GRIFFIN: Judge, we ask Ms. Mickens be
4 excused.

5 THE COURT: All right. Ma'am, you're
6 released from your subpoena. You may go back to
7 your regular activities.

8 THE WITNESS: Okay, thank you, sir.

9 THE COURT: I assume there's no objection
10 to that, Mr. Bridges?

11 MR. BRIDGES: No, Your Honor.

12 THE COURT: All right, your next witness,
13 Mr. Solicitor.

14 MR. GRIFFIN: Your Honor, the State next
15 calls Jamie McKnight.

16 THE CLERK: Place your left hand on the
17 Bible, raise your right hand. State your name
18 please.

19 THE WITNESS: Jamie S. McKnight.

20 WHEREUPON,

21 **JAMIE MCKNIGHT,**
22 having been duly sworn by the Clerk, testified
23 as follows:

24 THE CLERK: Thank you. Have a seat up
25 here please. Please state your full name, spell

SW - J. MCKNIGHT - DIRECT

1 your last name for the record.

2 THE WITNESS: Jamie Sheryl McKnight,
3 M-C-K-N-I-G-H-T.

4 THE COURT: All right, Solicitor.

5 **DIRECT EXAMINATION**

6 BY MR. GRIFFIN:

7 Q Ms. McKnight, were you present on Byrd?

8 A Sir, I was, but not -- I was earlier, but I
9 dropped my husband off and I left.

10 Q Okay. Your husband is John McKnight?

11 A Yes, sir.

12 Q Okay. Now you dropped him off at the work site?

13 A Yes, sir.

14 Q And you left?

15 A Uh-huh.

16 Q What did you do after you left?

17 A I went to the store to pick up some items and
18 then I came back to the site.

19 Q And when you came back what did you see?

20 A Well, I see my husband, he was standing up there,
21 you know, like he was confused or he was worrying
22 about something. Then when I got out the car he
23 said, baby, where is you. I said, I went to the
24 store. He said, you know Mr. Barno had pulled a gun
25 on me. I said, he pulled a gun on you? I said, did

SW - J. MCKNIGHT - DIRECT

1 you call ---

2 Q Okay, let me stop you right there. Based on what
3 he told you ---

4 A Uh-huh.

5 Q ---based on his demeanor---

6 A ---uh-huh.

7 Q ---what did you do then?

8 A I got my phone. I asked him did anybody call the
9 cops. He said, yeah. But I said, well, where they
10 at? So I got my phone and I called them again.

11 Q Okay. So you made that 9-1-1 call from the
12 incident location there at Byrd Street to Sumter
13 dispatch?

14 A Yes, sir.

15 MR. GRIFFIN: Your Honor, I have what's
16 been marked as State's Exhibit Number 1, I believe,
17 without objection.

18 MR. BRIDGES: No objection, Your Honor.

19 THE COURT: All right. That's the 9-1-1
20 recording?

21 MR. GRIFFIN: Yes, sir, Your Honor.

22 THE COURT: So there's no objection to it
23 being played?

24 MR. BRIDGES: None, Your Honor.

25 THE COURT: All right. So it's in.

SW - J. MCKNIGHT - CROSS

1 evidence without objection. You may publish it.

2 (WHEREUPON, State Exhibit No. 1

3 was admitted into evidence and played
4 for the jury.)

5 BY MR. GRIFFIN:

6 Q Now Ms. McKnight, beyond calling 9-1-1 and
7 speaking with the dispatcher in this case, did you
8 have any other involvement with the gun being pulled
9 or anything of that nature?

10 A No, sir.

11 Q Okay. Answer any questions Mr. Bridges may have
12 for you.

13 THE COURT: Cross-examination.

14 MR. BRIDGES: Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 BY MR. BRIDGES:

17 Q Ms. McKnight, the day on the 13th you said you
18 left, or you were there and then you left?

19 A Uh-huh, yes, sir.

20 Q So you were not present when this initial
21 argument happened?

22 A No, sir.

23 Q Okay. When you came back your husband told you
24 to call 9-1-1?

25 A No, I called on my one.

SW - J. MCKNIGHT - CROSS

1 Q On your own?

2 A Yes.

3 Q Nobody asked you to call?

4 A No.

5 Q As far as you know were you the first person to
6 call 9-1-1?

7 A As far as I know.

8 Q Okay. And you, when you got there did you see a
9 shotgun or anything?

10 A No, sir.

11 Q Did you see Mr. Barno when you got there?

12 A Yes, sir.

13 Q Where was he?

14 A Standing by the back of his car.

15 Q Standing by his car. But you did not see a ---

16 A No, sir.

17 Q ---gun?

18 A No, sir.

19 Q All right, thank you. No further questions.

20 THE COURT: Any redirect?

21 MR. GRIFFIN: No redirect, Judge.

22 THE COURT: All right. You may step down,
23 ma'am.

24 All right, Solicitor, your next witness
25 please.

SW - J. MCKNIGHT - DIRECT

1 MR. GRIFFIN: Your Honor, the State calls
2 John McKnight.

3 THE COURT: All right, sir, please come
4 around to be sworn. Place your left hand on the
5 Bible, raise your right hand. State your name
6 please.

7 THE WITNESS: John Allen McKnight.
8 WHEREUPON,

9 **JOHN A. MCKNIGHT,**
10 having been duly sworn by the Clerk, testified
11 as follows:

12 THE CLERK: If you will, have a seat up
13 here. Please state your full name, spell your last
14 name for the record.

15 THE WITNESS: John Allen McKnight,
16 M-C-K-N-I-G-H-T.

17 THE COURT: Go ahead, Solicitor.

18 MR. GRIFFIN: Thank you, Judge.

19 **DIRECT EXAMINATION**

20 BY MR. GRIFFIN:

21 Q Mr. McKnight, what do you do for a living?

22 A I am a contract specialist on Fort Bragg, North
23 Carolina.

24 Q Okay. Now you mentioned Fort Bragg. What did
25 you do prior to becoming a contract specialist at

SW - J. MCKNIGHT - DIRECT

1 Fort Bragg?
2 A I served for the military for 27 years.
3 Q Okay. And where are you originally from?
4 A Sumter.
5 Q Okay. Did you graduate from high school here?
6 A Yes, sir.
7 Q Which high school?
8 A Sumter High.
9 Q And what class?
10 A Class of 1980.
11 Q All right. And when you graduated from high
12 school was that when you joined the army?
13 A Yes, sir.
14 Q Okay, and what were your job duties in the army?
15 A I was a supine specialist, supply sergeant, and
16 senior supply Sergeant.
17 Q And any other special job duties in the army?
18 A You know, deployment, Portugal, Afghanistan, and
19 Iraq.
20 Q And were you with paratroopers?
21 A With the 82nd airborne division.
22 Q You were the, when did you, what kind of ser--
23 stand up sergeant, supply sergeant?
24 A Yeah, I was senior supply sergeant. I retired
25 master sergeant.

SW - J. MCKNIGHT - DIRECT

1 Q Okay. Now you said you were in the army for 27
2 years. Are you working, still working in some
3 capacity with the military now?

4 A Yes, sir.

5 Q Tell us a little bit about that.

6 A I work for Fort Bragg schools. I am a contract
7 specialist. What I do is make sure our schools is,
8 the maintenance and cleanliness for our students.
9 And for the soldiers that deployed, make sure that
10 our buildings are clean and up to standard as far as
11 maintenance, cleanliness, everything.

12 Q Now is that a full time job?

13 A It's a full time job. I'm the inspector.

14 Q Okay. In addition to your full time work do you
15 have any kind of side businesses?

16 A Well, I'm a -- I own a couple of properties here
17 in Sumter, you know, that I maintain.

18 Q Okay. When you say a couple of properties tell
19 the jury what type of properties these are?

20 A Rental.

21 Q Okay. Rental properties---

22 A Yeah, like rental properties. I buy them, fix
23 them up, I rent them.

24 Q Okay. When you say a couple, how many -- or
25 exactly how many do you have that you're maintaining

SW - J. MCKNIGHT - DIRECT

1 here in Sumter?

2 A Nine.

3 Q Okay. So in addition to the work that you're
4 doing up in Fayetteville, you maintain and rent
5 these nine rental properties?

6 A Yes, sir.

7 Q Are they houses, apartments, mobile homes?

8 A I got houses, apartment, and mobile homes.

9 Q Okay, all right. Now do you own any property on
10 Byrd Street?

11 A I own two properties on Byrd Street, yes, sir.

12 Q Which, what are the street addresses on the
13 properties on Byrd Street?

14 A [REDACTED], and [REDACTED].

15 Q Okay. Are both of these properties, you rent
16 those, these out, or tell us the status of both of
17 those.

18 A Well, [REDACTED], me and my wife, when we come home
19 to visit, her family is from here, my family is from
20 here. We live at [REDACTED] whenever we come to Sumter.
21 [REDACTED] is the rental.

22 Q Okay, all right. Now in regard to [REDACTED], back
23 in July of 2015 what was going on at [REDACTED] Street?

24 A I had construction going on. It's a mobile home.
25 I needed roof work and some floor, underpinning, and

SW - J. MCKNIGHT - DIRECT

1 I had some discussion going on by Mr. Barno.

2 Q So you had this work you needed to be done to the
3 property there, and you had entered into an
4 agreement with Mr. Barno to do the work?

5 A Yes, sir.

6 Q Okay. What were the terms of your agreement with
7 Mr. Barno?

8 A I was, I was looking for somebody to do the work.
9 My sister Rose Mickens, the one that was up here
10 earlier, she's good friend with his friend Sam.
11 They call her Sam. I think her name is Samantha;
12 I'm nor sure of her name. So Mr. Barno, me and my
13 wife was home, we came. Mr. Barno came over to the
14 house, gave me a price what he would do the work
15 for. He told me he don't like to be on the property
16 no more than week, week-and-a-half. So I figured
17 that was fairly quick, you know, to get it done. He
18 gave me a decent price so I said okay. And me and
19 Mr. Barno go back. He was in the class of 1980. Me
20 and him, when he, graduate together. So when he
21 came to the house I said, oh, it's you. I knew him
22 'cause we went to school together. So I, you know,
23 good deal and everything and he told me that. But
24 after, you know, period of time me making the trips
25 back -- and I'm getting ahead of myself.

SW - J. MCKNIGHT - DIRECT

1 Q If we would just now let's just go back a little
2 bit to what y'all had agreed on. You said you
3 needed a new roof, underpinning?

4 A Underpinning.

5 Q And what else?

6 A And floor, floor work in the mobile home.

7 Q Floor for the whole mobile home?

8 A Yes, sir.

9 Q Okay. And what was the agreed upon -- you said
10 it was a good price. What was the agreed upon price
11 for the repairs?

12 A 3,600.

13 Q Okay, 3,600-dollars. And you believed it was
14 gonna be done in a week or two perhaps?

15 A That's what he told me, sir.

16 Q Okay. Now you said that you had been coming back
17 and forth from Fayetteville to Sumter to check on
18 the progress. Go into a little bit about how this
19 work was being done.

20 A At first when he said he don't spend a lot of
21 time on properties as far as repair and the price
22 was right, I said, well, that's good, I can have it
23 done. But as I was making the trips, you know, back
24 and forth, I had my sister since I don't live there.
25 I said, how about check on it for me and I'd call

SW - J. MCKNIGHT - DIRECT

1 and say how is it going. But I was making the trip
2 back and forth. After about six weeks or so the
3 work wasn't, wasn't where it supposed to be 'cause
4 he told me, like, maybe a week-and-a-half, two
5 weeks, so I didn't know if he had a crew to do his
6 work, I don't know. I figured to do it that quick
7 he must have a crew. But he had, I think he had
8 about three people doing it. And every week I would
9 come down it's like a week worth of work wasn't
10 being done so. I don't want to get ahead of myself
11 so.

12 Q That's okay, you're doing fine. So you come down
13 on July 13th. Let's kind of get to the meat of this
14 thing.

15 A Yes, sir.

16 Q On July 13th, 2015, tell me what you did that
17 day?

18 A Okay. I went down to the house 'cause I can
19 walk, it's within walking distance. It's on the
20 same street. I was at ■; me and my wife live at ■
21 And it was on, it was at ■ so I walked down.
22 The gate was open. Mr. William Singleton was up on
23 the roof doing work so I started talking to him.
24 And I said, hey, it's taking way too long, what's
25 going on. So he, he started to talk to me. He tell

SW - J. MCKNIGHT - DIRECT

1 me that he wasn't being paid for the work that he
2 was doing. So I said, okay. So I went, I walked
3 back to my residence and then I seen Mr. Barno drove
4 by that morning. I think it was after maybe, a
5 little after nine, so I walked back down. So I was
6 talking to Mr. Barno. He called Mr. William
7 Singleton off the roof. They both went in the
8 house, and they had words. It was very loud I could
9 hear it from the outside. So I went in and say,
10 hey, we can't have all that, the whole nine yards.
11 I said Mr. Barno, could I talk to you. So then I
12 called him outside, and I said you told me a
13 week-and-a-half, two weeks. My wife was there as a
14 witness. I said this is taking way too long. I
15 have made, over a six week period I have made six
16 different trips, and this have gone on long enough,
17 what do I owe you for the work you have done. So
18 Mr. Barno said, well, if you're gonna stop the job
19 you owe me everything. And I said, no, 'cause the
20 job is not complete, what do I owe you for what you
21 have done. He said, well, if you're gonna stop me
22 you owe me everything. I said, I'm not gonna pay
23 you everything 'cause all of it is not done. So at
24 that point he walked away. He mumbled some stuff.
25 He got on his cell phone; he called someone. He

SW - J. MCKNIGHT - DIRECT

1 went up to his car, opened the door, pulled the
2 trunk latch, and then -- the trunk opened; he pulls
3 out this shotgun. He pointed it and he started to
4 walk towards me. At that time I did not know it was
5 loaded or not so I walked up on the porch and go to
6 the house. Then I came back out on the porch so I
7 guess maybe he forgot the rounds or something, he
8 went back to the car to pop the trunk again and that
9 when my sister ran out there and grab a hold of the
10 shotgun and I guess they was tussling or whatever,
11 something like that. And so he reach in there for
12 something, I assume the shells. My sister, like,
13 slammed the trunk lid, you know, on his hands and
14 restrained, he couldn't hardly get it. And then the
15 police came. My wife had came down and then called
16 the cops and then the police came.

17 Q So you saw him point the weapon at you, correct?

18 A Yes, sir.

19 Q And you remember what that weapon looked like?

20 A It had a brown, just like the one you got.

21 (WHEREUPON, State Exhibit No. 2 was
22 was marked for identification only.)

23 MR. GRIFFIN: Your Honor, I'm holding
24 what's been marked as State's No. 2, I believe,
25 coming in without objection.

SW - J. MCKNIGHT - DIRECT

1 MR. BRIDGES: No objection, Your Honor.

2 MR. GRIFFIN: Judge, it has been secured
3 with a trigger lock so it is inoperable.

4 THE COURT: So that's State's 2. It's in
5 evidence without objection. You may proceed.

6 (WHEREUPON, State Exhibit No. 2 was
7 admitted into evidence.)

8 BY MR. GRIFFIN:

9 Q Mr. Barno, is this the gun that was pointed at
10 you?

11 A That's the gun.

12 Q And who pointed this gun at you?

13 A Mr. James Barno.

14 Q And do you see Mr. James Barno in the courtroom
15 today?

16 A Yes, sir, I do.

17 Q Where is he?

18 A He's sitting over there with the dark glasses on
19 with the brown, dark brown and light brown shirt.

20 Q And you know Mr. Barno?

21 A We graduated high school together, yes, sir.

22 Q Any doubt in your mind he's the one who pointed
23 the gun at you?

24 A He's the one, sir.

25 Q All right. Now Mr. McKnight, [REDACTED] to

SW - J. MCKNIGHT - DIRECT

1 your knowledge, is that in Sumter County?

2 A It is, sir.

3 Q Okay. All right. So after the police came and
4 everything kind of settled down, did Mr. Barno stop
5 working on the property there at [REDACTED]?

6 A He did.

7 Q Okay. Now did you subsequently have the work
8 finished?

9 A I did, yes, sir.

10 Q Okay. Who did the work for you?

11 A Mr. William Singleton.

12 Q Okay. So he finished the roof, underpinning, and
13 flooring work.

14 A He did. I talked to him after cops and
15 everything left, after they took Mr. Barno away.
16 Mr. William Singleton still was there, him and the
17 other two guys. And I talked to him. We came to an
18 agreement and he said he would stay and do the job
19 and he did.

20 Q Okay. So eventually the home there got finished,
21 correct?

22 A Yes, sir.

23 Q All right. Now Mr. Barno, did you subsequently
24 get sued by Mr. -- excuse me, I said Mr. Barno.
25 Mr. McKnight, did you subsequently get sued by

SW - J. MCKNIGHT - DIRECT

1 Mr. Barno.

2 A Yes, sir, I did.

3 Q Okay. He sued you over in Magistrate's Court?

4 A Yes, sir.

5 Q Okay. Now did you win or lose that suit?

6 A I lost.

7 Q Okay. Explain to the jury what happened in terms
8 of that Magistrate's court litigation.

9 A Yes, sir. On that day he had pictures of the
10 work that he done, but it wasn't really work he
11 done. It was the finished work that was done by
12 Mr. William Singleton and the other two guys that I
13 kept there, all three of them, they finish it. Mr.
14 James Barno know I live in Fayetteville, North
15 Carolina. Once that work was complete, I believe
16 pictures was taken of the complete project and were
17 presented in court.

18 Q Okay. Was there any doubt in your mind that the
19 work was completed on July 13th, 2015?

20 A It was not complete.

21 Q Okay. Now that suit in the Magistrate's Court
22 here in Sumter, was that a jury trial or was that
23 decided by a judge?

24 A Decided by the judge.

25 Q Okay. So you didn't have a jury?

SW - J. MCKNIGHT - DIRECT

1 A I didn't have a jury.

2 Q Okay. And he presented pictures that he claimed
3 were, was the work what he had finished?

4 A Yes, sir.

5 Q But you believe it's the work that Mr. Singleton
6 did to finish the job after this incident on
7 July 13th, 2015?

8 A Yes, sir.

9 Q Okay. Now he got a judgment against you?

10 A Sir?

11 Q As a result of that suit he got a judgment.
12 against you; didn't he?

13 A Yes, sir.

14 Q What did you do? When presented with the
15 judgment what'd you do?

16 A What'd I do? I asked the judge what I need to
17 pay. He told me to pay him. I met him, met up with
18 him. I caught, met up with him. I paid him a
19 cashier check.

20 Q All right.

21 A So I paid him.

22 Q Answer any questions Mr. Bridges has for you.

23 THE COURT: Cross-examination.

24 MR. BRIDGES: Thank you, Your Honor.

25 **CROSS-EXAMINATION**

SW - J. MCKNIGHT - CROSS

1 BY MR. BRIDGES:

2 Q Mr. McKnight, how's it going, sir? So you've
3 known Mr. Barno since high school I believe you
4 said.

5 A Yes, sir.

6 Q Have you known him as Tony Barno?

7 A I do.

8 Q So he goes by Tony?

9 A Yeah.

10 Q Okay. Have you worked with him before, or was
11 this the first time that you actually worked with
12 him on ---

13 A This was the first time.

14 Q Did you give him authorization to hire a crew or
15 did you just pay him and say, complete this, you
16 know, how you want to?

17 A Well, I didn't give him authorization to hire a
18 crew. He came and talked to me and told me, gave me
19 the price, and told me what he can do it for, for
20 his labor. That was labor only. He went down and
21 he picked out everything, you know, at Lowe's; I
22 paid for it. The truck hauler, put it on the
23 ground, and he began to work. I assume that -- I
24 know it was enormous amount of work for the time he
25 gave me to be done so I assumed that he would have a

SW - J. MCKNIGHT - CROSS

1 crew to do it.

