

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County

Roger M. Young, Circuit Court Judge

THE STATE,

RECEIVED

SEP 29 2016
RESPONSE

SC Court of Appeals

v.

DENZEL MARQUISE HEYWARD

APPELLANT

APPELLATE CASE NO. 2015-000709

RECORD ON APPEAL

DONALD MICHAEL MATHISON
215 S. Holly Street
Columbia, SC 29205

ALAN WILSON
Attorney General

ROBERT M. DUDEK
Chief Appellate Defender

J. CLAYTON MITCHELL
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

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

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

ATTORNEYS FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 Q. Yeah.

2 A. You learn -- you could learn that from anywhere.

3 Q. Tell me how you know it. Tell me how you learned
4 it.

5 A. How I learned?

6 Q. How you learned it?

7 A. Video games.

8 Q. Video games?

9 A. Yeah.

10 Q. So what happens on a video game where you see an
11 AK47 is the truth, and that's reality?

12 A. Man -- come on, man. You don't know it hold 30
13 rounds, man?

14 Q. I would like to take a poll of this audience, take
15 a poll of the folks sitting in here, and I guarantee you
16 they have no idea that an AK47 has 30 rounds in a clip,
17 okay? Does that sound fair?

18 A. What sound fair?

19 Q. Does it sound fair that you think that people
20 should know that an AK47 has 30 rounds in a clip?

21 A. That ain't asking me --

22 Q. I'm asking you a question. Do you think most of
23 the people in this room know an AK47 has 30 rounds to a
24 clip?

25 A. Yeah.

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 Q. Okay. Do you ever take the opportunity to Google
2 or learn more information about AK47s?

3 A. No.

4 Q. Did you ever take the opportunity to talk about it
5 with your friends or to exchange text messages about it
6 with friends?

7 A. No.

8 Q. So you know about AK47s from video games?

9 A. Yeah.

10 Q. What game was it? Why is that funny, first of
11 all?

12 A. Because you're trying to sit around and play me
13 like I had something to do with my brother getting
14 killed.

15 Q. I'm not playing anything. I'm trying to find out
16 the truth, okay? That's all we're trying to do to you,
17 all right? Do you understand that?

18 A. You understand me?

19 Q. What am I supposed to understand from you?

20 A. That you're sitting here trying to play me like I
21 had something to do with my brother getting killed.

22 Q. I'm just trying to find out the truth. That's
23 what I'm asking you.

24 A. I am telling you the truth.

25 Q. All right. Can you tell me what video game you

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 learned about AK47s from?

2 A. Call of Duty.

3 Q. What is it?

4 A. Call of Duty.

5 Q. Okay. I'll move on from it. I don't even
6 understand what you said.

7 You didn't hit the gas because everybody knows
8 AK47s have 30 rounds in a clip, so you don't want to play
9 around with that; is that accurate?

10 A. Yes.

11 Q. All right. So your brother has been hit. You put
12 the phone down, guys with the guns standing right there,
13 and the guy in the red is standing right there, okay, on
14 the passenger side. Do you then get out of the car at
15 that point?

16 A. Yeah. Told him to get out of the car.

17 Q. They told you to get out of the car?

18 A. Yeah.

19 Q. When you get out of the car, do you circle around
20 the back or do you circle around the front?

21 A. The back.

22 Q. You walk around the back, and are you walking or
23 are you running over there?

24 A. Walking.

25 Q. Okay. Is your brother out of the car at this

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 point?

2 A. Yeah.

3 Q. All right. And what are y'all doing? Are y'all
4 standing up beside the back of the car?

5 A. I laid down on the ground.

6 Q. You got on the ground immediately?

7 A. Yeah.

8 Q. Did they tell you to get on the ground?

9 A. Yeah.

10 Q. And when you get on the ground, are you lying
11 down, face down?

12 A. Yeah.

13 Q. And your stomach is on the ground?

14 A. Yeah.

15 Q. Don't you have your hands out like this
16 (indicating)?

17 A. Yeah.

18 Q. Do you remember how you placed your hands?

19 A. Stretched out.

20 Q. Stretched out. And both you and your brother are
21 down there, and you've testified that they continually
22 asked you, Where is it? Where is it? Where is it? Do
23 you know what they're referring to?