2 Q It's your understanding Mr. Singleton was a part
3 of that crew?

4 A Well, Mr. Singleton, Mr. Singleton, until that
5 point, I didn't know Mr. Singleton until.

6 Q You assume Mr. Barno brought him there?

7 A Yeah, Mr. Barno brought him there.

8 Q You kept Mr. Singleton on after?

9 A After. I kept him on after.

10 Q And did you pay him separately from Mr. Barno?

11 A I did, yes, sir.

12 Q All right. So now let's go to the day on the
13 13th. So you, you're living down the street at ■

14 ■?

15 A Uh-huh, I live at ■.

16 Q ■, yeah.

17 A Yes, sir.

18 Q And you could walk to —

19 A To ■.

20 Q —this location?

21 A Yes, sir.

22 Q So when you were there was there an ongoing
23 argument between Mr. Singleton and Mr. Barno?

24 A No, only just that day on the 13th that I
25 witnessed because I don't live here. I don't know

SW - J. MCKNIGHT - CROSS

1 what goes on through the week.

2 Q Okay.

3 A When they down there working I'm not sure.

4 Q When you showed up on the site that day there was
5 an argument already going on?

6 A No, sir, it wasn't one. It wasn't one going on.

7 When I seen Mr. Barno car, you know, pass, pass my
8 house, I saw it was him so I walked back down.

9 Mr. Barno told Mr. Singleton to get off the roof, he
10 wanted to have a word with him, they went inside.

11 Q Okay.

12 A And that's when it started.

13 Q And you heard them arguing?

14 A I heard them arguing. I was on the outside.

15 Q And then you entered the house?

16 A Yes, sir, I entered.

17 Q You were concerned about what you heard?

18 A Yes, sir.

19 Q And what did you hear, or your understanding of
20 it?

21 A Mr. Barno was, him and Mr. Singleton was changing
22 words and Mr. Barno said, the last thing you want to
23 do is threaten me, he — I heard that. So I went
24 in, you know, to, you know, to break it up, didn't
25 want anything bad happening. Then we all came

SW - J. MCKNIGHT - CROSS

1 outside. At that point I said, well, let me talk to
2 Mr. Barno. This had been going on, I made numerous
3 trips, for the time he told me that it would take
4 him to do it.

5 Q And then that's when you told him he -- did you
6 fire him that day? Did you say, you know, your
7 service is no longer needed?

8 A I told him what I owe you for what you have done
9 is what I told him. I was, I was ready to end it.

10 Q So you wanted to end your work relationship with
11 Mr. Barno?

12 A Yes, sir, and I was willing to pay him for what
13 he had done.

14 Q Okay. And then did that lead to a disagreement
15 between you and him that day?

16 A Yes, sir.

17 Q Did you tell him he had to leave your property?

18 A I'm not for sure. It been over two years.

19 Q Did you say anything threatening to him in any
20 way or---

21 A Oh, no, no, no, no, sir. I, fellow American I
22 wouldn't threaten.

23 Q He didn't say you had a gun with him that day?

24 A No, no, sir.

25 Q And then -- so after you guys had your

SW - J. MCKNIGHT - CROSS

1 disagreement he went to his car?

2 A Yes, sir, he walked away from me. He got on his
3 cell phone. I don't know who he was calling, I
4 believe his sister. The reason why I say that
5 because later she shows up, I guess, maybe to, you
6 know, take the car with the weapon in it or
7 something but, you know.

8 Q So he walks away from you on his phone, he goes
9 to his car?

10 A Yes, sir.

11 Q And then I believe you told Mr. Griffin that he
12 made two different trips. First he takes the gun
13 and walks towards you, and then goes back to his
14 trunk?

15 A Yeah, he took about two or three steps.

16 Q And then it was, when he went back to his trunk
17 is when your sister ran up?

18 A Right, because my sister seen the weapon so he
19 went back. That when she ran up to it.

20 Q Okay.

21 A When he reached in the trunk she pushed the trunk
22 down.

23 Q You saw, you just saw your sister testify in
24 here, correct?

25 A Yes, I did.

SW - J. MCKNIGHT - CROSS

1 Q She only described one trip to Mr. Barno.

2 A Right, I know, but I'm telling the truth. Yeah,
3 she probably forgot. It been over two years. I
4 don't, like I say, I don't remember telling him to
5 get off my property or not, but I don't think I did.
6 I just wanted it to end. I was willing to pay him
7 for what he had done.

8 Q And but you saw her grab -- did you see her grab
9 the shotgun?

10 A I did, the handle.

11 Q Okay. And did you see her grab an ammunition bag
12 too, or were you close enough to see that?

13 A No, I wasn't close enough to see that.

14 Q Were you close enough to see the contents of the
15 truck or was it, the trunk, was it facing, was the
16 car facing the trunk and you were in the back?

17 A Well, I was away from it so I couldn't see in the
18 trunk.

19 Q But you claim that he did come -- you did see him
20 with the shotgun.

21 A I did see him with the shotgun.

22 Q And he had it pointed at you?

23 A He did. He walked two or three steps where the
24 podium right there.

25 Q And then he walked back to his truck?

SW - J. MCKNIGHT - CROSS

1 A Then he walked back.

2 Q So let's go to what happened afterwards. So the
3 police are on the scene and you gave the statement
4 to the police, correct?

5 A Yes, sir.

6 Q And Mr. Singleton and then you talked to
7 Mr. Singleton and the rest of the guys there and you
8 said if you want to complete the work. Did you
9 quote him a price, or did they agree to finish the
10 work?

11 A Well, Mr. Singleton said he'd look at it, he'd
12 get back with me on a price, and he did, and the
13 next day I started him to do the job.

14 Q Have you worked with Mr. Singleton at any time
15 since that day?

16 A Since that day?

17 Q Yes, sir.

18 A Yes.

19 Q So you hired him for other projects?

20 A I hired him for other projects.

21 Q And then you were -- was there anything on the
22 house, did you ask Mr. Barno to do extra from what
23 you originally agreed to?

24 A No, sir.

25 Q So nothing about having to do some plumbing work

SW - J. MCKNIGHT - CROSS

1 or anything involving the bathrooms?

2 A Well, no, sir. What happened was, if you doing
3 the floor and you take up the commode, you put the
4 commode back down when it's complete so that mean
5 you got to hook your lines and stuff back up.

6 Q Was that a point of disagreement between you and
7 Mr. Barno about---

8 A Well, I, yes, sir, yes, sir, 'cause he took it
9 up. I mean, if you doing the bathroom floor you
10 take up the commode, you unhook the lines, I assume
11 that when the floor is done, you put the commode
12 back down and hook the lines back up because that's
13 the way it was.

14 Q Right. And then after -- that was the last day
15 he worked for you was on July 13th?

16 A Yes, sir.

17 Q And then when did Mr. Singleton and the other
18 guys, when did they stop work at your house?

19 A I want to say a day or two afterwards.

20 Q So it was finished that week?

21 A Oh, yes, sir.

22 Q And then Mr. Barno sued you in Magistrate's
23 Court?

24 A Yes, sir.

25 Q And he obtained a judgment against you?

SW - J. MCKNIGHT - CROSS

1 A Yes, sir.

2 MR. BRIDGES: May I approach the witness,
3 Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. BRIDGES:

6 Q Mr. McKnight, this is marked Defense Exhibit
7 Number 5. This is just kind of a public index. It
8 says James Barno versus John McKnight.

9 A Yes, sir.

10 Q Is this the record of the lawsuit between you
11 two? I want you to look at it. It's two pages.

12 MR. GRIFFIN: Your Honor, we stipulate
13 this is admissible. I don't know that Mr. Barno is
14 in a position to know whether that's an official
15 court record or not, but I have no problem with it
16 coming in. I just don't know that he's got
17 sufficient knowledge of the Magistrate's Court
18 record keeping to testify.

19 THE COURT: All right, but you don't have
20 any objection that it's a record of Magistrate's
21 Court proceeding?

22 MR. GRIFFIN: I do not, but I object to
23 him asking Mr. McKnight questions in regard --

24 THE COURT: What we're gonna do is
25 Defendant's 5 is gonna be in evidence without

SW - J. MCKNIGHT - CROSS

1 objection as a record of the Magistrate Court
2 proceeding.

3 (WHEREUPON, Defense Exhibit No. 5 was
4 admitted into evidence.)

5 BY MR. BRIDGES:

6 Q And you have -- you don't have to say if that
7 was, you've ever seen that before, but did that kind
8 of summarize the outcome of the case?

9 A Yes, sir.

10 Q And you had to pay Mr. Barno I believe, I don't
11 know the exact sum, but I believe it was about 2300
12 total?

13 A Yes, sir.

14 Q And then that was in December is when the case
15 was actually decided?

16 A Yes, sir.

17 Q Did you respond to his lawsuit? Did you appear
18 in court for this?

19 A I did.

20 Q So you contested his claims of how much money you
21 owed him? Basically you said that he claimed that
22 you owed him money in this lawsuit and you said that
23 you did not owe him this money?

24 A Correct.

25 Q And you showed up to --

SW - J. MCKNIGHT - REDIRECT

1 A I did.

2 Q ---defend yourself basically?

3 A Yes, sir. Can I go a little bit further? Can I
4 tell you what happened about that?

5 Q Well, I believe you explained to Mr. Griffith why
6 you felt the loss of the lawsuit. Did -- back to
7 the 13th, did you call 9-1-1 that day after

8 Mr. Barno had, you said that he brandished a gun?

9 A No, sir. No, sir, I can't remember, but I don't
10 think so.

11 Q Did you have your phone on you at the time this
12 was going on?

13 A No. My phone was in the vehicle and my wife had
14 took off. I think she went to the store and come
15 back so I didn't have any phone.

16 Q And that's when she came back and she called
17 9-1-1? Okay.

18 A Yes, sir.

19 Q All right. Thank you, Mr. McKnight, no further
20 questions.

21 THE COURT: Redirect, Solicitor?

22 **REDIRECT EXAMINATION**

23 BY MR. GRIFFIN:

24 Q Mr. McKnight, Defense asked you about responding
25 to the lawsuit; and by that, they meant showing up

SW - J. MCKNIGHT - REDIRECT

1 to contest it. Now when you responded were you
2 cordial to Mr. Barno in court?

3 A Yes, sir.

4 Q You presented your case?

5 A They didn't give me the time to present my case.
6 I had, I had video because the day that he got
7 arrested on July 13th, he -- before the cops took
8 him away he said, he told Ms. Sam to take pictures,
9 take pictures of everything. So she was taking
10 pictures so at that time when they took him away I
11 said, well, let me get some pictures of my own. So
12 I videoed.

13 Q Let me stop you right there. What I'm getting at
14 is, when he sued you didn't try and take this into
15 your own hands and settle it outside of court, did
16 you?

17 A Oh, no, sir.

18 Q You didn't show up with a weapon, did you?

19 A No, sir.

20 Q You didn't point a gun at Mr. Barno, did you?

21 A No, no, sir, I'm a standup citizen.

22 Q Did he point one at you?

23 A Yes, sir.

24 Q No further questions.

25 THE COURT: Anything on those particular

SW - W. SINGLETON - DIRECT

1 questions?

2 MR. BRIDGES: No, Your Honor.

3 THE COURT: All right, sir, you may step
4 down.

5 Solicitor, your next witness please.

6 MR. GRIFFIN: The State calls William
7 Singleton.

8 THE CLERK: Place your left hand on the
9 Bible, raise your right hand. State your name
10 please.

11 THE WITNESS: William Arthur Singleton.

12 WHEREUPON,

13 **WILLIAM SINGLETON,**

14 having been duly sworn by the Clerk, testified
15 as follows:

16 THE CLERK: Thank you. Have a seat up
17 here please. Please state your full name and spell
18 your last name for the record.

19 THE WITNESS: William Arthur Singleton,
20 S-I-N-G-L-E-T-O-N.

21 **DIRECT EXAMINATION**

22 BY MR. GRIFFIN:

23 Q Mr. Singleton, what kind of work do you do now?

24 A I do carpentry work, you know, remodel houses and
25 stuff.

SW - W. SINGLETON - DIRECT

1 Q The carpentry side. Can you do roofing work or,
2 you know, any flooring work, just general home
3 repair?

4 A Yes, sir.

5 Q Let's talk a little bit about your background.
6 What kind of work have you done in the past?

7 A Well, I have a -- well, military law enforcement
8 and truck driving. That's pretty much what I
9 basically.

10 Q Let's go with those one by one. You say you were
11 in the military.

12 A Yes, sir.

13 Q What branch in the military?

14 A Army.

15 Q How long were you in?

16 A Four years in the infantry.

17 Q Four years in infantry. Then you said law
18 enforcement, tell us a little bit about that.

19 A I spent approximately five years here in Sumter,
20 and after that I worked with the city in Sumter here
21 and then I went to Atlanta Police Department in
22 Atlanta, Georgia.

23 Q How long were you total in law enforcement?

24 A Approximately eight years.

25 Q Approximately eight?

SW - W. SINGLETON - DIRECT

1 A Yes, sir.

2 Q So, started at Sumter Police Department and
3 worked there over a period of time and then went to
4 Atlanta?

5 A Yes, sir.

6 Q And then you said truck driver. What did that
7 entail?

8 A Over the road truck driver out of Atlanta and
9 Jacksonville and Miami.

10 Q Okay. So when you say over the road, that means
11 that you would leave and stay gone for periods of
12 time?

13 A Yes, sir.

14 Q Didn't come back home every night?

15 A Yes, sir.

16 Q Now how long did you do that?

17 A I done that off and on from '88, '82, something
18 like '95, '96.

19 Q Okay. And once you quit truck driving did you
20 start that when you started doing home repairs and
21 things of that nature?

22 A Yes, sir.

23 Q Back in July of 2015 were you doing work at a
24 residence on [REDACTED]?

25 A Yes, sir.

SW - W. SINGLETON - DIRECT

1 Q Okay. How did you come to be involved with
2 repairing that property?

3 A Okay. I met Tony, Tony Barno ---

4 Q When you say Tony Barno do you know his legal
5 name?

6 A James. I believe it was James.

7 Q But everybody calls him Tony?

8 A Tony, yes, sir.

9 Q Go ahead.

10 A Yeah, I met James Barno. Me and him talked about
11 it. He say he got a job he want me to show him and
12 help him with it. We went and look at it. We bid
13 on it. He came back to me again saying, well, we
14 got the job and start working on it.

15 Q Okay. And what --- were you supposed to do all of
16 the work that was necessary in the house, or did you
17 have a defined role such as I'm only doing the roof?
18 Or tell me a little bit about that.

19 A Yes, sir. I was, I was, gave him a price doing
20 the roof on it and he told me that, you know, by
21 chance I can give him a hand on the other stuff if
22 he needed. But after I finished the roof part I
23 ended up helping them on the floor and some other
24 parts of the house also.

25 Q Okay. Now on July 13th of 2015 do you remember

SW - W. SINGLETON - DIRECT

1 what happened that day?

2 A Yes, sir, that's that Monday I believe it was
3 Monday.

4 Q Tell us a little bit about just what you were
5 planning on doing that day and what you ended up
6 doing.

7 A Okay. I had, I was looking to get some money,
8 from James Barno that is, and which'n I hadn't
9 gotten any money from him on the job, no more than
10 what he had some kind of expense money or something
11 for gas or something, but it wasn't much. It wasn't
12 nowhere near what me and him agreed on. And I told
13 him, I said, well, that Monday, you know, you got to
14 come up with something unless I'm gonna try to get
15 with somebody else involved into it. At that time
16 he said that, he didn't say too much. He started
17 saying the work wasn't finished and we couldn't get
18 paid until the work was finished and...

19 Q Did he call you down, were you working on the
20 roof that morning?

21 A Yes, sir.

22 Q And you came down and then what happened?

23 A Well, we discussed the money, and I told him I
24 found out different than what he was telling me and
25 then I said, well, you know, you need to get that

SW - W. SINGLETON - DIRECT

1 straight. And he kept on going that he stopped with
2 me and where he start talking to the owner of the
3 house, you know, John McKnight, and since me and him
4 couldn't get to an agreement and he spoke with John
5 and that's when John told him that, you know, that
6 he can't get all his money, that's what he wanted,
7 all the money, because of some reason or another he
8 said. And John told him, no, he couldn't get all of
9 it because the job wasn't finished.

10 Q Okay. Now you were working on the job?

11 A Yes, sir.

12 Q Was it finished?

13 A No, sir.

14 Q Okay. What needed to be done at that point?

15 What needed, what was left to be done is what I
16 mean?

17 A Pretty much, some of everything, the floor. The
18 roof still needed some work on the fascial work
19 which'n wasn't the part I was supposed to do. I was
20 supposed to just put the roof on, the shingles, and
21 that's it. But the fascial work and some of other
22 work on the roof and ---

23 Q Okay. So---

24 A ---underpinning.

25 Q So I guess is it fair to say that everything that

SW - W. SINGLETON - DIRECT

1 needed to be done was partially finished?

2 A Yes, sir.

3 Q Okay. Now did you and Mr. Barno have words that
4 day?

5 A Oh, yes, sir, we did.

6 Q Is it fair to say that those words were heated?

7 A Yes, sir.

8 Q Okay. Now did Mr. McKnight get involved in the
9 argument you and Mr. Barno were having?

10 A Well, he, he kind of observed mostly at the time.

11 Q Okay.

12 A And then when it did got heated up he kind of
13 like, he wanted to say something but that's when I
14 backed out and just said, you know, leave it alone.
15 And when Mr. McKnight told James that he wasn't
16 gonna get all the money that he wanted from the
17 beginning because the job wasn't finished, Tony got
18 attitude. Well, James got an attitude about it,
19 said that it's not gonna happen. And from then on
20 he started, he left the point about paying me and by
21 getting his money from John and he went to his trunk
22 and pull out a shotgun and start walking towards us.
23 He was standing on the porch. We was standing in
24 the yard at first, then we moved from the yard to
25 the porch to go inside the house if he did come

SW - W. SINGLETON - DIRECT

1 towards us with the gun. And from the time that he
2 went and got the gun out the trunk and start walking
3 towards us, John's sister told him, no, you're not
4 gonna shoot my brother, said you know, that's the
5 only brother I have. And they carried on for a
6 little while and until she end up pretty much trying
7 to take the gun from him pretty much.

8 Q Okay.

9 A And that went on for a little while until we went
10 in the house and he went back to the car a second
11 time, got some shells for it to put in, 'cause his
12 gun wasn't loaded the first time.

13 Q Okay. You saw all that?

14 A Oh, yes, sir.

15 Q Now Mr. Singleton, after everything kind of
16 calmed down on the 13th, did you subsequently do
17 some work on a residence there at [REDACTED]?

18 A Yes, sir.

19 Q Okay. Now you were working for Mr. Barno. How
20 did it come back that you were gonna continue to
21 work on the property?

22 A I spoke with Mr. McKnight and I told him I hadn't
23 gotten paid and I felt pretty bad which'n I didn't
24 know what to think about him, nor Barno at the time.
25 And then I waited until he made a decision, and he

SW - W. SINGLETON. - DIRECT

1 said, well, I need somebody to finish it and we
2 talked and we had agreed on a price then that to
3 finish the job which'n it took me a little while,
4 but you know.

5 Q So you finished the roof and the floors and
6 underpinning?

7 A Yes, sir.

8 Q And Mr. McKnight paid you for the work you did?

9 A Yes, sir.

10 Q Okay. Now you testified that on the 13th the
11 work wasn't finished. When would you say that you
12 finished all the work that needed to be done on that
13 residence, about what time? Shortly thereafter or
14 just —

15 A It took about two-and-a-half weeks pretty much.
16 I mean, it could have been done at a more faster
17 pace, but you know, with the help that we had, you
18 know, about two weeks later.

19 Q So how many people ended up working with you to
20 finish the repairs?

21 A Two other guys that been on to the job. One left
22 and then I ended up, had to get somebody else to
23 replace him so ended up with two, three guys at a
24 time at different times.

25 Q Okay. Now are you aware that Mr. Barno sued

SW - W. SINGLETON - DIRECT

1 Mr. McKnight over this property?

2 A Yes, sir.

3 Q Now your testimony, who finished the repairs on
4 that house at [REDACTED]?

5 A At the end of the total finish?

6 Q Yeah.

7 A I did.

8 Q You did. So were you made a party to that suit
9 in Magistrate Court? Did you go to court and
10 testify?

11 A Yes, I went to court with that, you know, and
12 listen. But at the time the judge wasn't about too
13 much hearing what we had to say at the time. She
14 only heard the part that where the evidence was
15 given from Tony, from Barno.