24 A. No.

25 Q. You have no idea?

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 A. Huh-uh.

2 Q. And once that happens and once you don't really
3 know what they're talking about, do y'all tell them that?
4 Do you say, Hey, listen. I don't know what you're
5 talking about?

6 A. Yeah, I told them that one time. I really don't
7 remember saying it, but I probably did.

8 Q. Did your brother tell them that?

9 A. I don't remember.

10 Q. You don't remember? Well, let's take a break from
11 that line of questioning, okay?

12 Do you operate -- or do you have a Facebook
13 account under Jujuaain Hemingway in Longs, South Carolina?

14 A. Yeah.

15 Q. And do you maintain and monitor that Facebook
16 page?

17 A. I used to have. I don't have it no more.

18 Q. You used to have that page?

19 A. Yeah.

20 Q. You don't have it anymore?

21 A. Huh-uh.

22 Q. And do you know what Instagram is?

23 A. What?

24 Q. Do you know what Instagram is?

25 A. Yeah.

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 Q. And do you have an Instagram name?

2 A. Yeah.

3 Q. What is it?

4 A. I used to have an Instagram. It was in Jujain.

5 Q. Do you have an Instagram under SMG Young Heavy?

6 A. No.

7 Q. That's not you?

8 A. Huh-uh.

9 MR. McCOY: Your Honor, may I approach the
10 witness?

11 THE COURT: You may.

12 BY MR. McCOY:

13 Q. If I were to show you some photographs from that
14 Instagram, would that refresh your memory?

15 A. Yep.

16 MR. McCOY: Judge, can I have a moment,
17 please?

18 I'm going to mark these, Judge, for ID
19 purposes only at this point in time, and I have three
20 photographs.

21 (Defendant's Exhibit Nos. 2, 3, and 4 were
22 marked for identification.)

23 BY MR. McCOY:

24 Q. What does SMG refer to?

25 A. I don't know.

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 Q. Is it an affiliation you're part of?

2 A. No.

3 Q. It's not?

4 A. No.

5 MR. McCOY: May I approach the witness,
6 Judge?

7 THE COURT: Yeah.

8 BY MR. McCOY:

9 Q. I'm going to show you a couple photographs here.
10 Do you recognize that person in that photograph?

11 A. That's me.

12 Q. That's you? Okay. I'm going to show you this
13 too. Do you recognize anybody in this photograph?

14 A. Yeah, myself.

15 Q. You do? Is that you right there?

16 A. Uh-huh.

17 Q. Do you recognize anybody in this photograph?

18 A. Yeah.

19 Q. Who is that?

20 A. Me.

21 Q. And that's you?

22 A. That's not me here.

23 Q. That's not you? All right. Let's take a look at
24 the one that you identified that you said was you. It's
25 got a moniker down here that says, Keep calling the shots

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 and let the runners do the rest. MOB affiliated.

2 MS. SHEALY: Objection, Your Honor. May we
3 approach?

4 THE COURT: Let me send y'all out for a few
5 minutes while we take up a legal matter, and don't begin
6 deliberations or discussions about the case.

7 (In open court, jury not present.)

8 THE COURT: All right. What do you want to
9 talk to me about?

10 MS. SHEALY: If we could get those three
11 items --

12 MR. McCOY: They're right here.

13 MS. SHEALY: I think at this point in the
14 record, Mr. Hemingway has indicated -- which ones did
15 he -- he indicated that's him in this, he indicated
16 that's him in this, and he said he doesn't think that's
17 him.