16 Q The photographs?

17 A Yes, sir.

18 Q Okay. Now are those photographs, were those, was
19 that work that was done by Mr. Barno's crew or done
20 by you?

21 A Pretty much done by us, by me and the guys I had.

22 Q After this whole shotgun incident?

23 A Yes, sir.

24 Q Okay. Mr. Singleton, are you still doing some
25 work off and on for Mr. McKnight?

SW - W. SINGLETON - CROSS

1 A Yes, sir.

2 Q Okay. So if he calls you or you need something
3 fixed on one of his rentals, is that what you do?

4 A Yes, sir.

5 Q Okay. You have a good relationship with
6 Mr. McKnight?

7 A Yes, sir. Since that happened, I felt kind of
8 bad and I went in the hole with the money that I
9 never got so I end up talking to him about it, you
10 know. He said, well, he'd give me some work just
11 to help me out, you know, but...

12 Q All right.

13 MR. GRIFFIN: Court's indulgence, Your
14 Honor.

15 THE COURT: Yes, sir.

16 MR. GRIFFIN: Mr. Singleton, answer any
17 questions Mr. Bridges may have for you.

18 THE WITNESS: Okay. Thank you, sir.

19 THE COURT: Cross-examination.

20 MR. BRIDGES: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. BRIDGES:

23 Q Mr. Singleton, this is the first time you had
24 worked with Mr. Barno?

25 A Yes, on this terms that we did.

SW - W. SINGLETON - CROSS

1 Q Had you done other kinds of home repair
2 construction work with him before?

3 A I help him one other job particularly, yeah.

4 Q Okay. And that job, were there any problems with
5 payment or anything about how it ended up?

6 A Yes, sir, it was.

7 Q Would it -- did you feel like he didn't pay you
8 enough in that, or how did that other job turn out?

9 A Well, it turned out to be that we was doing it to
10 help the lady get some money to refinance the house,
11 and pretty much we stayed there a couple of weeks
12 and didn't get paid no more than a day or two work,
13 something like that.

14 Q But it was the whole, the whole crew you didn't
15 get paid for?

16 A Pretty much, yes, sir, from what I hear.

17 Q So you, you recall when you started work on the
18 house on Byrd Street?

19 A Yes, sir.

20 Q Was it a couple of weeks before the July 13th
21 that year?

22 A Yes, sir, uh-huh.

23 Q Do you remember -- did Mr. Barno have, was there
24 an issue with how long the work was taking on the
25 house?

SW - W. SINGLETON - CROSS

1 A There was. I didn't quite was told, but you
2 know, there was some things that we had a time that
3 we had to do so much and get it done.

4 Q Were you doing any other projects during this
5 time for Mr. McKnight or for anybody else?

6 A No, sir.

7 Q So that was your only focus was the house?

8 A Pretty much, uh-huh.

9 Q You remember getting in a conversation with Mr.
10 Barno the day before this, would the 12th, about the
11 progress of the work on the house?

12 A Yes, sir, I definitely let him know that I would
13 finish what me and him agreed on and I needed to get
14 paid like a couple of days before that.

15 Q Was there a dispute talking about bringing in
16 another person to help finish the roofing work?

17 A No, sir, he -- they needed help on the floor
18 downstairs and on the other parts of the house that
19 he didn't have nobody else to do.

20 Q Oh.

21 A And after I finished the roof I went and started
22 doing some of the other work that I still hadn't
23 gotten paid on the roof part of it.

24 Q Okay. So you contend that you finished the roof?

25 A Oh, yes, sir. Finished to the point that me and

SW - W. SINGLETON - CROSS

1 him agreed on.

2 Q Okay. Did you put shingles on the roof?

3 A Yes, sir.

4 Q And you did that before the 13th?

5 A Oh, yes, sir.

6 Q Okay. So on the 13th he came to the site and
7 then started talking to you when you were inside the
8 house?

9 A Yes, sir.

10 Q And ---

11 A I was on the top of the house at the time he came
12 up still working.

13 Q And was it about your prior conversation on
14 Sunday about payment?

15 A Yes, sir.

16 Q Okay. And you characterize that as an argument
17 or disagreement that you ---

18 A A disagreement, yeah.

19 Q Okay. And Mr. McKnight originally wasn't -- it
20 was just you and Mr. Barno in house at first?

21 A Well, yeah, we was waiting. Tony got there,
22 until Mr. Barno got there. And after he got there,
23 then Mr. McKnight came up and they spoke. We all
24 spoke, and we was hoping to get together and come up
25 with something, with an agreement.

SW - W. SINGLETON - CROSS

1 Q And then after this agreement that's when you
2 said Mr. Barno went to his car?

3 A After that he didn't like what Mr. McKnight told
4 him that he only can get paid for what was the work
5 that already done, not for what he hadn't done.

6 Q Do you recall if Mr. McKnight told him that he
7 had to leave or if that he was fired or anything
8 like that?

9 A No, sir, he just told him that where he didn't
10 finish the job and he had a time that he should have
11 finished the job. And not only that, it's the way
12 that the job was going. Everybody was complaining
13 about not getting paid. And they talk at the time
14 and I'm pretty much sure they was talking about, you
15 know getting somebody else to finish the job and
16 also getting somebody else to where, you know, get
17 the job done.

18 Q And you were standing on the porch?

19 A Yes, sir.

20 Q So then you were on the porch when you said you
21 saw him go to his car?

22 A Yes, sir.

23 Q As in Tony. And you saw him with a shotgun?

24 A Yes, sir.

25 Q And you saw Mr. McKnight's sister try to, like,

SW - W. SINGLETON - CROSS

1 wrestle the shotgun away from him?

2 A Yes, sir, she was blocking him and walking back
3 and forth, and he was walking towards the house and
4 ---

5 Q So it looked like she touched it from what you
6 could see?

7 A Yes, sir.

8 Q Okay. And then afterwards that was the last
9 thing that Mr. Barno was at the house?

10 A Pretty much.

11 Q And then you completed the work for Mr. McKnight
12 and he paid you?

13 A Yes, sir.

14 Q And then you continued to do other jobs for Mr.
15 McKnight after that?

16 A Yes, sir.

17 Q Okay. And then just building on, when you
18 were -- Mr. Barno sued Mr. McKnight and you said you
19 were present for that?

20 A Yes, sir.

21 Q And what did you mean by telling the solicitor
22 that you were willing to testify but you said the
23 judge wasn't having what you were trying to say.

24 What do you mean by that?

25 A Well, I felt, personally felt that we never get a

SW - W. SINGLETON - CROSS

1 chance to brought our point up was that the job
2 wasn't finished, he wasn't paying none of the guys
3 with, you know, and somehow or another he wanted to
4 duck recollect out with the money and none of that
5 wasn't discussed at the time that ---

6 Q But did you testify or did you try to testify at
7 the trial?

8 A Yes, I tried.

9 Q Did you do, like, show the court. How were you,
10 were you in a witness stand?

11 A We kind of, it was just, I wasn't call it a
12 fumble, whatever it was, but it was just a something
13 that the judge hear one side of the story. That's,
14 you know, that's what I got out of it.

15 Q But did you speak in court kind of like you're
16 speaking now today?

17 A Yes, sir.

18 Q And did Mr. McKnight speak in court?

19 A Yes, sir.

20 Q Okay. Was any mention of this gun incident
21 mentioned?

22 A I believe that was trying to bring up, but she
23 wanted to hear the part about where he was initially
24 trying to get the money.

25 Q And when is the last time you did a project for

1 Mr. McKnight?

2 A Recently here last week.

3 Q Last week, okay. Thank you, Mr. Singleton, no
4 further questions.

5 A Thank you.

6 THE COURT: Any redirect?

7 MR. GRIFFIN: No redirect, Your Honor.

8 THE COURT: All right. Sir, you may step
9 down.

10 You wish the witness be excused?

11 MR. GRIFFIN: Your Honor, if he needs to
12 leave that is certainly fine with us. If he wants
13 to stay we have no problem with what either.

14 THE COURT: All right. Any objection?

15 MR. BRIDGES: No objection.

16 THE COURT: All right, sir, you're
17 released from your subpoena. You may go or stay as
18 you choose.

19 THE WITNESS: Thank you, sir.

20 THE COURT: Thank you, sir.

21 Solicitor, and Mr. Bridges, would y'all
22 come here and talk to me just one second please.

23 (WHEREUPON, counsel approached the
24 Bench for an off-the-record discussion.)

25 THE COURT: Let's take a short break for

1 about ten minutes. We'll come back in and we'll
2 continue on with the case. Remember, don't talk
3 about the case, don't allow anybody to talk to you
4 about it. Thank you.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 3:21 p.m.)

7 THE COURT: All right, gentlemen, short
8 break, ten minutes, we'll come back in and continue
9 on.

10 (WHEREUPON, a recess was taken from the
11 proceedings.)

12 THE COURT: Is the State ready for the
13 jury to come in?

14 MR. GRIFFIN: We're ready, Your Honor.

15 THE COURT: Defense?

16 MR. BRIDGES: We're ready, Your Honor.

17 THE COURT: Ask the jury to come in
18 please.

19 (WHEREUPON, the jury was returned to the
20 courtroom at approximately 3:34 p.m., and
21 the following proceedings commenced in
22 open court.)

23 (WHEREUPON, State Exhibit No. 3 was
24 marked for identification only.)

25 THE COURT: All right, Solicitor, your

DW - S. GILL - DIRECT

1 next witness please.

2 MR. GRIFFIN: Thank you, Judge. The State
3 calls Detective Shaune Gill.

4 THE COURT: All right, sir.

5 THE CLERK: Place your left hand on the
6 Bible, raise your right hand. State your name
7 please.

8 THE WITNESS: Shaune Gill.

9 WHEREUPON,

10 **SHAUNE GILL,**

11 having been duly sworn by the Clerk, testified
12 as follows:

13 THE CLERK: Have a seat up here please.
14 State your full name, spell your last name for the
15 record.

16 THE WITNESS: Shaune Gill, G-I-L-L.

17 **DIRECT EXAMINATION**

18 BY MR. GRIFFIN:

19 Q Detective Gill, where do you work?

20 A Sumter Police Department.

21 Q How long have you been with the police
22 department?

23 A This agency, a little over five years now.

24 Q Okay. And you said this agency, do you have
25 prior law enforcement experience?

DW - S. GILL - DIRECT

1 A Yes, sir, I worked for the Valdosta (ph) Police
2 Department in Georgia and the Box Elder Police
3 Department in South Dakota.

4 Q So total, what would you say your total law
5 experience is?

6 A I believe right up to 12, 13 years.

7 Q Okay. Now Detective Gill, did you get assigned
8 the case we're here about today?

9 A I did.

10 Q Okay. Now you're listed as a detective. Tell
11 the jury just kind of an overview of what a
12 detective does.

13 A Basically once the uniform officers respond to an
14 incident location, a, an incident report is
15 prepared. The supervisors within the investigation
16 division assigns each report to a detective, and
17 then from there the detective basically further
18 investigates the incident at hand, whether it be
19 interviewing witness, processing a crime scene, just
20 search warrants, all the way up to identifying the
21 suspect if it hasn't been done already, securing the
22 arrest warrant, and making arrest if it hasn't been
23 done already.

24 Q All right. Now in this case, so you were
25 assigned this case as the detective after Mr. Barno

DW - S. GILL - DIRECT

1 had been arrested; is that correct?

2 A Yes, sir.

3 Q So in this situation a suspect had already been
4 identified before you became involved, correct?

5 A Yes, sir.

6 Q Okay. So upon being assigned this case did you
7 go secure the arrest warrant?

8 A Yes, sir.

9 Q And you served that on Mr. Barno?

10 A Yes, sir.

11 Q Okay. Now you mentioned initially an incident
12 report will be done. The responding uniformed
13 officers generally do those incident reports?

14 A Yes, sir.

15 Q And after you're assigned to be the detective on
16 the case are you provided with a copy of that
17 incident report?

18 A Yes, sir.

19 Q And from that incident report is that your first
20 resource with determining names of witnesses, things
21 of that nature?

22 A That's correct.

23 Q And in this case did you review the incident
24 reports that Officer Blanding has done?

25 A I did.

DW - S. GILL - DIRECT

1 Q Okay. And what did you do subject to your
2 reviewing that initial report?

3 A After reading through the report I contacted the
4 victim Mr. McKnight, his sister Ms. Mickens. I also
5 contacted ---

6 Q Let me stop you right there. Now I see you
7 pulled something out of a folder there. Did you
8 compile an investigative report in this case?

9 A I did.

10 Q Okay. Would referring to that investigative
11 report refresh your recollection of the substance of
12 the investigation?

13 A It will.

14 MR. GRIFFIN: Your Honor, I'd ask if
15 Detective Gill can refer to his investigative
16 summary.

17 THE COURT: Is there any objection to
18 that?

19 MR. BRIDGES: No objections, Your Honor.

20 THE COURT: All right, you may do so.

21 BY MR. GRIFFIN:

22 Q All right. You said you spoke with the victim
23 Mr. McKnight, Ms. Mickens, and who?

24 A I spoke with a William Singleton and a Jerome
25 Smith, all of which provided written statements.

DW. - S. GILL - DIRECT

1 When I served the arrest warrant on Mr. Barno ---
2 Q Hold on right there. Now, you spoke with those
3 witnesses that were listed in connection with
4 Mr. McKnight, correct, and they agreed to talk to
5 you?

6 A Correct.

7 Q Okay. Let's move on to those statements now.
8 Now those statements were done at law enforcement
9 center?

10 A Yes.

11 Q And those were statements that they provided the
12 substance of the situation to you?

13 A Correct.

14 Q And you witnessed their statement and provided
15 and memorialized those statements?

16 A On --- I believe I, basically what I normally do
17 is call someone in when they agree to come in and
18 speak with me. Once they get to my office I just
19 sit down and what I normally say is tell me what
20 happened.

21 Q Okay.

22 A And so once they do that, from that point either
23 they will just write their statement out, or if they
24 don't feel comfortable writing it, or if we're
25 pressed for time I'll just go ahead and type their

DW - S. GILL - DIRECT

1 statement, read it back to them before I print it.

2 Once I print it I have them read it again and then

3 they sign it and I witness it.

4 Q Okay. So you interviewed those witnesses. Were

5 there any items submitted as evidence from the scene

6 that you're aware of?

7 A There was. There was the shotgun and the --

8 there were shotgun shells, five shotgun shells, all

9 of which were collected as evidence.

10 Q Okay. And are you familiar with those items?

11 A Just by the chain of custody.

12 Q Okay. And you have a chain of custody in this

13 case?

14 A I'm sure I do. I do.

15 Q All right. Now Detective Gill, are those chain

16 of custody forms kept in ordinary course of the

17 business of the Sumter Police Department?

18 A They are.

19 Q Okay. You said that there was a shotgun and some

20 shells recovered. What type of shotgun was it?

21 A It says a Remington 12-gauge shotgun long barrel,

22 serial number 9186 alpha victor it appears.

23 Q Okay. And Detective Gill, I'm gonna show you

24 what's been entered into evidence as State's Number

25 2. Does that appear to be the weapon that was

DW - S. GILL - DIRECT

1 turned in on this case?

2 A That's correct. And I misspoke, that's not an
3 alpha. That was a 9 Victor, but...

4 Q So the serial number on this is?

5 A 91869 Victor.

6 Q Okay. Is there any other notification or
7 indication on that weapon that shows it was turned
8 in in connection with this case?

9 A It does. It has the case number on this paper
10 tag here.

11 Q Okay. So when the police department makes a
12 case, are they all assigned individual numbers?

13 A Yes. Each incident report is assigned a, it's
14 own report number, case number.

15 Q Okay. And this, the number matching this weapon,
16 corresponds with the case number assigned to this
17 particular incident by the police department?

18 A That's correct.

19 Q All right. I'm gonna show you what's been marked
20 as State's Number 3.

21 MR. BRIDGES: No objection, Your Honor.

22 THE COURT: All right, sir. State's 3 is
23 in evidence without objection.

24 (WHEREUPON, State Exhibit No. 3 was
25 admitted into evidence.)

SW - S. GILL - CROSS

1 BY MR. GRIFFIN:

2 Q Detective Gill, what does that appear to be to
3 you?

4 A On the bag it has 12-gauge rounds, and it also
5 has this incident number and with the number two
6 which correlates to the number two on the chain of
7 custody form.

8 Q All right. Now Detective Gill, in this case the
9 victim made an identification; is that correct? He
10 told you who this individual was, who the
11 perpetrator was?

12 A That's correct.

13 Q So there was -- and he knew him to your
14 understanding?

15 A Yes, sir.

16 Q So there was no need to create a phone lineup or
17 anything of that nature?

18 A No, sir. The only thing we had to clear up was
19 he was saying Tony Barno when his legal name is
20 James Barno.

21 Q Okay. So essentially in this case your job was
22 to supervise the gathering of the statements and
23 insuring that the items, the items of evidence that
24 had been turned in were safely put into the evidence
25 locker?

SW - S. GILL - CROSS

1 A That's correct.

2 Q Okay. Answer any questions Mr. Bridges may have
3 for you.

4 THE COURT: All right. Cross-examination.

5 **CROSS-EXAMINATION**

6 BY MR. BRIDGES:

7 Q Detective Gill, you were not present on July 13th
8 when this incident occurred at the Byrd Street
9 location, correct?

10 A That's correct.

11 Q But you did speak after getting incident report,
12 then you interviewed the witnesses that were named
13 in this report?

14 A That's correct.

15 Q Do you recall speaking to a Ms. Rose Mickens?

16 A I do recall.

17 Q And did she mention that she actually grabbed Mr.
18 Barno's shotgun when he took it from his trunk?

19 A She, that's, she did, that's in her report.

20 Q Do you know, was the shotgun ever tested for
21 fingerprints?

22 A It was not, and that's because -- a week had
23 passed before I actually made contact with the first
24 witness in this case. Actually, two weeks had
25 passed. Ms. Mickens didn't come in to speak with me

SW - S. GILL - CROSS

1 until the 27th. By that time the shotgun had
2 already been handled by several different officers
3 between the officers on scene, our evidence
4 technicians. And so, like I say, after two weeks
5 it — too much time had passed.

6 Q So it was not tested on scene?

7 A No, it was not.

8 Q Okay. The same would be, was the ammo ever
9 tested to your knowledge?

10 A No.

11 Q Was the ammo, from your understanding in this
12 report, was it found in a separate bag, was it loose
13 or?

14 A According to the incident report it stated that
15 the shotgun was recovered from the trunk of
16 Mr. Barno's vehicle and five shotgun shells were
17 located next to the shotgun.

18 Q But didn't say if they were in a container or
19 not?

20 A It doesn't say.

21 Q But it says the shotgun was not loaded?

22 A Correct.

23 Q And other than the interviews you don't know of
24 any forensic testing that was done on either the
25 shotgun or the shells?

1 A No, there wasn't any to the best of my knowledge.

2 Q And you said it was about two weeks later when
3 you talked to Ms. Mickens?

4 A That's correct.

5 Q And was, did you also talk to Mr. Singleton,
6 Mr. McKnight, around that time frame?

7 A Let me look at his statement, it's dated.
8 Ms. Mickens was on the 27th. Mr. Singleton was on
9 the 27th, a Jerome Smith was on the 27th. And
10 Mr. McKnight, I actually spoke with him on the 20th.

11 Q Okay. Thank you, Investigator Gill, no further
12 questions.

13 THE COURT: Redirect?

14 MR. GRIFFIN: No redirect, Your Honor.

15 THE COURT: All right, sir. You wish the
16 witness to be excused?

17 MR. GRIFFIN: Yes, sir, Judge, no
18 objection.

19 THE COURT: Very good, sir. You're
20 released from your subpoena. You may go back to
21 your regular duties.

22 All right, next witness please.

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

25 THE COURT: Yes, sir.

1 MR. GRIFFIN: Your Honor, the State rests.

2 THE COURT: All right. Is there a matter
3 of law at this time from the Defense?

4 MR. BRIDGES: Yes, Your Honor.

5 THE COURT: All right, very good. All
6 right, ladies and gentlemen, I'm gonna need for you
7 to go to your jury room. At this stage of the
8 proceedings when the State rests its case there's
9 always a matter of law that the Court has to take up
10 with the attorneys and I have to do that outside
11 your presence, so if you would all go to the jury
12 room please.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 3:48 p.m.)