18 We may need to approach you.

19 THE COURT: What are these of? Why are you
20 offering this?

21 MR. McCOY: When you're in camera, Your
22 Honor, evidence of identity in terms of the victim in the
23 case, alleged victim in the case, and if this is going
24 straight toward identity --

25 THE COURT: This is the witness, not the

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 victim, right?

2 MR. McCOY: He is a victim.

3 THE COURT: All right. So he's -- what is
4 the question about his identity? Why do you want to put
5 this in?

6 MR. McCOY: I'm establishing the identity of
7 what he does, how he operates his life, Your Honor. He
8 says he's not dealing drugs. He's not involved in this.

9 Obviously, there is a -- we're not convinced
10 that the guns weren't brought down by the victim in the
11 case. The victim is deceased in this case, and if we can
12 establish there was some sort of identity or trade or
13 characteristic in terms of how they acted or acted
14 leading up to this, Your Honor, I think all these
15 photographs are relevant, based on that. This is 404 and
16 that's --

17 Could we have the witness step down while
18 we're doing this?

19 THE COURT: Yeah. Take him out. You can use
20 the rest room, and don't talk to anybody.

21 (Witness excused.)

22 THE COURT: All right. You want these
23 pictures that he's identified that is him to come in for
24 what purpose and under what rule, 404(a)2?

25 MR. McCOY: I would cite 404(a)2, and I don't

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 see why 404(b) doesn't apply.

2 THE COURT: Well, 404(b) would be against
3 your client.

4 MR. McCOY: But, Judge -- I mean, Judge, I
5 don't think the rule necessarily reads that when you talk
6 about evidence of crimes or --

7 THE COURT: I haven't seen what these are
8 showing that he's done wrong. I mean, he's talking on a
9 telephone, and he is pointing at some other dude. So
10 that's not wrong.

11 MR. McCOY: That's why I'm asking him what
12 this caption means down here, because it's talking about
13 he's letting the runners do the running and sell the
14 drugs while he's calling the shots from the cellphone.

15 THE COURT: If they call the shots, Young
16 Jeff -- are you saying he's Young Jeff?

17 MR. McCOY: Yes.

18 THE COURT: All right. What does
19 MOB affiliated?

20 MR. McCOY: That's why I want to ask him
21 that. If he's sitting there saying he's letting the
22 runners run the drugs and he's calling the shots from a
23 cellphone, I think it's absolutely pertinent where drugs
24 were obviously involved in this case. Judge, this one
25 too.

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 THE COURT: Well, there is no -- what does
2 SMG --

3 MR. McCOY: It's a Blood affiliation in
4 Myrtle Beach, gangs.

5 MS. SHEALY: Judge, we have nothing that ties
6 this defendant to the language that's used on those
7 shots, number one.

8 Number two: How does this go to any
9 character trait that's relevant?

10 MR. McCOY: I think it also goes to impeach
11 him, Judge, based on the fact he says he's not selling
12 drugs --

13 THE COURT: Well, as I understand their
14 theory, at least where they appear to be heading, is he
15 is saying I was just riding along with my brother to
16 joyride, and they're saying, No, you were really going
17 down there to collect a drug debt.

18 And, in fact, I don't know whether they're
19 going to do it or not. They seem to be arguing they
20 might even have been the first aggressor. I don't know
21 if we're going on a self-defense kind of thing or not,
22 but, if nothing else, it's this whole theory of, well,
23 this is going to be used to rebut that he wasn't going
24 down there for a joyride, but he was going down there for
25 some kind of drug-related activity.

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 MS. SHEALY: Judge -- first of all, I don't
2 even know what those are in the scheme of what they are.
3 I don't understand what Instagrams are; but, number two,
4 it certainly doesn't go as to peacefulness, a character
5 trait as to peacefulness, as is required by the rule.

6 Thirdly, we don't know that the language used
7 on the Instagram is his language.

8 THE COURT: Well, if that's his account --

9 MS. SHEALY: How do you know it was it his
10 account? He hasn't said that is his account.

11 MR. McCOY: He said that's him in the
12 pictures, and I'm asking --

13 MS. SHEALY: That doesn't mean it's his
14 account.

15 MS. SAVAS: Just because you're in a
16 photograph in Instagram does not mean you're the one who
17 put that photograph up.

18 MS. SHEALY: Absolutely not.

19 MS. SAVAS: The user has not been
20 authenticated. We don't know who wrote that caption of
21 the text, so it's unfair to say --

22 THE COURT: If it's not his account, he's not
23 responsible for what somebody else wrote.

24 MS. SAVAS: Correct, yes.

25 MR. McCOY: Judge, I'm also offering this

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 under 404(b) in terms of identity and motive.

2 I mean, when you look at the motive he has
3 for going down to Charleston is to sell drugs, we can sit
4 there and ask him -- I want to just ask him what this
5 means -- can I finish what I'm saying, please?

6 When we're looking at Instagram, we're
7 looking at photographs, the ones we have right here. All
8 I want to do is ask him what these depictions mean. If
9 he is talking about -- if he sits there and says he's
10 talking about running drugs and calling shots from behind
11 the scenes on a cellphone, then obviously that's clearly
12 a motive. That shows his identity.

13 THE COURT: You have to establish first that
14 this is his account and that he wrote these; otherwise,
15 it's somebody taking something that he's a picture of and
16 writing something on it. I mean, they could take a
17 picture of you and write that on it, and that doesn't
18 make you a drug dealer.

19 MR. McCOY: I totally agree, Judge.

20 THE COURT: So whoever wrote SMG Young Jeff
21 is the person who would be responsible for what is
22 written on there.

23 MR. McCOY: I'll ask him if that's his
24 account, and if it's not his account, we'll move on.

25 Could I finish what I'm saying, please?

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 MS. SAVAS: Yes.

2 MR. McCOY: I want to ask him if it's his
3 account and if he wrote that down there, and if he didn't
4 write it, I'll move on.

5 THE COURT: If he says this is his account,
6 then you can pursue it, all right?

7 MR. McCOY: Okay.

8 THE COURT: If it's not his account, then
9 he's not responsible for what's written down there.

10 MR. McCOY: Okay.

11 THE COURT: Okay? Fair enough?

12 MR. McCOY: And if he denies it, then I'll
13 move on.

14 THE COURT: Okay. Because otherwise it's
15 just pictures, which he's admitted, but the captions,
16 he's not responsible for if it's not his account and he
17 didn't write it.

18 MR. McCOY: I understand that.

19 THE COURT: Okay?

20 MR. McCOY: Thank you.

21 MS. SHEALY: If we could take a quick rest
22 room break --

23 THE COURT: That's what I'm going to do.

24 (Recess taken.)

25 MS. SHEALY: Judge, I just want to make sure

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 for the record that when Mr. McCoy shows Mr. Hemingway
2 those photos of sorts -- well, let's approach.

3 (Discussion held at sidebar.)

4 THE COURT: All right. Are we ready then?

5 MR. McCOY: Yes, Judge.

6 THE COURT: Bring the jury in.

7 (In open court, jury present.)

8 THE COURT: All right. You may resume.

9 MR. McCOY: Thank you, Judge. Judge, may I
10 approach and have some things marked for ID purposes as
11 well too?

12 THE COURT: Sure.

13 (Defendant's Exhibit Nos. 6, 7, 8, 9, 10, and
14 11 were marked for identification.)

15 BY MR. McCOY:

16 Q. When we left off, we were talking a little bit
17 about an Instagram page and a couple of photos that you
18 identified that you were actually in, but can you tell me
19 and tell the Court whether this particular Instagram is
20 your page, the SMG? Is that your page?