15 THE COURT: All right, Mr. Bridges, motion
16 by Defense.

17 MR. BRIDGES: Thank you, Your Honor.
18 Pursuant to Rule 19 I make a motion for directed
19 verdict. Based on the circumstantial nature of the
20 State's evidence that there is conflicting testimony
21 about what position Mr. Barno was when he was
22 allegedly brandishing the gun and the lack of
23 forensic evidence to bolster Ms. Mickens' story
24 about her grabbing the gun. For those combined
25 factors, I would move for directed verdict, Your

1 Honor.

2 THE COURT: All right, sir. Any response
3 from the State?

4 MR. GRIFFIN: Your Honor, the only
5 response I have is we've got three witnesses who
6 testified to seeing the gun. We've got a witness
7 who had never seen the gun before accurately
8 describe the gun as being a brown and black shotgun.
9 Your Honor, we have the victim who testified that
10 the individual he identified, defendant, pointed the
11 gun up at him. Certainly, Judge, the evidence
12 exists. However the jury chooses to weigh that
13 evidence and the credibility of the witnesses are
14 gonna be the issues in this case, and certainly I
15 believe we've offered enough evidence to get to the
16 jury and it's their province to determine whether
17 they believe the evidence.

18 THE COURT: All right, sir. Regarding the
19 directed verdict motion by the Defense, when ruling
20 on that type of motion the circuit court is
21 concerned with the existence or nonexistence of
22 evidence. It's not my job to weigh the credibility
23 or believability of the witnesses, but just to judge
24 whether or not the evidence exists. Certainly a
25 defendant would be entitled to a directed verdict

1 motion when the State fails to produce evidence of
2 the offense charged. But in this particular matter,
3 I do find that the evidence presented — and
4 obviously in this type of motion I view the evidence
5 and all the inferences reasonably deducible
6 therefrom in the light most favorable to the
7 State — that there is more than sufficient
8 evidence, if that evidence is believed by the jury
9 to convict the defendant of the crime of pointing
10 and presenting a firearm in this particular matter.
11 Obviously I don't have the same standard that the
12 jury has, but in this particular case the Court does
13 find there's more than sufficient evidence that's
14 been presented by the State to have the matter go to
15 jury.

16 As to any circumstantial aspects of the
17 case, again, regarding that I will charge or we can
18 look at it from the new case, fairly new case
19 perspective, that there is again, the strength of
20 the circumstantial evidence is such that it's more
21 than sufficient to present the matter to the jury.
22 Respectfully decline to grant your motion.

23 MR. BRIDGES: Thank you, Your Honor.

24 THE COURT: Further motions by the
25 Defense?

1 MR. BRIDGES: None, Your Honor, and my
2 client right now indicates that he would like to
3 testify. Do we need to do the colloquy about his
4 ---

5 THE COURT: Yes, sir. You indicated that
6 you had at least two witnesses, correct?

7 MR. BRIDGES: Yes, Your Honor. And
8 there's a third I could call tomorrow, but I can
9 definitely call two this afternoon, one of them
10 being Mr. Barno.

11 THE COURT: All right. If you would then,
12 Mr. Barno, could you stand up please, sir. And if
13 you'd raise your right hand please, sir.

14 WHEREUPON,

15 **JAMES BARNO,**
16 having been duly sworn by the Court, testified as
17 follows:

18 THE COURT: All right, sir. At this point
19 in time I'm gonna explain to you certain of your
20 constitutional rights. Now if at any point in time
21 you don't understand it, you've got a question,
22 there's some doubt in some way about what we're
23 talking about, I need for you to indicate that to
24 me. Raise your hand, you can tell your attorney,
25 but I need for you to affirmatively indicate to me

1 in some way that you have a question, we in
2 agreement there?

3 THE DEFENDANT: Yes sir.

4 THE COURT: All right, sir. We've reached
5 the stage of the trial where you can present your
6 defense. You have the right to claim the protection
7 given to you by the Fifth Amendment of the
8 constitution of the United States of America. Now
9 that amendment states in part that no person shall
10 be compelled to be a witness against himself. That
11 means nobody can make you testify. You can testify
12 if you want to, but nobody can make you do that.
13 You understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right, sir. Now, in this
16 particular matter if you decide to testify, you're
17 gonna be subject to the same rules you've seen all
18 these other witnesses that come before, you'll be
19 examined or asked questions by your attorney.
20 You'll be cross-examined or asked questions by the
21 State in this matter. You understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Solicitor, is there any issue
24 of a prior record that we need to be concerned with
25 regarding this particular matter?

1 MR. GRIFFIN: Judge, I believe that any
2 convictions that would be subject for admissibility
3 under 609 are too remote. I mean, he does have some
4 worthless checks from 1985, '88, another in '88; but
5 beyond that, his other convictions are driving
6 convictions, DUS, things of that nature so I don't
7 believe that there's any, there are any convictions
8 I would seek to use in impeachment.

9 THE COURT: All right, very good.. So if
10 you decide to testify, Mr. Barno, you got to make
11 that decision. You can certainly ask your attorney,
12 get his advice, but it's your decision. You
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you've got to make it
16 knowing your rights, knowing the facts of this
17 particular matter, and the consequences of your
18 decision to testify. You understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: If your decision was not to
21 testify I would instruct the jury not to give that
22 any consideration whatsoever. I'd tell them they
23 can't talk about it, they can't use it in their
24 deliberations. The can't even use it mentally to
25 make their decision in this particular matter. You

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: So before I ask you what you
4 want to do, do you understand what we talked about?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you want to ask your
7 attorney any questions?

8 THE DEFENDANT: No, sir.

9 THE COURT: All right, sir. Do you wish
10 to testify in this case?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Very good.. Thank you very
13 much, you can have a seat.

14 All right. So with that then, is the
15 State ready for the jury to come back in?

16 MR. GRIFFIN: State's ready, Your Honor.

17 THE COURT: And Defense?

18 MR. BRIDGES: Defense is ready, Your
19 Honor.

20 THE COURT: All right, very good, ask the
21 jury to come in please.

22 (WHEREUPON, the jury was returned to the
23 courtroom at approximately 3:55 p.m., and
24 the following proceedings commenced in
25 open court.)

DW - S. ALSTON - DIRECT

1 THE COURT: All right, so, Mr. Bridges.

2 MR. BRIDGES: May I retrieve my first
3 witness?

4 THE COURT: Yes, sir, you may.

5 (Pause.)

6 MR. BRIDGES: The Defense calls Ms. Sandra
7 Alston.

8 THE COURT: All, right, ma'am, if you'd
9 just come right around, right up here please, ma'am.
10 If you'd meet the Clerk's representative right there
11 please.

12 THE CLERK: Place your left hand on the
13 Bible, raise your right hand. State your name
14 please.

15 THE WITNESS: Sandra Alston.

16 WHEREUPON,

17 **SANDRA ALSTON,**

18 having been duly sworn by the Clerk, testified
19 as follows:

20 THE CLERK: Have a seat up here please.
21 Please state your full name, spell your last name
22 for the record.

23 THE WITNESS: Sandra Alston, A-L-S-T-O-N.

24 **DIRECT EXAMINATION**

25 BY MR. BRIDGES:

DW - S. ALSTON - DIRECT

1 Q Ms. Alston, do you go by the nickname or any
2 other names other than Ms. Alston?

3 A Yes, Sam.

4 Q And have you gone by Sam most of your life?

5 A Yes, sir.

6 Q Do you know Mr. James Barno?

7 A Yes, sir.

8 Q And do you know him also as Tony?

9 A Yes, sir.

10 Q How long have you known Mr. Barno?

11 A I've known Mr. Barno for about 33 years.

12 Q And you've lived in -- have you lived in Sumter
13 for most of your life?

14 A Yes, sir.

15 Q Have you done construction or home renovation
16 work with Mr. Barno before?

17 A Yes, sir.

18 Q Do you know Mr. John McKnight?

19 A Yes, sir.

20 Q How, describe how you know Mr. McKnight.

21 A I met him through my ex-boyfriend.

22 Q And you know Ms. Rose Mickens?

23 A Yes, sir.

24 Q How do you know Ms. ---

25 A I met her through my ex-boyfriend.

DW - S. ALSTON - DIRECT

1 Q So your ex-boyfriend was close with Mr. McKnight
2 when this incident happened?

3 A Yes, I met them when my daughter was like five
4 years old.

5 Q Okay.

6 A And she's now 26.

7 Q Did either Mr. McKnight or Ms. Rose approach you
8 about doing some renovation work?

9 A Rose McKnight did. Rose Mickens, I'm sorry.

10 Q Did she mention something about working on Byrd
11 Street?

12 A Yes, sir. She asked me whether or not I knew
13 anybody that did any kind of home interior work.

14 Q And did you provide her with somebody that did
15 home interior work?

16 A Yes, sir, I provided her with Mr. Barno.

17 Q And then to the best of your knowledge did
18 Mr. Barno then meet with Mr. McKnight?

19 A Yes, sir, after he met with Rose Mickens.

20 Q And Mr. Barno, did he hire some people to help
21 him work on this house?

22 A Yes, sir, he did.

23 Q Were you one of those people?

24 A Yes, sir.

25 Q How long -- what type of work and how long were

DW - S. ALSTON - DIRECT

1 you doing on that house on Byrd Street?

2 A I was like keeping, sweeping the floors and stuff
3 for him. As they went along I'd taking up the
4 floors, moving boards and stuff like.

5 Q And this was about every day this is going on
6 or—

7 A Yes, sir, went over there every day.

8 Q Okay. And for about how many hours at a time?

9 A We usually get over there like, I usually get
10 over there like maybe 8:00, 8:30, and I would go
11 home for like maybe an hour and come back and when I
12 leave in the afternoon it'd be like 6:30, 7:00.

13 Q And were there some other — other than Mr.

14 Barno, were there other people at the job site?

15 A Yes, sir. It was William Singleton, Rudy — I
16 don't know Rudy's last name -- Jerome, I don't know
17 Jerome's last name. Rose came over there several
18 days. Mr. McKnight came over there when he came to
19 Sumter.

20 Q And would you, when the crew — did you do
21 anything to document your work as you were
22 completing it?

23 A Yes, I was taking pictures as we go along.

24 Q And this was as you went along?

25 A Yes. As we did each part of the house I was

DW - S. ALSTON - DIRECT

1 taking pictures.

2 Q Let's go to the morning, I mean the morning of
3 July 13th. Were you at Byrd Street on that day?

4 A The morning of July 13th I took Jerome and Rudy
5 over at [REDACTED].

6 Q Okay.

7 A When I got there it was, everybody was there.
8 Mr. McKnight was there, his wife Janie was there.
9 William was there. I dropped off Rudy and Jerome.

10 It was a yard full of people there. I called
11 Mr. Barno and I told him, I said, something is
12 getting ready to happen because the yard is full.

13 Q And what, what did you think was gonna get ready
14 to happen?

15 A I didn't know exactly what was gonna happen but
16 ---

17 MR. GRIFFIN: He's asking her to
18 speculate.

19 THE COURT: Rephrase your question please.

20 BY MR. BRIDGES:

21 Q Have you ever seen that many people in the yard
22 before ---

23 A At one time, no.

24 Q ---at one time? And this concerned you, there
25 being that many people in the yard?

DW - S. ALSTON - DIRECT

1 A Yes.

2 Q And you felt the need to tell Mr. Barno?

3 A Yes, I did.

4 Q So after you dropped Jerome and Rudy at the site,
5 where'd you go?

6 A I went home.

7 Q Okay. And you were, were you present when this
8 argument -- or were you present for an argument
9 between Mr. Barno and anybody?

10 A No, I wasn't. I got a call saying that Mr. Barno
11 was going to jail.

12 Q And who did you get that call from?

13 A Rose.

14 Q Ms. Rose Mickens?

15 A Uh-huh.

16 Q Okay.

17 A And I asked her, I said, well, why didn't you
18 call me before all of this escalated to this. She
19 said, I forgot about you.

20 Q And so you have no -- so you did not know what
21 happened after you dropped off the other two workers
22 that day?

23 A No.

24 Q But you did see everybody gather within the yard
25 and Mr. Barno was not there at that time?

DW - J. ALSTON - CROSS

1 A No, he wasn't.

2 Q And are you aware that Mr. Barno then sued Mr.
3 McKnight for payment for this job?

4 A Yes, because I did the paperwork for him.

5 Q So you helped him with the lawsuit?

6 A Yes.

7 Q And actually, let me ask you, did you get paid
8 anything for your work at least before the lawsuit
9 ---

10 A Yes.

11 Q ---at this house?

12 A Yes, I did.

13 Q Did you get paid by Mr. Barno?

14 A Yes, I did.

15 Q Okay. Do you remember the, I guess the trial in
16 magistrate's court of his lawsuit?

17 A Yes, I did.

18 Q So you were present for that?

19 A Yes, sir.

20 Q And the pictures that were introduced, were those
21 pictures that you took?

22 A Yes, sir, they was on my phone. We went to
23 Walgreens and took them off the phone. He got
24 those, some off the computer.

25 Q And these pictures were from before July 13th?

DW - J. ALSTON - CROSS

1 A Yes.

2 Q It was as you were completing them on the job
3 site?

4 A As we completed each thing in the house.

5 Q All right. Thank you, Ms. Alston, no further
6 questions. Please answer any questions the State
7 may have.

8 THE COURT: Cross-examination.

9 **CROSS-EXAMINATION**

10 BY MR. GRIFFIN:

11 Q Ms. Alston, you're friends with Mr. Barno?

12 A Yes, sir.

13 Q You work for him?

14 A Yes, sir.

15 Q Help him file lawsuits?

16 A Yes, sir.

17 Q Okay. You have any social involvement with
18 Mr. Barno?

19 A No, sir.

20 Q So you're just friends?

21 A Just friends.

22 Q Strictly platonic?

23 A Excuse me?

24 Q Strictly platonic, meaning there's no romantic
25 involvement?

DW - J. ALSTON - CROSS

1 A There's no romantic involvement.

2 Q So just sweeping up the floors and filing
3 lawsuits?

4 A Yes, sir.

5 Q Okay. Now you weren't present when Mr. Barno
6 pointed the gun at John McKnight, were you?

7 A No, sir.

8 Q Okay. But you said you were concerned because
9 there are a lot of people there?

10 A Yes, sir.

11 Q But you weren't concerned enough to stay?

12 A I had to go back home to get my grandson.

13 Q Okay. But you — you knew that something was
14 gonna go down, right?

15 A Yes, sir.

16 Q And you knew that Mr. Barno kept his Remington in
17 his, back of his Cadillac; didn't you?

18 MR. BRIDGES: Objection, Your Honor,
19 speculation.

20 MR. GRIFFIN: I'm asking her if she knows.

21 THE COURT: Gentlemen, I'm gonna overrule
22 the objection. You can only speak as to your
23 personal knowledge, ma'am, whether you personally
24 know or not.

25 Go ahead, ask your question.

DW - J. ALSTON - CROSS

1 BY MR. GRIFFIN:

2 Q Do you know that Mr. Barno keeps his 12-gauge
3 Remington in his trunk?

4 A No, I knew he had it on Sunday.

5 Q And so you knew he had it the day before?

6 A Yes.

7 Q Okay. And you were concerned by all the people
8 there that something was gonna go down?

9 A Yes, sir.

10 Q So you went, even though you were concerned
11 something was gonna happen you got out of there,
12 correct?

13 A Yes, sir, I had to get my grandson from home.

14 Q Okay. So you don't know what transpired after
15 you left?

16 A No.

17 Q Okay. And you only know that Mr. Barno got
18 arrested, correct?

19 A I know what they told me.

20 Q You knew he wasn't there when you went to pick up
21 the car, right?

22 A He was there when I went to pick up his car.

23 Q Okay, but I thought you said Ms. Mickens called
24 you and said Mr. Barno got arrested; ---

25 A Yes. And when I got there ---

DW - J. ALSTON - CROSS

1 Q ---wasn't that your testimony?

2 A When I got there -- he was still there. He was
3 in handcuffs.

4 Q Okay.

5 A But he was still there. I drove his car from [REDACTED]
6 [REDACTED] to his sister's house.

7 Q So you could tell us a lot about this lawsuit,
8 correct?

9 A Yes, sir.

10 Q And you can tell us a lot about pictures,
11 correct?

12 A Yes, sir.

13 Q You can tell us a lot about pictures that aren't
14 present here today, correct?

15 A Yes, sir.

16 Q Okay. But you can't tell us anything about this
17 shotgun being pointed at James McKnight?

18 A No, 'cause I wasn't there.

19 Q No further questions.

20 THE COURT: Redirect?

21 MR. BRIDGES: No redirect.

22 THE COURT: All right, sir. You may step
23 down, ma'am.

24 Do you wish the witness to be excused?

25 MR. BRIDGES: Yes, Your Honor, I ask that

DW - J. BARNO - DIRECT

1 Ms. Alston be excused.

2 THE COURT: All right. Ma'am, you're
3 released from your subpoena. You may go back to
4 your regular activities.

5 THE WITNESS: Thank you.

6 THE COURT: Next witness please, sir.

7 MR. BRIDGES: The Defense calls Mr. James
8 Barno.

9 THE COURT: All right, sir, please come
10 around.

11 THE CLERK: Place your left hand on the
12 Bible, raise your right hand. State your name
13 please.

14 THE WITNESS: James L. Barno, Jr., known
15 as Tony Barno.

16 WHEREUPON,

17 **JAMES BARNO, JR.,**
18 having been duly sworn by the Clerk, testified
19 as follows:

20 THE CLERK: Thank you. Have a seat up
21 here please. Please state your full name and spell
22 your last name for the record.

23 THE WITNESS: James L. Barno, Jr.,

24 B-A-R-N-O:

25 **DIRECT EXAMINATION**

DW - J. BARNO - DIRECT

1 BY MR. BRIDGES:

2 Q Mr. Barno, could you quickly just tell the Court
3 where you're from and what kind of work have you
4 done in your life.

5 A My home is Buffalo, New York. I live, I was here
6 since I was nine. I went into the military after
7 school, me and Mr. McKnight. I worked for the State
8 for 12 years. I then turned around went to truck
9 driving school, bought my own truck, ran my own
10 truck until 2001.

11 Q And how long were you in the military for?

12 A Eight years.

13 Q What kind of jobs did you have in the military?

14 A I was a medic at first. Then I wanted to try to
15 the calvary unit. I went to Germany with the 72nd
16 calvary.

17 Q And as part of your military experience did you
18 receive firearms training?

19 A Yes, sir.

20 Q So after you stopped working as a truck driver
21 what kind of work did you do after that?

22 A I start picking up little ends and odd jobs
23 repairing homes and working on cars and stuff.

24 Q So do you recall the summer of 2015, were you
25 contacted by Mr. McKnight?

DW - J. BARNO - DIRECT

1 A I was contacted by Sam Alston and Rose Mickens at
2 first.

3 Q Okay. And they told you about a potential job on
4 Byrd Street?

5 A Yes, sir.

6 Q And then you had -- did you meet with
7 Mr. McKnight after this?

8 A Yes, sir, I went to his house and I met with him,
9 his wife, and his sister-in-law.

10 Q And ---

11 A [REDACTED].

12 Q And you had an agreement where he wanted you to
13 do certain repairs to the house?

14 A Yes, sir. Me and him came to an agreement what
15 he want. He told me he had a trailer down there on
16 [REDACTED] that needed repair, and I took him --
17 I told him I take on the job. I give him the rule
18 that I want to go by. He offered me a, half of the
19 money, I told him no. I said I don't work on half,
20 I said. At the end of the project I've got all my
21 money. He then give me 600-dollars to get started.
22 I took the 600-dollars and got some material I
23 needed and give Mr. Singleton and the rest of the
24 crew, my little crew I had, some of the change out
25 of it.

DW - J. BARNO - DIRECT

1 Q And just let me stop you real quick. So did he
2 understand that you were gonna need to hire a crew
3 for this job?

4 A Yes, sir.

5 Q And so that was part of your initial discussion
6 with Mr. McKnight about the job?

7 A No, I didn't discuss with him about hiring
8 nobody. I knew I need more than just me.

9 Q So it was more than what you could complete
10 without a crew?

11 A Yes, sir.

12 Q And then he gave you money to buy some materials
13 from, you said, Lowes?

14 A Yes, sir.

15 Q Was there some kind of issue with those
16 materials?

17 A Yes, sir. Lowe's, it was during the holiday
18 time. When me and Mr. Singleton went to Lowe's,
19 Lowe's told us that they couldn't complete the order
20 and bring it out because they were too far backed
21 up. It was going to be between two to three weeks
22 before they get it out. So I went there and I asked
23 Mr. Singleton did he know somebody who had a truck;
24 my truck was down. And he told me, yes, his
25 daughter. And we got his daughter truck and my

DW - J. BARNO - DIRECT

1 nephew truck, we went and picked up certain lumber.

2 Q And did that kind of cause some delays in the
3 project because he couldn't get delivery out there?

4 A Yes, sir.

5 Q And let's talk about Mr. Singleton. What kind of
6 work was he doing on the house?

7 A I contract Mr. Singleton to do the roof and
8 porch, two porch, that he wanted on the trailer.

9 Q And what was the quality, nature of his work?
10 Was he showing up every day and doing this or was
11 there issues?

12 A No. Every time, most time the weekend, close to
13 the weekend like Friday, he would come up and say,
14 well, you know, my back hurt today, I just can't do
15 this today, I can't do that. Every time Mr.
16 McKnight come into Sumter, him and Mr. McKnight get
17 together and they would go ride off somewhere. So
18 one weekend Mr. McKnight came, McKnight said his
19 back was hurting. They went to Columbia and bought
20 a cabinet for the restroom. Every time they get,
21 every weekend it was always something coming up, he
22 couldn't do it.

23 Q So this was causing delays in his work?

24 A Yes, sir.

25 Q And in fact, were you, did you contemplate having

DW - J. BARNO - DIRECT

1 to hire other people to finish this job?

2 A Yes, sir. The week of that, the incident at his,
3 that Saturday, I called Mr. Singleton and I said,
4 Mr. Singleton, I said, this right here is taking a
5 little too long just to finish out this little part
6 here. I say, what I'm gonna do, I'm going to hire
7 a fella called Charles to do the shingles and I'm
8 gonna pay him the difference where I won't pay you
9 to do that. And Mr. Singleton then told me, he
10 said, well, if you hire somebody to touch my tools
11 I'm gonna kill you.

12 Q So he said that to you?

13 A Yes, sir.

14 MR. GRIFFIN: Your Honor, that's hearsay
15 and irrelevant.

16 THE COURT: I'm gonna sustain the
17 objection regarding relevance and let's confine
18 ourselves to the incident here, okay.

19 BY MR. BRIDGES:

20 Q Without saying too much what was said in this
21 prior conversation, was there a disagreement going
22 into the 13th about Mr. Singleton's pay and his
23 status on the job?

24 A There was no disagreement about his pay, but
25 about the status of what he was doing. It was

DW - J. BARNO - DIRECT

1 taking him too long to finish the project and it was
2 delaying all us. The last little piece of windows
3 we supposed to got from Mr. McKnight.

4 Q Okay. So on the 13th when you show up at Byrd
5 Street, did you then talk to Mr. Singleton?

6 A Yes, sir.

7 Q And what did you guys discuss?

8 A I got there that morning. After me and
9 Mr. Singleton had a discussion on the phone I called
10 Mr. Singleton off the top of the roof. I said, I
11 need to talk to you a minute. I take him to the
12 back room, the last room on the end of the house. I
13 shut the door. I told Mr. Singleton, I said, look,
14 it's not a good thing the way you threaten me, don't
15 let that happen again. By that time he said, well,
16 I just had been upset with you with what you said
17 about getting somebody else messing with my
18 material. I said, okay. Then so we went to open
19 the door to go out; that when Mr. McKnight standing
20 by the door like he trying to go hear what we was
21 talking.

22 Q So Mr. McKnight was at the door?

23 A Yes, sir.

24 Q Did you then get into a discussion with Mr.
25 McKnight?

DW - J. BARNO - DIRECT

1 A Yes, sir. Mr. McKnight asked me, can I talk to
2 you a minute. I said, yes, you can. So me and him
3 walked outside. We got to the porch. He showed me
4 where me and Jerome and Rudy had done finish up the
5 porch that Mr. Singleton didn't do. It was one
6 board that we put on the porch had a little, a
7 little wop in it and it had a little crack. It was
8 just barely a little crack that, you know, you can
9 stick a carpentry pencil down into it. He said,
10 well, I don't like that and I don't want that. So I
11 said, well, we'll redo it if you repay it, you add
12 more money to it. He said, well, don't worry about
13 that part right now, I don't like this right here on
14 the porch. Now it was a ladder on the porch. It
15 was like four-and-a-half inches wide. He said,
16 well, by regulation I don't want them over four. I
17 said, well, I'll take them back down. I said if
18 you're gonna pay me more money I'll replace that
19 too. He said, no, I want to end this job with you
20 today. So...

21 Q Okay. So then he -- was your impression he was
22 firing you?

23 A Yes, sir.

24 Q And what happens when he said that?

25 A So he told me -- I said, well, I said you can end

DW - J. BARNO - DIRECT

1 it today. I said, me and you came, I told you when
2 I got started with this if you end the project you
3 pay me from where the job, the whole job. I said,
4 if I end the project you pay me for where I ended
5 it. And he said, well, I'm not gonna do that. I
6 said, well, you end the job. So he told me, he turn
7 around tell the fella — no, I turn around and say,
8 y'all fella, y'all coming off the roof? William
9 Singleton just said, no, I'm gonna stay up here and
10 work for Charles, him, and Jerome. I said, okay
11 then. I said, well, he gonna be the one to pay
12 y'all then.

13 Q Okay. And then was there further argument
14 between you and Mr. McKnight?

15 A Yeah. Mr. McKnight, when I went to walk in the
16 middle part of the porch, he said I want y'all off
17 my property now. I said, well, I'm not leaving off
18 your property till you pay me. He said, well, I got
19 my gun in the house. I said, you got a gun in the
20 house? He said, yes. I said, well, you ain't the
21 only one who got a gun, I have a gun too.

22 Q And that's when you went to your car?

23 A Yes, sir. I turn around, headed to the trunk of
24 my car.

25 Q I believe this is marked State's Number 2. Is

DW - J. BARNO - DIRECT

1 this your gun, Mr. Barno?

2 A That look like it, yes, sir.

3 Q And you had it in the trunk of your car?

4 A Yes, sir.

5 Q Can you explain why you had it in the trunk of
6 your car?

7 A I have a friend, she's handicapped, she live up
8 in Rembert. She had a snake in her house in the
9 bed. When she went to come out the kitchen the
10 snake laying up in the bed. She called me that
11 Friday to tell me can I come up there. So I grabbed
12 the gun to go up there. By the time I got there,
13 her son David got there with a shovel and took the
14 snake so I had the gun in the trunk and I never took
15 the gun out the trunk of the car.

16 Q So that day you never took the gun out the trunk
17 of your car?

18 A No, sir. I don't usually — I usually drive my
19 wife's Sonata and I — that day that Ms. Alston
20 called me to tell me about the yard, I just got into
21 the Mercedes and I went down the street and went to
22 [REDACTED].

23 Q So you hadn't driven that car since the day that
24 you had the gun in it?

25 A No, sir, it's in the shop now.

DW - J. BARNO - DIRECT

1 Q Okay. And did Ms. Mickens ever try to grab the
2 gun or do anything with it?

3 A No, sir. When I was at the trunk of the car I
4 open up -- I went to the trunk of the car, open up
5 the trunk of the car. I got, put this hand on the
6 gun, lift it up. When I lift it up I turned around.
7 She said, she was at my trunk right on the corner
8 right there on the trunk of the car. She got up,
9 what you gonna do with that, Barno. I said, you
10 talk to your brother, don't you talk to me. And I
11 pointed at them with this finger right here. I
12 said, you talk to your brother, don't you talk to
13 me. I said, he start this. And she said, well, I'm
14 not gonna let you my brother. I said, well, you
15 just get out my way too, you back up from me. Then
16 --

17 Q But she didn't actually reach in your trunk and
18 grab the gun?

19 A No, sir, she ain't reach in my trunk and got no
20 gun.

21 Q And you, when you said you lift it up, like, did
22 you actually lift the gun out of the trunk?

23 A No, sir, I just lift it up right at the trunk and
24 then the butt, the back end never came out the
25 trunk.

DW - J. BARNO - DIRECT

1 Q Okay. So did you, did you at any way swing it or
2 point it in anybody's direction that day?

3 A No, sir, I never point it at him.

4 Q And you are the legal owner of this shotgun,
5 correct?

6 A Yes, sir.

7 Q Okay. So after this -- did you call anybody that
8 day while this was going on?

9 A Yes, I -- excuse me. I called my sister. I told
10 my sister, I said, Judy, this fella over here
11 threaten me. So she said who? I said John McKnight
12 threaten me. I said, can you come over here right
13 now. She said she can. By the time she got there
14 that when the two police got there.

15 Q Okay. And did you tell the police officers that
16 you had a gun in your car?

17 A Yes, sir.

18 Q And you showed them where it was?

19 A I told him where it was and he opened the trunk.
20 It was laying right where I told him.

21 Q And that was the last day you were at that
22 address at Byrd Street?

23 A Yes, sir.

24 Q And now about a month later or so you did a
25 lawsuit against Mr. McKnight?

DW - J. BARNO - CROSS

1 A Yes, sir. Sergeant Hayes of the police
2 department, he say to go down to the courthouse over
3 there ---

4 Q That's -- you can't say what Sergeant Hayes said.

5 A Okay, I'm sorry.

6 Q But you did file a lawsuit against Mr. McKnight
7 in magistrate's court?

8 A Yes, sir.

9 Q And it took about till December until that case
10 was served, correct?

11 A Yes, sir.

12 Q And you had, did you have pictures as part of
13 your evidence?

14 A Yes, sir. I got them from CVS off the computer.

15 Q And those were taken by?

16 A Ms. Alston. We were taking them before and after
17 pictures.

18 Q And these were all before July 13th?

19 A Yes, sir. I got -- every project I do I take
20 them before, then I turn around and take after.

21 Q And the magistrate that did that trial awarded
22 judgment to you?

23 A Yes, sir. She looked at the pictures and told
24 him to pay me.

25 Q And did Mr. McKnight ultimately pay you for this?

DW - J. BARNO - CROSS

1 A Yes, sir.

2 Q Thank you, Mr. Barno. Please answer any
3 questions that the solicitor has.

4 THE COURT: Cross-examination.

5 **CROSS-EXAMINATION**

6 BY MR. GRIFFIN:

7 Q Mr. Barno, this is your Remington 12-gauge?

8 A Yes, sir.

9 Q With brown stock on State's Number 2; that's
10 correct?

11 A Yes, sir.

12 Q Brown stock and a black barrel, correct?

13 A Yes, sir.

14 Q This was in your trunk, your Mercedes, on
15 June 13, 2015, correct?

16 A Yes, sir.

17 Q The Rose Mickens was there, correct?

18 A Yes, sir.

19 Q She followed you to your trunk after you got
20 angry, correct?

21 A Yes, sir.

22 Q Okay. You opened the trunk?

23 A Yes, sir.

24 Q Okay. Now had Ms. Mickens ever been in the trunk
25 of that Mercedes ---

DW - J. BARNO - CROSS

1 A No, sir.

2 Q ---before that day?

3 A No, sir.

4 Q Okay. So it's fair to say that she wouldn't know
5 what was in your trunk, correct?

6 A She would know because she stand back there and
7 she looked down into the trunk.

8 Q Okay, 'cause you opened it up and you reached for
9 the gun, right?

10 A Yes, sir.

11 Q Okay. And you said that you usually drove your
12 wife's Sonata so she -- this would have been the
13 first day that she would have ever come into contact
14 with the trunk of the Mercedes, correct, Ms. Mickens
15 now?

16 A Yes, sir.

17 Q Okay. First day she would have ever seen this
18 Remington 12-gauge with the brown stock and the
19 metal black barrel, correct?

20 A That one there of it mine, yes, sir.

21 Q Okay. Mr. McKnight would have ever seen that
22 gun, would he?

23 A No, sir, he never would have seen it.

24 Q Until that day, right?

25 A Yes, sir.

DW - J. BARNO - CROSS

1 Q Okay. So he saw it that day?

2 A I don't know if he saw it or not.

3 Q You pointed at him; didn't you?

4 A No, sir.

5 Q You went to reach for it; didn't you?

6 A I reached for it but I never pointed it.

7 Q 'Cause Ms. Mickens stopped you; isn't that,
8 correct?

9 A No, sir.

10 Q You didn't reach for the shells, those five
11 shells right there in State's Number 3?

12 A No, sir, I didn't have to reach for the
13 Remington. They were in a bag I always leave them
14 in. I have a tote bag for that gun.

15 Q So Mr. McKnight would have had to seen that gun
16 to accurately describe how it looked, correct? You
17 agree with me there.

18 A No, sir, I don't.

19 Q Okay. You don't believe me -- you don't agree
20 with me that for him to describe your gun accurately
21 ---

22 MR. BRIDGES: Objection, Your Honor.

23 MR. GRIFFIN: ---he would have had to
24 have seen it?

25 THE WITNESS: No, sir, I don't ---

DW - J. BARNO - CROSS

1 THE COURT: I'm gonna allow it.

2 THE WITNESS: You don't have to see it to
3 describe it. I know as a cop wearing black, he
4 carry a 9 Glock, I mean.

5 BY MR. GRIFFIN:

6 Q Well, you would agree with me that some, some
7 shotguns are camouflage, correct?

8 A Yes, sir.

9 Q Some shotguns are rubberized stocks on the back,
10 correct?

11 A Yes, sir.

12 Q Okay. But this one, the witnesses in this case
13 described the gun with a wood stock and black
14 barrel, correct?

15 A Yes, sir, I guess they did.

16 Q So it's fair to say they would have had to have
17 seen that gun to accurately describe it, correct,
18 logically?

19 A Not necessarily, because if I look in the trunk
20 of the car and I spot something, I spot a 38 down
21 there brown and silver, I go back and tell you that
22 it's brown and silver, you're gonna see what I see.

23 Q Well, Mr. McKnight, he never, he never went to
24 your truck, did he?

25 A No, sir.

DW - J. BARNO - CROSS

1 Q He stayed up towards the house, right?

2 A He walked pass my trunk.

3 Q Now he was in, he was in the house listening to
4 you and Mr. Singleton, correct?

5 A Yes, sir.

6 Q Okay. And then you went outside to go to your
7 car, correct?

8 A We was outside at that time. Me and Mr.
9 Singleton, me and Mr. McKnight was outside in front.

10 Q Okay. Now Mr. McKnight didn't follow you to your
11 trunk?

12 A No, sir, he went in halfway between the porch and
13 my Mercedes.

14 Q And you would agree with me from his vantage
15 point near the porch he couldn't have seen inside
16 the back of that Mercedes, correct?

17 A Correct.

18 Q So how could he describe your gun accurately if
19 he didn't see it?

20 A He military, I'm military, his sister saw the
21 gun. She told him what it looked like.

22 Q Okay. But he doesn't have, he doesn't have any
23 sort of clairvoyance or extra sensory perception,
24 does he?

25 A I don't know, you have to ask him. I don't know.

DW - J. BARNO - CROSS

1 Q But logically speaking, for him to accurately
2 describe something you'd have to see it, correct?

3 A I would say yes.

4 Q The only way he could have seen it from his
5 vantage point was because you pointed or presented
6 it at him, correct, from his vantage point?

7 A No, sir. Oh, if I had done it, but I didn't do
8 it.

9 Q But you just said the only way he could
10 accurately describe the gun is that he had seen it,
11 correct?

12 A If I -- yeah, if, pardon. The gun never came out
13 the trunk of the car.

14 Q But you just agreed with me that if to accurately
15 describe it you would have had to have seen it?

16 A No, sir, I, I told you that if his sister told
17 him what it looked like he, that would give him
18 thought to what he seen.

19 Q Well, did his --

20 A Not what in the trunk of my car.

21 Q --sister describe it to him?

22 A That between them. I realize that a lot of that
23 report, --

24 Q I'm not talking --

25 A A lot of stuff on there is not even correct.

DW - J. BARNO - CROSS

1 Q I'm not talking about the reports. I'm talking
2 about what you saw and what you heard that day
3 'cause you were there.

4 A All right.

5 Q You didn't hear Rose Mickens describe your
6 shotgun to her brother, did you?

7 A No, sir, they went to the back of the house. All
8 of them went on the back corner of the house after
9 they started, after it happened after the cop got
10 there.

11 Q Again, accurately describe the gun, you would
12 have had to have seen it, correct?

13 A Not necessarily, no. You can be told what a gun
14 looked like.

15 Q But you didn't hear anybody tell him?

16 A No, I haven't, I didn't.

17 Q He accurately described the gun?

18 A I don't know did he accurately describe it.

19 Q Well, it's got a brown stock and a black barrel;
20 doesn't it?

21 A Yes, it does.

22 Q Let's look at it. Brown stock, black barrel,
23 correct? You agree with me that State's Number 2,
24 that's an accurate description of your weapon?

25 A Okay.

DW - J. BARNO - CROSS

1 Q That was present at [REDACTED] on July 13th,
2 2015. It was there in your truck in your Mercedes,
3 correct?

4 A Correct.

5 Q And Mr. McKnight could not see inside your
6 Mercedes unless you had presented or pointed the gun
7 at him, correct?

8 A No, sir. I just told you I never pointed the gun
9 at him. The gun never came up out the trunk of the
10 car. His sister was at the back of the car. She
11 saw the butt handle of it, part of the gun. While I
12 was coming, I was lifting it up like this here out
13 the trunk. It never came all the way out of the
14 trunk to be turn around to be pointed.

15 Q You picked it up with intention of doing what
16 with it?

17 A I, when he told me he had his gun I was going to
18 pick mines up.

19 Q Did you tell the police he had a gun?

20 A When he came -- yeah, I told police -- what's his
21 name? Not Hayes, but it was the other one. CA
22 something. I can't remember his name but it was two
23 of them there.

24 Q Nobody was staying in that house, right?

25 A No, sir. Should have been emp-- it was empty. I

DW - J. BARNO - CROSS

1 re-gutted the whole house.

2 Q So you gutted the whole house?

3 A Yes, sir.

4 Q So where was, if he had a gun in there where was
5 it?

6 A You got to ask him. He the one that told me
7 that. I don't know where it was.

8 Q Now hold on a second now. You said the house was
9 gutted, correct?

10 A Yes.

11 Q Okay. So if a gun had been in the house, it was
12 gutted, there would be no place hide it, correct?

13 A I mean, I been done put the house together by
14 then. The house was already back together after it
15 been gutted. It shouldn't have been no weapon next
16 to the house.

17 Q Okay. So you gutted the house. While you were
18 in the process of gutting the house did you ever see
19 any kind of weapon in the house?

20 A Not no guns, no.

21 Q Okay. When you put the house back together, as
22 you were putting walls or floors, or whatever you
23 did, did you ever see a weapon?

24 A No, sir, not no guns or nothing, no.

25 Q 'Cause there wasn't a gun there, was it?

DW - J. BARNO - CROSS

1 A I don't know. He say there was a gun there.

2 Q You never told —

3 A He said he brought his gun down there that
4 morning. That when I asked him why would you bring
5 a gun here in the property, I'm doing this property
6 here.

7 Q You never said anything to anybody about the gun,
8 did you?

9 A I talked to him, him about the gun. He was the
10 one that told me about the gun. I asked him why
11 would he bring a gun here if I'm doing this
12 property.