21 A. No.

22 Q. It's not your page?

23 A. It's a fake page.

24 Q. It's a fake page?

25 A. Yeah.

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 Q. What does a fake page mean?

2 A. It's where you take your photos and put them on
3 there.

4 Q. So that's not your page?

5 A. No.

6 Q. But you did testify earlier that Jujuaain Hemingway
7 from Longs, South Carolina Facebook page was a Facebook
8 that was monitored by you and is your account; is that
9 correct?

10 A. Say that again?

11 Q. You did testify earlier that you did have a
12 Facebook page under your name, Jujuaain Hemingway, in
13 Longs, South Carolina that you monitored; is that
14 correct?

15 A. I'll be honest. It was mine, but people could
16 like your page.

17 Q. But is that your page?

18 A. It was my page.

19 Q. It was your page? Did you make a post that talked
20 about you being 16 years old --

21 MS. SHEALY: Your Honor, may we approach?

22 THE COURT: Let me send the jury back out.

23 (In open court, jury not present.)

24 (Discussion held at sidebar.)

25 (In open court, jury present.)

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 BY MR. McCOY:

2 Q. Jujuain, if you would give me one moment -- I'm
3 going to withdraw that line of questioning, okay?

4 I'm going to wrap up here, okay? I'm going
5 to ask you a couple more questions. I know it's been a
6 long day for you, but, again, you are up here today,
7 under oath, under risk of perjury and under risk of being
8 prosecuted by the solicitor, that you're telling the
9 truth; is that correct?

10 A. Yes.

11 Q. And you're denying the fact that you had ever been
12 to Charleston, correct?

13 A. Yes.

14 Q. Denying the fact you had ever been to Johns
15 Island, correct?

16 A. Yes.

17 Q. Denying the fact that you've ever sold drugs to
18 anybody that Fat knows or Fat's associates; is that
19 correct?

20 A. Yes.

21 Q. And you're denying the fact that you did not bring
22 this gun down to Charleston; is that correct?

23 A. Yes.

24 MR. McCOY: Judge, I don't have any other
25 questions.

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 THE COURT: All right. Do you have redirect?

2 MS. SHEALY: I do, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. SHEALY:

5 Q. Jujuain, would you please tell the jury, how did
6 it make you feel when Mr. Apostolou chuckled about the
7 subject matter?

8 MR. APOSTOLOU: Objection, Judge. Relevance.

9 MS. SHEALY: I think it is relevant.

10 THE COURT: No, move on to something else.

11 BY MS. SHEALY:

12 Q. I need to tell you something. If you've been
13 involved with drugs with Denzel Heyward or Dashaun
14 Simmons, you need to tell the jury this now, please.

15 A. I wasn't involved.

16 Q. You were not?

17 A. No.

18 Q. How many brothers did Kadeem have?

19 A. About eight.

20 Q. Eight brothers?

21 A. Uh-huh.

22 Q. And are any of the other brothers near your age?

23 A. Yeah, uh-huh.

24 Q. Okay. Now, did you and your brother -- and if you
25 did, tell us -- did you and your brother -- as far as you

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 knew, were y'all going to pick up drugs from who they say
2 is -- Denzel Heyward likes to purchase drugs? Were y'all
3 going to sell him drugs, as far as you knew?

4 A. No.

5 Q. Were you going to get some money from him, as far
6 as you knew?

7 A. I don't know.

8 Q. You don't know?

9 A. No.

10 Q. Now, one of the questions they asked you, you
11 answered about your brother, He wouldn't have let me
12 known if he did.

13 A. Yeah.

14 Q. In other words, were there things that Kadeem was
15 involved with that he kept from you?

16 A. He didn't let me know everything he was doing.

17 Q. He didn't let you know everything he was doing?

18 A. Uh-huh.

19 Q. And when you testified that when you went down
20 Cynthia Drive, y'all had to turn around, and then you
21 pulled over.