13 Q Now is it fair to say that if you felt threatened
14 by a gun —

15 A Yes, I did.

16 Q —that would have been a good thing to tell
17 somebody?

18 A We was right there in the yard, just me and him
19 and his sister, and the rest of them was on the
20 house doing the top of the roof.

21 Q The gun that you say was in the house that you
22 completely tore apart and put back together but
23 never saw?

24 A I never saw it and just like the point never saw
25 mine. But he went in my trunk and got mine but he

DW - J. BARNO - CROSS

1 didn't went and check the house.

2 Q The police saw the gun when they got it out of
3 your trunk, didn't they?

4 A I told them it was in there.

5 Q 'Cause you knew you had to.

6 A No, I told them because that was the best thing
7 for me to do.

8 Q Because?

9 A The honest part for me in telling the truth.

10 Q The best thing for you to do was to show them the
11 gun that you pointed at Mr. McKnight, right?

12 A Yes, I told you I never pointed that gun.

13 Q Even though he accurately described it?

14 A Well, I mean, he described what he was told
15 accurately.

16 Q Okay. Mr. McKnight [sic], we've talked this gun
17 to death, but I just got a couple of more questions.
18 You say you never showed a gun to anybody, correct?

19 A No, sir, nobody.

20 Q Okay.

21 A I mean, hold up. Mr. McKnight or Mr. Singleton
22 or who was in there, when -- only person know I had
23 that gun was Ms. Alston and my wife, and you know,
24 my son, he's in the marine, he know.

25 Q Okay. Now the gun wasn't loaded, correct?

DW - J. BARNO - CROSS

1 A No, sir.

2 Q Okay. And no, none of these folks that were at
3 that scene other than Ms. Mickens who followed you
4 to the car, you say none of them saw the gun other
5 than Ms. Mickens, correct?

6 A Just Ms. Mickens.

7 Q Well, if none of them saw the gun how did they
8 know the gun wasn't loaded?

9 A Now when the police take the gun out the car, he
10 take the gun, he aimed it up in the air and they see
11 when he cocked it back and nothing came out the gun.
12 Then he went -- first he put on some gloves and did
13 all that. Then he went on to the trunk of the car.
14 He opened it up the, I got this long black bag what
15 that gun beez in. He opened up the bag. It got
16 some Teflon, Teflon pocket. And he opened up the
17 pocket and he say, well, here go some shells right
18 here. He take the shells out the pocket and put it
19 with the gun and take it and put it in his car.

20 Q Right, because the gun wasn't loaded.

21 A Yes, sir, it wasn't loaded.

22 Q And all of the witnesses in this case knew that
23 that a gun wasn't loaded, correct?

24 A They saw it. He tested it to make sure there
25 wasn't nothing in it.

DW - J. BARNO - CROSS

1 Q You went back to the car the second time to get
2 these shells; didn't you?

3 A No, sir, I ain't went to the car a second time.
4 I was at the trunk the whole time.

5 Q To retrieve the gun that was accurately described
6 by all the witnesses that you say none of them could
7 have seen?

8 MR. BRIDGES: Objection, I feel like this
9 questioning is cumulative at this point.

10 THE COURT: I sustain the objection.

11 Anything else, Solicitor?

12 BY MR. GRIFFIN:

13 Q Mr. Barno, you said after everything happened
14 that Mr. Barno [sic] and his sister went to the back
15 of the house and that's when you say she could have
16 described the gun to him, correct?

17 A Yes, sir. Well, yes, sir.

18 Q Well then how, if they were in the back of the
19 house how would they have watched the policeman
20 check the weapon?

21 A When, before they went back there, the back of
22 the house, I can't think of -- it was sergeant, I
23 can't say his name?

24 THE COURT: No, sir, you say anything.

25 THE WITNESS: It was Sergeant Hayes and

DW - J. BARNO - CROSS

1 CA, private CA, it was right in the front yard.
2 Mr., the policeman CA, he took the gun out the car,
3 cocked the gun. No, no, excuse me, I'm sorry, let
4 me back up a minute. When Mr. McKnight wife called,
5 came from wherever she been, called the police and
6 tell them I had the gun pointed at her husband, that
7 Ms. Mickens got together with her sister-in-law and
8 then Mr. McKnight. Then they went back there and
9 talking about the gun I had when the police came and
10 talked after they got there and saw it. See, you
11 understand what I'm saying?

12 Q What were you going to do with the gun?

13 A If he had brought his gun I was gonna do the same
14 thing he was gonna do with his.

15 Q He never pointed a gun at you; didn't he?

16 A I never point one at him.

17 Q He went and picked it up?

18 A I went to pick it up and I thought about it while
19 his sister tell me, said, what you gonna do with
20 that, Barno. I said, well, you talk to your
21 brother, he the one that start this problem here.

22 Q And you were going to end it, right?

23 A Sir?

24 Q And you were going to end it?

25 A I don't know how it gonna end. He could have, he

DW - J. BARNO - CROSS

1 probably would have shot me too. I don't know how
2 it gonna end. I wasn't gonna let him just come out
3 with me like -- the way he did, he came after me
4 first.

5 Q And this is the first time you've told anybody
6 this right here today?

7 A Well, me and Ms. Alston and I told my -- when I
8 call my sister I told her he threatened me, and I
9 told her that my attorney.

10 Q Threatened you with this gun that was in the
11 house, but wasn't in the house?

12 A I don't know where it was. He said, I got my gun
13 in the house, get off my property.

14 Q And you were willing to do whatever it took to
15 get your money that day, right?

16 MR. BRIDGES: Objection.

17 THE WITNESS: No, sir.

18 THE COURT: I'm gonna allow the question.

19 THE WITNESS: Answer it?

20 THE COURT: Yes, sir, you have to answer
21 the question.

22 THE WITNESS: No, sir, I wasn't gonna, I
23 mean, at that time I was mad just like I been
24 explaining to Mr. McKnight that I wanted my money
25 and I been did the work for my money and he kept

DW - J. BARNO - REDIRECT

1 coming up — every time he come home he came up with
2 another problem, and I kept telling Mr. Singleton,
3 let's get some money, this right here is going on,
4 and going on and it becoming to be a problem now.
5 And that day he just came out and say, you're gonna
6 do this, you're gonna do that, I'm not gonna pay you
7 this, I'm not going to pay you that. And when he
8 told me, when I pay I want my money now, I want it
9 all, 2850-dollars, he said you can get off my
10 property.

11 Q And it was his property, right?

12 A Yes, it was. It definitely was his property.

13 Q And you, but you, and you knew you could go about
14 another way to try and get your money, right?

15 A I went another way to get it, yes, sir.

16 Q You ultimately did. But your first thought was
17 going to get that weapon, right?

18 A Yes, sir, 'cause he threatened me with his
19 weapon.

20 Q The weapon that nobody ever saw?

21 A They never would have saw mine if the police
22 never went to the trunk and got it open.

23 Q But they did see it; didn't they?

24 A Huh?

25 Q They never — you just said they never would have

DW - J. BARNO - REDIRECT

1 saw it. So they saw it, correct?

2 A Rose saw it first but the police pull it all the
3 way out the trunk.

4 Q No further questions.

5 THE COURT: Redirect.

6 MR. BRIDGES: Thank you, Your Honor.

7 **REDIRECT EXAMINATION**

8 BY MR. BRIDGES:

9 Q Mr. Barno, you called your sister while this was
10 going on, correct?

11 A Yes, sir.

12 Q And you told her that you were threatened by
13 Mr. McKnight?

14 MR. GRIFFIN: Objection, Your Honor,
15 that's —

16 THE WITNESS: Yes, sir.

17 MR. GRIFFIN: —definition of hearsay.

18 THE COURT: I understand that, but it was
19 previously responded to in a question. I'm gonna
20 allow it. Thank you.

21 BY MR. BRIDGES:

22 Q And you were in the military for eight years?

23 A Yes, sir.

24 Q And you told me earlier you have firearm
25 training?

1 A Yes, sir.

2 Q When it comes to this kind of a situation, were
3 you taught if you were gonna point a gun that it
4 needed to be loaded?

5 A Yes, sir. Yes, it definitely need to be loaded
6 if you're gonna be pointing it.

7 Q And you better use it?

8 A Yes, sir.

9 Q So you never -- that gun never left the trunk of
10 your car that day?

11 A No, sir, never left the trunk of my car.

12 Q No further questions, Mr. Barno.

13 THE COURT: All right. Any questions on
14 those few questions just asked, Solicitor?

15 MR. GRIFFIN: No, sir, Judge.

16 THE COURT: All right, sir. You may step
17 down, sir.

18 Further witnesses on behalf of the
19 Defense?

20 MR. BRIDGES: May I approach the Bench,
21 Your Honor.

22 THE COURT: Yes, sir.

23 (WHEREUPON, counsel approached the
24 Bench for an off-the-record discussion.)

25 THE COURT: Ladies and gentlemen of the

1 jury, go to the jury room just a few minutes please.
2 Thank you.

3 (WHEREUPON, the jury was removed from the
4 courtroom at 4:22 p.m.)

5 THE COURT: All right, we'll be at ease
6 about ten minutes. Thank you.

7 (WHEREUPON, a recess was taken from the
8 proceedings.)

9 MR. BRIDGES: Yes, Your Honor.

10 THE COURT: And after that witness
11 testifies will there be reply testimony by the
12 State?

13 MR. GRIFFIN: No, sir, Your Honor.

14 THE COURT: All right, very good. Is the
15 State ready for the jury to come in?

16 MR. GRIFFIN: We're ready.

17 THE COURT: Defense?

18 MR. BRIDGES: Yes, Your Honor.

19 THE COURT: Very good.

20 (WHEREUPON, the jury was returned to the
21 courtroom at approximately 4:57 p.m., and
22 the following proceedings commenced in
23 open court.)

24 THE COURT: Very good. All right,
25 Mr. Bridges, your next witness please.

DW - S. BARNO - DIRECT

1 MR. BRIDGES: Let me go retrieve her, Your
2 Honor.

3 THE COURT: All right.

4 (Pause.)

5 MR. BRIDGES: The Defense calls Ms.
6 Shirley Barno.

7 THE COURT: All right, sir.

8 Please come around, ma'am. Place your
9 left hand on the Bible, raise your right. State
10 your name.

11 THE WITNESS: My name is Shirley Barno
12 Frierson.

13 WHEREUPON,

14 **SHIRLEY FRIERSON,**

15 having been duly sworn by the Court, testified as
16 follows:

17 THE CLERK: Thank you, ma'am. Have a
18 seat. Please state your full name and spell your
19 last name for the record.

20 THE WITNESS: Shirley Barno Frierson, F as
21 in Frank R-I-E-R-S-O-N.

22 **DIRECT EXAMINATION**

23 BY MR. BRIDGES:

24 Q Ms. Branco, would you briefly just say where
25 you're from, what do you do for a living, how do you

DW - S. BARNO - DIRECT

1 know Mr. James Barno?

2 A Yes. I'm, I was born in Pittsburg but I been
3 living in Sumter, South Carolina, for a long time.
4 I'm retired from Eaton. I was prior into -- I'm a
5 disabled United States army veteran.

6 Q And Mr. Barno is related to you?

7 A He's my young, one of my brothers. I'm oldest of
8 five.

9 Q You also know him as Tony Barno?

10 A Tony. And me as Judy.

11 Q So you go by Judy instead of Shirley?

12 A Yes.

13 Q Have you done any work with Mr. Barno, with your
14 brother Tony in the past?

15 A Yes. Yes, I did. That was in 2015, June of
16 2015.

17 Q Okay. And was this a house here in Sumter on
18 Byrd Street?

19 A Yes, it was a single wide mobile home.

20 Q Okay. And so you were at that trailer a few
21 times that summer?

22 A On a number of occasions, correct.

23 Q Do you recall getting a phone call from Mr. Barno
24 on about July 13th?

25 A Yes, I did. It was right before 9:30 because I

DW - S. BARNO - DIRECT

1 leave home still to 9:00 in the morning I'm out my
2 house I stop at the store, get my coffee, but
3 whatever else I'm gonna get, then I go to my coffee
4 club.

5 Q And what was the contents of the call from Mr.
6 Barno that day?

7 A My brother called me that morning when I was at
8 the register and told me, he say, Judy, I'm out here
9 at the house and something is wrong. He said I
10 think you need to come on out here. I said, and I
11 asked him, I said, what's going on, Tony, I'm at the
12 register trying to pay. He said, Judy, something is
13 going on. He said Mr. — he called him John; he
14 didn't say Mr. McKnight. He said, John and him was
15 having, you know, some words was going on.

16 Q And he described what was going on between him
17 and John?

18 A Yeah, he say he don't want to pay me.

19 Q And did he say was John doing anything to him,
20 saying anything to him?

21 A No, he just told me to come on so that's, you
22 know, from on the phone, that was the text of the
23 phone conversation. I said I'm on my way.

24 Q And did you get there?

25 A Yes, I did. But when I got there the, one of the

DW - S. BARNO - DIRECT

1 officers that was there park on the side of the
2 road. He was parked on the left hand side because
3 the mobile home was way out where you enter it was
4 also on the left. He was on the opposite side of
5 the driveway. And I pulled into the yard when
6 that's 'cause the police were there and I pull right
7 into the edge of the yard and my brother car was
8 closer to the fence on it, but it was inside the
9 yard by, in the fence.

10 Q And when you got there the police were already
11 there?

12 A Yes, one police was there, one.

13 Q Did you know why the police were there?

14 A Well, he -- you know, was altercation. Okay, I
15 went and talked to my brother. I didn't know until
16 I got to my brother. He, he was standing there
17 talking to my brother and he allowed me to talk to
18 my brother.

19 Q Okay, so you talked to your brother there at the
20 house?

21 A That's right.

22 Q And then did he tell you anything about the
23 altercation?

24 A Yes, I did.

25 MR. GRIFFIN: Your Honor, I think we're

DW - S. BARNO - DIRECT

1 getting ---

2 THE COURT: Well, he hadn't asked the
3 question what was said so you can certainly describe
4 that they were talking.

5 THE WITNESS: Right, okay. And he said
6 that ---

7 THE COURT: All right now, listen to your
8 attorney's, listen to the attorney's questions and
9 answer and attorney's question. Go ahead.

10 BY MR. BRIDGES:

11 Q Was there mention of a threat? Did Mr. Barno
12 mention that he felt threatened?

13 A Yes.

14 THE COURT: Is there an objection?

15 MR. GRIFFIN: Your Honor, I tried to keep
16 that from happening; but yes, that's -- my objection
17 is ---

18 THE COURT: Sustained. The jury will
19 disregard the statement as hearsay. Thank you.

20 BY MR. BRIDGES:

21 Q So you were at the scene with Mr. Barno?

22 A Yes.

23 Q Did you drive his car after he got arrested? Did
24 you drive his car back?

25 A To my house, yes.

DW - S. BARNO - DIRECT

1 Q To your house. And then did Ms -- she's been
2 identified here as Sam, but did Ms. Sandra go pick
3 you up from your house?

4 A Sam brought the car. Sam and I -- I had my car.
5 Sam drove his car to my house and I took Sam there.

6 Q So they were both -- so Sandra and you were there
7 at the same time?

8 A That's correct.

9 Q Okay.

10 A I call her Sam.

11 Q And you didn't -- when you were there did you see
12 a shotgun or anything like that?

13 A Yes, I did. When the police, the officer, opened
14 the trunk with the, got the keys off the windshield
15 and couldn't figure out how to open it so he finally
16 got the trunk open and the gun was facing the trunk.
17 The gun was to the right at the back wall. He took
18 the gun out. He pumped it, took it over, pumped it,
19 saw nothing in it. Then he came back and the
20 sergeant, his boss, came up and talked and his boss
21 was talking with my brother at that time. And then
22 the one that took the shotgun out, he was looking
23 for, he didn't -- no bullets was in the gun and it
24 was a black bag laying to the back left wall and he
25 opened the bag. He zip it open and nothing was in

SW - S. BARNO - CROSS

1 the big part, but he found some little compartment
2 and that's when he found some shells. I was there
3 with him then.

4 Q You were there during when the police officers
5 were doing all that?

6 A That's correct.

7 Q Okay. Thank you so much for being here, Ms.
8 Barno. Please answer any questions.

9 THE COURT: Cross-examination.

10 **CROSS-EXAMINATION**

11 BY MR. GRIFFIN:

12 Q Ms. Barno, you're here testifying for your
13 brother, correct?

14 A That's correct.

15 Q You love him?

16 A Yes.

17 Q You don't want to see anything bad happen to him,
18 do you?

19 A No, I don't.

20 Q Okay. And you don't know anything about what
21 happened there at Byrd Street other than what he
22 told you, correct?

23 A Wrong. When I, when I got there some stuff was
24 still talking back and forth.

25 Q You saw the officer take the gun out of the

1 trunk?

2 A That's correct.

3 Q And it wasn't in the bag that the shells were in,
4 correct?

5 A That's correct.

6 Q Okay. And anything that you know about pointing
7 the gun at someone is what your brother told you,
8 right?

9 A That's correct.

10 Q No further questions.

11 THE COURT: Any redirect on those
12 questions?

13 MR. BRIDGES: None, Your Honor..

14 THE COURT: All right. Ma'am, you may
15 step down if you wish to.

16 You wish the witness to be excused?

17 MR. BRIDGES: Yes, Your Honor.

18 THE COURT: Ma'am, you're released from
19 your subpoena. You may go back to your regular
20 duties.

21 All right. Mr. Bridges, any further
22 witnesses on behalf of Defense?

23 MR. BRIDGES: None, Defense rests, Your
24 Honor.

25 THE COURT: All right. Any reply

1 witnesses by the State?

2 MR. GRIFFIN: No, sir, Your Honor.

3 THE COURT: All right. Ladies and
4 gentlemen, that is the evidentiary portion of the
5 trial. There'll be no more testimony or evidence
6 presented in this matter. Now that does not end the
7 case. As I explained to you, what remains are the
8 closing arguments of the attorneys and then the
9 charge on the law and then submission of the case to
10 you for your deliberations and your unanimous
11 decision in this particular matter. If we proceed
12 on with the closing arguments, the charge on the
13 law, and the submission of the case to you, now it
14 is your case until you decide it meaning you're
15 gonna stay with us until you reach a decision. It's
16 not my intention to put you in that position. We'll
17 come back tomorrow morning at -- I want -- so we
18 start court at 9:30 so y'all be back, Mr. Bailiff,
19 you tell them when they need to be back and assemble
20 so we can start at 9:30.

21 Remember now, you're gonna go home, you're
22 gonna see your husband, wife, boyfriend, girlfriend,
23 person down the street. You can't talk about this
24 y'all 'cause unintentional or intentionally they'll
25 tell you their opinion about it. They don't have

1 one. You should not have one at this point in time
2 because you do not know the law that you have to
3 apply to the facts and evidence you heard in this
4 particular case. As I told you, you'll have all the
5 time you need necessary to talk about the case when
6 I submit it to you for your deliberations. So I'm
7 gonna excuse you. See you back tomorrow morning
8 9:30. Thank you very much.

9 (WHEREUPON, the jury was removed from the
10 courtroom at 5:09 p.m.)

11 THE COURT: All right, since the -- we've
12 ended the evidentiary portion of the trial. Any
13 motions by the Defense?

14 MR. BRIDGES: Just renew my directed
15 verdict motion on the record, Your Honor.

16 THE COURT: All right, sir. I'm not gonna
17 go over the law that we talked about earlier other
18 than to say that obviously it's, again, my job do
19 look at the existence or nonexistence of evidence.
20 This is a factual dispute. There's evidence that
21 would support a conviction of the defendant beyond a
22 reasonable doubt and also support a not guilty
23 verdict; but again, it's not my job to make that
24 decision, that will be the jury's job. But the
25 evidence does exist in this case that would support

1 a conviction of the defendant beyond a reasonable
2 doubt, and therefore, I respectfully decline to
3 grant your motion for a directed verdict. Any other
4 motions on behalf of Defense?

5 MR. BRIDGES: None, Your Honor.

6 THE COURT: Anything else on behalf of the
7 State?

8 MR. GRIFFIN: No, sir, Judge.

9 THE COURT: All right. Gentlemen, since
10 we're in the situation whereby the defendant
11 presented testimony in this case, we'll have opening
12 in full by the State, full and complete argument by
13 the Defense, and then the State may reply to any
14 matters brought up by the Defense, any matters
15 brought up by the Defense, all right. So we'll
16 start again tomorrow morning at 9:30, gentlemen, and
17 we'll give it to the jury thereafter and.

18 Now let's go over the charge real quick.
19 Obviously talking to the jury about the things that
20 we normally talk about: Credibility, believability,
21 direct and circumstantial evidence. I will
22 regarding the circumstantial evidence charge, I will
23 tell the jury that to the extent that the State
24 relies on any, or on circumstantial evidence, all
25 the circumstances must be consistent with each other

1 when taken together point conclusively to the guilt
2 of the accused beyond a reasonable doubt. And if
3 the circumstances merely portray defendant's
4 behavior as suspicious the proof has failed. The
5 State has the burden of proving the defendant guilty
6 beyond a reasonable doubt, and the burden rests on
7 the State regardless of whether the State relies on
8 direct or circumstantial evidence or some
9 combination of the two. We will also, you know,
10 talk to them about what we normally talk to them
11 about regarding the presumption of innocence,
12 reasonable doubt, the kind of doubt that would cause
13 a ordinary reasonable person to hesitate to act.
14 The charge is pointing and presenting a firearm.
15 The charge is really short and to the point. The
16 defendant is charged with pointing or presenting a
17 firearm. The State must prove beyond a reasonable
18 doubt that the defendant presented or pointed at
19 another person a loaded or unloaded firearm. The
20 phrase to present within the statute means to offer
21 to view in a threatening manner or to show in, or to
22 show in such manner. The verdict form, again,
23 straight forward. Pointing or presenting a firearm
24 at a person on a charge of pointing or presenting a
25 firearm at a person, we, the jury, by unanimous

1 consent find the defendant -- you know, got one
2 before the other, not guilty or guilty. So that
3 would be in essence what I intend to charge the
4 jury. Is anything else that the State would ask the
5 Court do?

6 MR. GRIFFIN: Judge, I believe that
7 sufficiently covers it.

8 THE COURT: From the Defense?

9 MR. BRIDGES: No, I would have asked for
10 that definition of present and that's totally
11 satisfied, Your Honor.

12 THE COURT: All right, very good. All
13 right, so that's the Court's intention. That's what
14 we'll charge them. So again, gentlemen, I'll see
15 y'all in the morning then. Thank you very much.

16 (WHEREUPON, the proceedings were concluded
17 for the day to be reconvened on October
18 17, 2015.).

19 THE COURT: Regarding the State versus
20 James Lee Barno, is the State ready for the jury to
21 come in?

22 MR. GRIFFIN: State's ready, Your Honor.

23 THE COURT: And Defense?

24 MR. BRIDGES: Defense is ready, Your
25 Honor.

1 THE COURT: All right, very good. Ask the
2 jury to come in please.

3 (WHEREUPON, the jury was returned to the
4 courtroom at approximately 9:43 a.m., and
5 the following proceedings commenced in
6 open court.)

7 THE COURT: All right, good morning,
8 ladies and gentlemen. As I told you yesterday, we
9 have ended the evidentiary portion of the trial.
10 What we're going to start now are the closing
11 arguments of the attorneys. I remind you again,
12 closing arguments are not evidence, but they are
13 important. They're each side's summation of what
14 they believe the evidence has shown to you during
15 the course of the trial remembering, of course, that
16 you are the judges of the facts of this particular
17 case.

18 So with that, Solicitor.

19 MR. GRIFFIN: The truth doesn't change.
20 The truth is the truth regardless of any kind of
21 spin you want to put on it, any kind of shading you
22 want to put on it, the truth is what it is. Ladies
23 and gentlemen, that's the reason we're here today in
24 this courtroom. Over yesterday and today, this
25 trial is a search for the truth and how do we

1 conduct that search. We conduct the search by
2 listening to witnesses testify, viewing the exhibits
3 in this case, and using our good common sense.
4 Ladies and gentlemen, this case boils down to really
5 one thing and that one thing is credibility,
6 believability. Do you believe what one person is
7 telling you. Do you as the jury believe a witness'
8 testimony. That's all it is, credibility. Ladies
9 and gentlemen, going back to talking about how you
10 determine credibility, you use your good common
11 sense. You make judgments and evaluations on what
12 people tell you every day of your life; we all do.
13 Ladies and gentlemen, like I said, credibility is
14 key in this case and the truth doesn't change.

15 Now let's review the testimony in the
16 case. I think both sides agree that Mr. McKnight
17 contracted with the defendant Mr. Barno to do some
18 repairs for the home there [REDACTED]: We agree
19 that there was a disagreement over the pace of how
20 the work was being done. We agree there was an
21 argument between William Singleton and Mr. Barno,
22 and we agree that Mr. McKnight intervened and
23 attempted to end the relationship and offered to pay
24 Mr. Barno what he owed for the work he had done.
25 Now what happens after all of that is the central

1 issue of this case, the key issue. The witnesses
2 told you what they saw, what they heard, what they
3 did on July 13th, 2015, at [REDACTED]. We
4 started with Rose Mickens. She told you that she's
5 John McKnight's sister, that she lives here in town
6 and she kind of checks on his properties when he's
7 out of town in Fayetteville where he resides. She
8 told you she was at the residence at that time, [REDACTED]
9 [REDACTED] that day. She heard the argument, she
10 saw Mr. Barno go to his vehicle and retrieve this
11 brown and black shotgun. She accurately described
12 it. She said as he pulled it out of the trunk she
13 tried to stop him. I believe her direct quote was,
14 I'm not gonna let you shoot my brother. She saw the
15 gun accurately, described it to police officers
16 about two weeks later.

17 Ladies and gentlemen, you also heard from
18 William Singleton who testified that he saw the gun.
19 He saw the gun in Mr. Barno's hands, accurately
20 described the weapon, consistent with what Rose
21 Mickens told police. Interviewed separately a week
22 apart, consistency, truth never changes. You heard
23 from Mr. McKnight. Mr. McKnight testified that
24 after the argument Mr. Barno went, retrieved his
25 weapon, pointed it at him, threatened by it. He

1 identified State's Number 2 as the weapon which was
2 pointed at him; the weapon Mr. Branco pointed at
3 him. He told you about how Mr. Branco sued him
4 later, and what did he do? He reacted violently?
5 Did he seek any retribution for this disagreement
6 that happened? No. He paid him with a certified
7 check.

8 Ladies and gentlemen, the — all the
9 testimony about this lawsuit and the repairs being
10 done properly or not, it really don't matter. They
11 are the facts that set the wheels in motion for Mr.
12 Barno to point the gun at Mr. McKnight. But whether
13 the work was done properly, whether Mr. Barno got
14 paid, it's really immaterial to the search for the
15 truth, the truth that doesn't change.

16 Ladies and gentlemen, you heard from law
17 enforcement and really in this case, this wasn't a
18 who done it. They recovered the weapon from the
19 scene. These folks all know each other. There
20 wasn't a question about who was the perpetrator.
21 The question is, do you believe what Rose Mickens,
22 William Singleton, and John McKnight say, and they
23 all say that Mr. Branco pointed the gun at
24 Mr. McKnight, or do you believe the defense
25 witnesses. Now Sam Alston, she testified when I

1 asked her, were you there when this happened? No, I
2 wasn't. She can't tell us anything about what
3 happened there at Byrd Street until after the fact.
4 Judy Barno, Mr. Barno's sister, she wasn't there
5 either. All she could tell you is what her brother
6 told her. She wasn't there when this gun was pulled
7 out of the trunk and pointed at Mr. McKnight. She
8 doesn't know anything more about this case, what
9 happened in this case, than anybody else knew
10 because she wasn't there. And that brings us to
11 James Tony Barno. Now when you evaluate his
12 testimony, remember that the truth doesn't change.
13 And he told you about the work he had done and what
14 he thought he was owed and the lawsuit and the
15 pictures he took that weren't presented to you in
16 court. He told you about all that stuff. But focus
17 on the questions about the pointing the weapon, and
18 focus on questions he was asked about his conduct
19 that day. His recount of what happened, I would
20 submit to you, ladies and gentlemen, wasn't
21 consistent when he was questioned about it. Well,
22 ladies and gentlemen, he wants you to believe he
23 never went and got the gun; but when confronted,
24 well, I went to, I went to my car, I pulled the
25 latch and I may have picked it up, but nobody ever

1 saw it. Well, if I did pull it out, there's no way
2 Mr. McKnight could have seen it. Well, if he saw it
3 I only pulled it out because Mr. McKnight threatened
4 me. Is that consistent? Or when pressed upon the
5 corroborating evidence about the description of the
6 gun by witnesses that were there, his memory of what
7 happened kept changing as he was on the stand.
8 Well, maybe, maybe Rose Mickens, she probably saw
9 the gun, she probably could have described it, and I
10 guess she maybe, she told her brother what it looked
11 like, and maybe they saw it when the cops were
12 securing the weapon. But then he said they were at
13 the front of the house so that's when she could have
14 told him about it, so does that make any sense to
15 you? When confronted with the logical conclusions
16 that could be drawn, his testimony changed.

17 I would submit to you, ladies and
18 gentlemen, when pressed with these questions and
19 confronted with the consistent testimony, the
20 consistent description of the gun, his memory
21 compounded. Oh, well, I remember this, oh, well I,
22 it could have been this. Did you hear any could
23 have, if's, maybe's from Rose Mickens, John
24 McKnight, William Singleton? Ladies and gentlemen,
25 I submit to you that you didn't.

1 Now let's talk about this threat that
2 Mr. Barno says that Ms. McKnight made. Does it make
3 any sense that Mr. Barno felt threatened at all?
4 Does it make, to you as jurors, does it make any
5 sense? Well, he said he had a gun in the house.
6 Does it make any sense that a man, a military man,
7 27 years paratrooper, would leave a weapon unsecured
8 in a rental property that was being worked on.
9 Mr. Barno said that they basically took the inside
10 of that trailer apart. Did he ever see a gun? Did
11 he ever see a gun in Mr. McKnight's hand? He
12 admitted he never saw a gun, but he said he felt
13 threatened. Ladies and gentlemen, I submit to you
14 that it didn't happen; and even if it did, why did
15 Mr. Barno call his sister? He admitted to you he
16 had a phone. He said he called his sister. He said
17 he called Sam Alston. If he really was threatened
18 why didn't he call the police? Better yet, if he
19 really felt threatened why didn't he just get in his
20 Mercedes and leave instead of going to the car,
21 opening the door, pulling the trunk latch, going to
22 the back of the Mercedes, unzipping the gun bag, and
23 pulling out this weapon, which he admitted he did.
24 He admitted from that stand that he had his hand on
25 the gun, that he pulled it up out of the trunk.

1 Ladies and gentlemen, he admitted to you that he at
2 least presented this weapon in a threatening manner.
3 He told you that when he was pressed, when his story
4 was contradicted.

5 Ladies and gentlemen, how did the
6 witnesses know that the gun wasn't loaded unless
7 they saw him with the gun and saw him turn around
8 and go back. Every witness said the gun wasn't
9 loaded. Even Mr. Barno said it wasn't loaded.
10 That's consistent. I submit to you, ladies and
11 gentlemen, it's consistent because it's the truth
12 and the truth doesn't change. Which witnesses in
13 this case stuttered and stammered and were thinking
14 of their answers and which witnesses were
15 forthright. It's your job to determine which
16 witnesses answered the questions throughout, which
17 witnesses were evasive?

18 Ladies and gentlemen, I believe it was
19 Mark Twain who said always tell the truth 'cause you
20 don't have to remember anything. If you tell the
21 truth you don't have to think about it. If you say
22 what you know happened, you don't have to think
23 about your answers, it just comes out. Think about
24 that. Credibility, ladies and gentlemen.
25 Credibility is what you are going to have to

1 determine in this case, credibility of these
2 witnesses and whether the witnesses' testimony is
3 corroborated by other things. Is the testimony of
4 the witness corroborated by the description of the
5 gun? Is it corroborated by these shells which were
6 found in the trunk? Does it make, does the, do the
7 exhibits make the witnesses' testimony more
8 believable or less believable? Ladies and
9 gentlemen, I would submit to you that the only way
10 Mr. McKnight, Ms. Mickens, and Mr. Singleton could
11 describe this gun accurately, separately, weeks
12 apart from each other, is because it was pointed or
13 presented at Mr. McKnight by Mr. Barno. It doesn't
14 matter if the gun is loaded or not.

15 His Honor is gonna charge you about the
16 statute in this case, that one can be guilty if he
17 points the gun at someone or presents it in a
18 threatening manner. Ladies and gentlemen, we submit
19 to you that pointing or presenting, pointing and
20 presenting had been met in this case; but
21 ultimately, ladies and gentlemen, it's up to the
22 twelve of you as you deliberate, as you evaluate
23 what you heard, evaluate what you've seen, and come
24 back with a verdict, a verdict that Mr. Barno is
25 guilty of pointing and presenting a firearm at

1 Mr. McKnight beyond a reasonable doubt. The only
2 way you can come to that is to evaluate what you've
3 heard from this stand, what you've seen by way of
4 exhibits.

5 Ladies and gentlemen, it comes down to who
6 do you believe, who do you believe? Do you believe
7 what they say, do you believe what they say is
8 strengthened by circumstantial evidence, accurate
9 descriptions, similar testimony. Do you believe
10 those types of witnesses, do you believe a witness
11 whose theory how this case happened changes. Truth
12 never changes.

13 THE COURT: All right, from Defense.

14 MR. BRIDGES: Thank you, Your Honor. May
15 it please the Court.

16 THE COURT: Yes, sir.

17 MR. BRIDGES: Ladies and gentlemen of the
18 jury, I'd like to start by just reminding what the
19 burden of proof is in this case. In every criminal
20 case it's the State's burden to prove each element
21 of the offense charged beyond a reasonable doubt.
22 Now the judge is shortly gonna give you full
23 instructions on what the law is in this case.
24 Pointing, presenting has basically three elements.
25 It's pointing or presenting. And pointing is rather

1 straight forward, and presenting, the judge will
2 give you the definition basically offering a firearm
3 to view in a threatening manner. Second element is
4 pointing and presenting of a firearm at a person.
5 The State has to prove each one of those elements
6 beyond a reasonable doubt.

7 Now for number two there, firearm, there's
8 no doubt there was a firearm and that that firearm
9 was Mr. Barno's. But to prove the other elements
10 the State has provided physical evidence and also
11 witness testimony. And when you go through these
12 physical, when you go through the physical evidence
13 and you go through the testimony, there are gaps in
14 the State's theory; and the gaps are big enough to
15 create reasonable doubt.

16 Let's first start with the first witness
17 we heard, Rose Mickens. She testified that she saw,
18 when she heard about this argument, she saw Mr.
19 Barno go to his car, open the trunk; and then she
20 said there wasn't two trips, it was just one trip
21 where he pulled out the shotgun, then he started
22 loading it. She said she ran up to him at that
23 point; there was a struggle for the gun. The other
24 two witnesses testified that Mr. Barno took the gun,
25 started approaching them, then walked back to his

1 trunk to load it. That's inconsistency right there.
2 The State's saying there's consistency. There's
3 divergence among those witnesses about what exactly
4 happened. Now all three witnesses said that Rose
5 Mickens touched the gun and maybe even touched the
6 ammo bag. The State doesn't have physical proof of
7 that. There's no fingerprint, there's no
8 fingerprint analysis done on the gun. Detective
9 Gill said, you know, there's reasons for that; but
10 it doesn't exclude that they could have, they could
11 have put that story to rest. They could have said,
12 okay, if Ms. Mickens touched the gun, we can prove
13 it, we can show it. They don't have that evidence.
14 I mean, they're asking you to believe her
15 credibility, but they can't back up her story with
16 the solid evidence of her fingerprints on the gun.
17 Similar to the ammunition. And in addition to her
18 story that Mr. Barno was trying to load the gun, the
19 gun was unloaded and I believe the ammo was found in
20 a separate bag.

21 Now the other piece of physical evidence
22 they have, and actually I'd encourage when you get
23 in the jury room to re-listen to it, is the 9-1-1
24 call by Ms. McKnight. Ms. McKnight clearly says to
25 the 9-1-1 operator, I wasn't there, I didn't see the

1 gun, I'm being told that James Barno is pointing a
2 gun at my husband; but she got there after this
3 event occurred. Now the State made a big point in
4 Mr. Barno's testimony and also in closing about,
5 well, how do all the witnesses describe the gun if
6 he didn't show it to him. And then he really
7 pressed Mr. Barno and they were just saying, well,
8 how can they all describe the gun. Well, you heard
9 Mr. Judy Barno, and you heard from Detective Gill
10 that the officers secured this weapon on the scene,
11 that they pulled the gun out of the trunk in front
12 of everybody to see if it was loaded and it was not
13 loaded. Everybody there saw the gun because the
14 officers showed it to them. This is not, it didn't
15 take individual people seeing it from different
16 angles by Mr. Barno. No, the officers pulled the
17 gun out in front of everybody and showed them.
18 That's how they all can describe the gun.

19 Now when it comes to Mr. Barno's
20 testimony, I remind you, the burden is on the State
21 here. Mr. Barno doesn't have to prove his
22 innocence. He doesn't have to prove -- this isn't a
23 self-defense case. I'm not here to tell you that he
24 was responding to a reasonable threat or it's
25 realistic that Mr. McKnight had a gun in the house

1 because it didn't get to that level. Mr. Barno did
2 not insist on, he did not point his gun at anybody.
3 He did not take it to the level of removing his
4 shotgun from the trunk. So the State can say, yeah,
5 that's implausible that there was a threat, but
6 that -- I don't have to prove that there wasn't a
7 plausible threat. It's not pointing and presenting
8 to have a shotgun in your trunk. It's not pointing
9 and presenting to even go into your trunk and move
10 that shotgun around. It's only pointing and
11 presenting if you point the firearm at another
12 person or present it at another person, and the
13 State has to prove that beyond a reasonable doubt.
14 Not just the fact that he had a shotgun in his
15 trunk, not just the fact that he went to go look at
16 that shotgun; but actually, that he pulled it out.
17 And they can say, well, you know, if he felt
18 threatened, you know, it's not supported by the
19 evidence and it's not a reasonable threat. That
20 doesn't matter 'cause this isn't a case about
21 whether or not Mr. Barno had to use a shotgun
22 because he didn't get there. He didn't use it, he
23 didn't present it, he kept it in the trunk.

24 Now, other than the physical evidence in
25 the case we have witness testimony and that's where

1 it's very important as the State mentioned for you
2 all to evaluate the credibility and bias of each
3 witness. Now I took the measure of putting a record
4 of the magistrate court lawsuit between Mr. Branco
5 and Mr. McKnight into evidence, and I feel as, you
6 know, I put it in there 'cause I think it's very
7 important for two reasons. First reason, as you
8 heard from Mr. Singleton and Mr. McKnight, you know,
9 they contested this lawsuit. They showed up in
10 court. They told their story to the magistrate.
11 Mr. Singleton said, he said he even mentioned the
12 incident with the gun; and then they both said they
13 felt like the magistrate wasn't hearing it, that the
14 magistrate just -- somehow they feel like they got
15 an unfair deal. But they were there. The
16 magistrate heard both sides of the story and she
17 found for Mr. Barno. This record shows, find for
18 plaintiff. Mr. Barno was the plaintiff in this
19 lawsuit.

20 Now it's a money issue, this isn't, that
21 isn't the criminal case. It shows that, you know,
22 that Mr. McKnight was trying to resist paying
23 Mr. Barno until he absolutely had to, till he had
24 that judgment against him. And you know, Mr. Barno
25 proved his case against him. So that's the second

1 reason why this is important when it comes to Mr.
2 Barno's credibility and the State's theory. The
3 State is trying to say Mr. Barno acted impulsively,
4 angry, he pulled a gun out, he tried to demand his
5 money that day. Well, I want you to take a look at
6 the dates on these records. This incident happened
7 July 13th. He didn't file this suit until
8 August 17th. He didn't get judgment, and actually I
9 don't think the case was heard until December 3rd so
10 the State's saying Mr. Barno is acting impulsively,
11 pulled out a gun, demanded money, where the suit
12 shows that he very methodically took legal recourse
13 to get his money back in the proper way.

14 Now it's interesting that Mr. Singleton
15 was a witness for the State backing up Mr.
16 McKnight's story because as it came out in the
17 testimony, Mr. Singleton was right there on the
18 site. Well, as soon as James Barno got fired, well,
19 he suits in and he finishes the job and he keeps
20 working for Mr. McKnight. In fact, he testified
21 that he had just worked for Mr. McKnight last week
22 so there's bias right there. There's combined
23 financial interest for the State's parties. And you
24 know, they don't want to lose this suit, but they
25 end up having to pay Barno the money back. So I

1 would submit to you that these, the lack of
2 physical, physical evidence doesn't corroborate the
3 State's theory, and the State's witnesses have
4 sufficient bias against Mr. Barno because of the
5 money issue, there's reasonable doubt about what
6 happened here. I mean, Mr. Barno, when his side of
7 the story told -- I told you in my opening that
8 you'd hear both sides of this story, and the State
9 just hasn't met their burden. And when the State
10 hasn't met their burden, hasn't proved each element
11 beyond a reasonable doubt, the only verdict that can
12 be delivered is not guilty. And I ask you after
13 your deliberations to find that the State has not
14 met their burden and to find my client James Barno
15 not guilty. Thank you.

16 THE COURT: Final argument, Solicitor.

17 MR. GRIFFIN: Ladies and gentlemen, at
18 this point in the proceedings it's my duty to reply
19 to the Defense's closing arguments and in this reply
20 I'm limited to a rebuttal of the issues that the
21 Defense raised in his closing and I certainly seek
22 to do that. Ladies and gentlemen, it goes back to
23 credibility. I think if you'll focus on -- one
24 thing that Mr. Bridges said in closing talking about
25 this threat, and it kind of summarizes the whole

1 case. Mr. Bridges told you that there was no reason
2 for Mr. Barno to pull this weapon, point it at Mr.
3 McKnight, because there was no threat, but who put
4 this issue of the threat into the record. It wasn't
5 Mr. McKnight. It wasn't Mr. Singleton. And it
6 wasn't Rose Mickens. It was Mr. Barno himself.
7 Ladies and gentlemen, they're trying to have their
8 cake and eat it too. I didn't pull, I didn't point
9 this weapon, I didn't go to my trunk and pull it
10 out, even though he said he did from the stand. He
11 told you he did. Well, if I did, I did it because I
12 was threatened. Trying to have his cake and eat it
13 too. Alternative theories, well, I didn't do it but
14 if I did, here's why I did it. Does that sound like
15 someone whose telling you the truth? Truth doesn't
16 change.

17 Ladies and gentlemen, bring up this
18 lawsuit, this doesn't mean anything in this case
19 other than the fact that when Mr. McKnight lost the
20 lawsuit he paid him, he didn't fight. He certainly
21 didn't get a weapon. He paid the suit. But this
22 lawsuit decided in December almost five months after
23 Mr. Barno pointed the gun, is all just meant to side
24 track you. The only thing that matters in this case
25 is that this shotgun, the 12-gauge Remington, was

1 pointed and presented at Mr. McKnight. And
2 Mr. Barno told you he did it. He said, I got it out
3 of the trunk. He said it from right there. Ladies
4 and gentlemen, again, this is all about credibility.
5 It's all about consistency. And the truth never
6 changes.

7 THE COURT: All right, ladies and
8 gentlemen, it's now my duty and responsibility to
9 give you the law that will apply to the facts and
10 evidence you have heard in this particular matter.
11 I told you at the very beginning I would not
12 indicate to you in any way what I think the facts of
13 this case are or what I thought about credibility
14 and believability because that's your job and your
15 responsibility. In the same vein, if you came into
16 this courtroom with any preconceived ideas on what
17 the law is, what it ought to be, should be, hope it
18 would be, you'll disregard that. You'll take the
19 law as I now give it to you and apply it to the
20 facts and evidence you've heard in this matter.

21 Now I remind you that, as I told you at
22 the very beginning, one of your jobs and duties and
23 responsibilities is to judge the credibility and the
24 believability of the witnesses that came before you
25 and testified under oath in this matter. You can

1 believe one against several, several against one,
2 you can believe a portion of what a witness says,
3 disregard the remaining portion of it. If you've
4 got a good sound reason for doing so, you can
5 disregard in its entirety the testimony of a
6 particular witness. You look at whether or not the
7 witnesses exhibited to you any kind of interest,
8 motive, bias, prejudice they might have, in giving
9 you the testimony. Obviously consider the
10 opportunity for knowledge, how did they come about
11 that information that they gave you.. You don't have
12 any friends to reward. You don't have any enemies
13 to punish. Your verdict can't be the result of any
14 kind of passion, prejudice, or sympathy. It has to
15 be an examination of the facts and evidence in this
16 matter and then to weigh that evidence against the
17 State's burden to prove the defendant guilty beyond
18 a reasonable doubt..

19 Now in this case there's been two types of
20 evidence presented and that's done in virtually
21 every single case. It's called direct and
22 circumstantial evidence. Direct evidence, that's
23 somebody telling you, you know, what they saw, what
24 they heard, what took place in their presence.
25 Circumstantial evidence is a chain of events

1 indicating the existence of a fact. The law doesn't
2 make any distinction between the two. A greater
3 degree of proof of one over the other is not
4 required. But to the extent that the State of South
5 Carolina relies on circumstantial evidence, all of
6 those circumstances have to be consistent with each
7 other, and when taken together, point conclusively
8 to the guilt of the accused beyond a reasonable
9 doubt. If the circumstances merely portray the
10 defendant's behavior as suspicious, that's, the
11 proof then has failed. As I told you at the
12 beginning, the State always has the burden of
13 proving defendant guilty beyond a reasonable doubt.
14 That burden rests on the State of South Carolina
15 whether the State relies on direct or circumstantial
16 evidence or some combination of the two, and it's
17 your job to look at all the evidence and decide
18 whether or not the State has proven the defendant
19 guilty beyond a reasonable doubt.

20 Again, I remind you as I told you at the
21 beginning, presumption of innocence. The defendant
22 pled not guilty to the indictment, the charging
23 document which brought the matter to court. That
24 plea of not guilty started then, it remains now, and
25 it remains unless and until you believe the State

1 has proven the defendant guilty beyond a reasonable
2 doubt. That presumption of innocence, it's likened
3 to a robe of righteousness. It's placed on the
4 shoulders of the defendant, and it stays on the
5 shoulders of the defendant until and unless and
6 until the State rips that robe of righteousness from
7 the shoulders of the defendant by proof that
8 convinces you of the guilt of the defendant beyond a
9 reasonable doubt. This is not some legal theory or
10 legal phrase. It is a substantial right to which
11 every American is entitled when charged with a
12 crime.

13 So what's reasonable doubt? Reasonable
14 doubt is the kind of doubt that would cause an
15 ordinary, reasonable person to hesitate to act.
16 Prove beyond a reasonable doubt is proof that leaves
17 you firmly convinced of the defendant's guilt. Now,
18 there are very few things we can know with absolute
19 certainty, and the law doesn't require the State of
20 South Carolina to give you that kind of proof. What
21 is required is based upon your view of the evidence,
22 the evidence that you have been presented in this
23 matter. If you are firmly convinced the defendant
24 is guilty of the crime charged, you must find the
25 defendant guilty. On the other hand, if you are not

1 firmly convinced that the defendant is guilty of the
2 crime charged, you must give the defendant the
3 benefit of the doubt and find him not guilty.

4 So what is the defendant charged with in
5 this particular matter? It's called the crime of
6 pointing or presenting a firearm, so pointing or
7 presenting a firearm. Defendant charged with
8 pointing or presenting a firearm. The State has to
9 prove beyond a reasonable doubt that the defendant
10 presented or pointed at another person a loaded or
11 unloaded firearm. The phrase "to present" means to
12 offer, to view, to offer in a view of an threatening
13 manner or to show in a threatening manner. So
14 that's the crime that he's charged with, and you
15 have to look at all the evidence that's been
16 presented to see if the State has proven the guilt
17 of the defendant of that crime to you beyond a
18 reasonable doubt. That's the law, ladies and
19 gentlemen, the law that you're going to apply to the
20 facts and evidence you've heard in this case.

21 The verdict form in this case is really
22 straight forward. It has the caption of the case,
23 State of South Carolina County of Sumter, the State
24 versus James Lee Barno defendant, pointing or
25 presenting a firearm at a person. On the charge of

1 pointing or presenting a firearm at a person: We,
2 the jury, by unanimous consent find the defendant --
3 and there's two choices. I put one before the
4 other, don't assign anything to that, I got to put
5 one before the other -- not guilty or guilty. Now
6 this verdict, ladies and gentlemen, must be
7 unanimous. That means everybody agrees. It's 12-0.
8 It's not 11-1, 10-2, any combination thereof. So
9 Madam Forelady, when you check the appropriate block
10 you sign your name on this verdict form, you are
11 indicating to the Court that every single member of
12 the jury agrees that is their verdict. So again,
13 after the clerk's representative reads the verdict
14 in open court, all the members of the jury can
15 affirm by the raising of their right hand that that
16 is their verdict.

17 I'm gonna ask, if you would please, to go
18 back to the jury room. Do not, do not begin your
19 deliberations until the bailiff hands to you this
20 verdict form and the evidence in this case and then
21 your jury, Madam Forelady, may begin your
22 deliberations. So at this time, if you'd take your
23 jury to the jury room.

24 Madam Alternate, if you'll please stay
25 with us. Thank you very much.

1 (WHEREUPON, the jury was removed from the
2 courtroom at 10:26 a.m.)

3 THE COURT: Is there any reason the Court
4 should not excuse the alternate from this case from
5 the State?

6 MR. GRIFFIN: Your Honor, I have no
7 objection to her excusal.

8 THE COURT: From the Defense?

9 MR. BRIDGES: No objection.

10 THE COURT: Ms. Yarborough, you get a big
11 break for a half hour. I'm sorry, but we don't have
12 a lot of jurors as you saw yesterday and we're
13 picking another jury. The rest of the panel is
14 coming in at 11:00 and you've got to join them
15 downstairs because we basically don't have enough
16 people to pick another jury with these twelve people
17 out. So I'm gonna need for you to be downstairs in
18 the assembly room at 11:00 please. Thank you,
19 ma'am.

20 (Alternate was excused.)

21 THE COURT: All right. Exceptions,
22 deletions, additions to the charge from the State?

23 MR. GRIFFIN: None from the State.

24 THE COURT: From the Defense?

25 MR. BRIDGES: None from the Defense.

1 THE COURT: All right, thank you,
2 gentlemen. I want to tell you, both of you, that I
3 appreciate the way that both of you tried this case.
4 You did everything that the Court would expect each
5 of you to do to represent the interest of your
6 respective parties or client, and I want to thank
7 you for that. Not a lot of evidence, but just make
8 sure we've got it all proper up here before it goes
9 in to the jury. We will send the weapon back; we
10 don't normally. And you help me with this,
11 Mr. Bridges, we don't normally send the weapon and
12 ammunition even though we got a gun lock and the
13 ammunition is sealed, we don't normally send both of
14 them back in. But you tell me what's your position.

15 MR. BRIDGES: Probably in the interest of
16 safety, just one or the other.

17 THE COURT: Well, it's my intention to
18 send in the weapon since that's been the main focus
19 of it. The shotgun shells really haven't been the
20 main focus of this case so that would be my
21 intention. Obviously if the jury asks to examine
22 it, then we'll accede to that obviously.

23 MR. BRIDGES: That's fine. I have no
24 objection.

25 THE COURT: All right. Thank you very

1 much. So tell them they can start their
2 deliberations. All right, gentlemen, we'll be at
3 ease then till the jury needs us. Thank you very
4 much.

5 (WHEREUPON, jury was instructed to being
6 deliberations at 10:29 a.m. and a recess
7 was taken from the proceedings.)

8 (Court's Exhibit No. 1 was marked, then
9 returned to the jury along with judge's
10 response written on note.)

11 THE COURT: All right. Gentlemen, I
12 understand that the jury has reached a verdict in
13 this matter. Is the State ready to receive it?

14 MR. GRIFFIN: State's ready, Your Honor.

15 THE COURT: And Defense?

16 MR. BRIDGES: Defense is ready, Your
17 Honor.

18 THE COURT: Very good. Ask the jury to
19 come in please, sir.

20 (WHEREUPON, the jury was returned to the
21 courtroom at approximately 10:46 a.m.,
22 and the following proceedings commenced
23 in open court.)

24 THE COURT: All right. Madam Forelady,
25 has your jury reached a verdict in this matter?

1 THE FOREMAN: We have.

2 THE COURT: All right. Could you hand the
3 verdict form to the bailiff please.

4 (Verdict form tendered to the Court.)

5 THE COURT: Thank you. You may publish
6 the verdict.

7 THE CLERK: Yes, sir, Your Honor. For the
8 State of South Carolina, County of Sumter, in the
9 Court of General Sessions, Third Judicial Circuit,
10 docket number 2016-GS-43-0082, State of South
11 Carolina versus James Lee Barno, defendant. Number
12 one: On the charge of pointing or presenting a
13 firearm at a person, we, the jury, by unanimous
14 consent find the defendant guilty. Signed Brittany
15 McClement, foreperson, dated October 17th, 2017.
16 Ladies and gentlemen of the jury, is this your
17 verdict so say y'all by raising your right hand
18 please.

19 (All jurors complied.)

20 THE COURT: Thank you very much. Thank
21 you, sir. The jury having affirmed their verdict by
22 the raising of their right hand, does the State wish
23 the jury polled?

24 MR. GRIFFIN: State does not, Your Honor.

25 THE COURT: Does the Defense wish to jury

1 polled?

2 MR. BRIDGES: No, Your Honor.

3 THE COURT: All right, thank you very
4 much.

5 Ladies and gentlemen, I want to thank you
6 for your service in this case. If we had a huge
7 jury panel I might be able to excuse you 'cause you
8 served on this particular case; but as you looked
9 around yesterday, we didn't have a whole lot of
10 jurors this particular week so I can't excuse you.
11 As a matter of fact, I've got to ask you to go down
12 stairs and meet with the rest of the jurors at 11:00
13 so we can pick another jury. So I, you know, I
14 don't want to tell you I apologize to you, but it's
15 just a fact so you get a break for about ten minutes
16 and then we're gonna pick another jury at 11:00 so
17 I'll see you at that point in time. Thank you very
18 much.

19 (WHEREUPON, the jury was removed from the
20 courtroom at 10:51 a.m.)

21 THE COURT: All right. Is the State ready
22 for the Court to proceed with sentencing?

23 MR. GRIFFIN: The State is ready, Your
24 Honor.

25 THE COURT: Defense?

1 MR. BRIDGES: Defense is ready, Your
2 Honor.

3 THE COURT: All right, very good. Yes,
4 Solicitor.

5 MR. GRIFFIN: Your Honor, at this time I
6 will hand up the sentence sheet.

7 THE COURT: All right.

8 MR. GRIFFIN: And Your Honor, certainly
9 you've sat through the entire trial, listened to the
10 witnesses' testimony, and the victim Mr. McKnight.
11 Judge, to review Mr. Barno's record, Judge, he has
12 violation of rental agreement from 1988, fraudulent
13 check also from 1988, fraudulent check from 1989,
14 driving under suspension, 1993, another driving
15 under suspension, 1997, possession of unlawful
16 liquors in 2013.

17 MR. BRIDGES: Was that dropped or...

18 (Attorneys confer.)

19 MR. GRIFFIN: And Judge, also from out of
20 state there is a conviction for possession of a
21 weapon in 1992 from the State of New Jersey.

22 THE COURT: Very good. All right.
23 Mr. Bridges, I'll be glad to hear from you at this
24 time.

25 MR. BRIDGES: Thank you, Your Honor. As

1 the Solicitor mentioned, Mr. Barno hasn't -- most of
2 his offenses are over 20 years old. This case
3 happened in 2015. He hasn't gotten in any trouble
4 in any of the intervening years. He's a military
5 veteran. He works. He, you know, in his handy man
6 business still. He has a lot of family support. I
7 didn't see in his record that he'd ever been on
8 probation before. I would just request due to his
9 age and the fact he's still got a job and he doesn't
10 have a prior record, that you consider a
11 probationary sentence in this matter, Your Honor.

12 THE COURT: All right, sir.

13 MR. BRIDGES: And I believe he did
14 approximately, I think he did approximately two
15 days. I just request that be time served.

16 THE COURT: All right, very good.

17 2016-GS-43-82, State of South Carolina, County of
18 Sumter versus James Lee Barno regarding pointing and
19 presenting a firearm at a person, the sentence of
20 the Court is defendant is committed to the State
21 Department of Corrections determinate term of 40
22 months, suspended, placed on probation for two
23 years. Defendant's given credit for the time he did
24 serve. Special terms and condition of probation
25 that he complete 75 hours public service employment

1 or maintain full-time employment, undergo random
2 drug and alcohol testing. And it is the order of
3 the Court that he forfeit the shotgun and the shells
4 to the State of South Carolina. Thank you very
5 much.

6 MR. GRIFFIN: Your Honor, may we ask that
7 he be restrained from contacting Mr. —

8 THE COURT: There'll be no contact with
9 the victim in this matter. And that means,
10 Mr. Barno, by any means, either personally,
11 electronically, written, through anyone else. It's
12 no contact by any means. Thank you very much.

13 THE DEFENDANT: Can I ask you, Your Honor,
14 I'd like to know why I'm being, I didn't point the
15 gun at this man, why I'm being tried for something I
16 didn't do. I'm guilty of something I haven't done.

17 (Attorney Bridges confers with Mr. Barno.)

18 THE COURT: Now, regarding the probation
19 department, how do we —

20 MR. BRIDGES: I'm gonna contact probation
21 and I think they'll be able to release him
22 downstairs.

23 THE COURT: They'll be able to come over
24 and get Mr. Barno, all right.

25 MR. BRIDGES: And then they'll release Mr.

1 Barno once he does his paperwork.

2 THE COURT: Once he does that?

3 MR. BRIDGES: Yeah.

4 THE COURT: All right, thank you very
5 much.

6

7 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

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C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 26th day of January, 2018.

Frances B. Ray

FRANCES B. RAY, RPR

WITNESSES

E. Gill Sumter Police Dept.

ARREST WARRANT NUMBER

2015A4310200545

ACTION OF GRAND JURY

True Bill
Robert R. Halloran
Foreperson of Grand Jury

Date: 1-7-2016

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-43-0082

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

January TERM 2016

THE STATE

vs.

JAMES LEE BARNO

Indictment for

Weapons / Pointing or presenting firearms at a person

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Weapons / Pointing or presenting firearms at a person

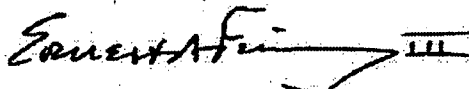
At a Court of General Sessions, convened on January 7, 2016 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE - POINTING OR PRESENTING A FIREARM

That James Lee Barno did in Sumter County on or about July 13, 2015, point or present a loaded or unloaded firearm, to wit: shotgun, at one John McKnight, in violation of Section 16-23-0410, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made
and provided.

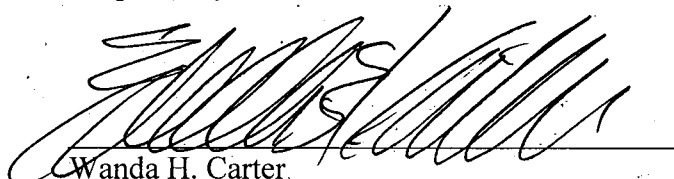
Solicitor



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter

Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED
MAY 18 2018
SC Court of Appeals

This 18th day of May, 2018.