22 A. Yeah.

23 Q. You thought you were lost?

24 A. Yeah. I thought we was lost.

25 Q. And as far as you knew --

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 A. My brother thought we was lost.

2 Q. Okay. And as far as you knew, he was getting
3 directions from someone.

4 A. Yeah.

5 Q. Is that correct?

6 A. Uh-huh.

7 Q. When Denzel Heyward walked over to the passenger
8 side of the car, at first you said it was casual talk; is
9 that right?

10 A. Yeah.

11 Q. So did you know Fat before that night?

12 A. No.

13 Q. From the conversation that Fat and your brother
14 had at the window, or that passenger door, did it look
15 like maybe they did know each other?

16 A. Yeah.

17 Q. And then things changed?

18 A. Yeah.

19 Q. Now, your cousin, was it Mr. Chestnut? No,
20 Thurston Hardiman.

21 A. Yes.

22 Q. He's your cousin?

23 A. Yeah.

24 Q. And he's Kadeem's cousin?

25 A. No.

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 Q. He's not Kadeem's cousin, he's just your cousin?

2 A. Uh-huh.

3 Q. The recording that we heard today, it sure sounded
4 like he knew Fat, right?

5 A. Yeah.

6 Q. From what we heard today?

7 A. Uh-huh.

8 Q. And the voice on the phone said, His name's Fat,
9 when they were asked a question; is that correct?

10 A. Yeah.

11 Q. Does that sound like that might have been a
12 conversation you had with him?

13 A. Say that again?

14 Q. Do you think that was you on the phone that had
15 that conversation with him?

16 A. I don't know. That was two years ago.

17 Q. Okay. Do you remember every phone call you had on
18 the night that your brother was shot and killed?

19 A. No.

20 Q. Do you remember every phone call you had the day
21 after your brother had been shot and killed?

22 A. No.

23 Q. And would you agree that in that conversation,
24 Thurston's the one who knew everything about Fat; is that
25 correct?

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 A. From my understanding. I ain't know nothing about
2 it.

3 Q. Let me ask you something. If Heyward and Simmons
4 were looking for big money or drugs and all they got was
5 a suitcase, that wouldn't be shit, would it not?

6 MR. McCOY: Objection. Speculation.

7 MR. APOSTOLOU: And leading the witness.

8 THE COURT: That is completely -- I'll let
9 you restate your question. I'm trying to understand
10 where you were going with that. It sounded to me like an
11 improper question.

12 MS. SHEALY: Well, let me ask it differently,
13 then.

14 THE COURT: All right.

15 BY MS. SHEALY:

16 Q. Jujuain, tell the jury what got taken from you
17 that night.

18 A. A suitcase and some food.

19 Q. And that food came out of the back seat?

20 A. Yeah.

21 Q. And do you know, based on what they said to you,
22 what Fat and what Reef were looking for? Were they
23 looking for clothes?

24 A. They weren't looking for clothes.

25 Q. Well, what did they ask you for?

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 A. They asked, Where's it at? Somebody said
2 something about some money one time.

3 Q. They're asking for money?

4 A. Uh-huh.

5 Q. Did they also ask for marijuana, or do you
6 remember?

7 A. I can't remember.

8 Q. Well, as far as you know, did they get marijuana?

9 A. If they got marijuana, they would have left us
10 alone.

11 Q. As, far as you know, did they get money?

12 A. No. I empty out my pockets, so whatever I had in
13 my pockets they probably got that.

14 Q. They probably got that?

15 A. Yeah.

16 Q. And during that phone conversation with -- I keep
17 messing up the name. Is that Thurston Hardiman?

18 A. Uh-huh.

19 Q. During that conversation, he indicated that Fat
20 was dealing drugs at South Carolina State?

21 A. I don't recall saying --

22 Q. Okay. But Fat had gone to South Carolina State;
23 is that correct?

24 A. I think that's what he said.

25 Q. Okay. And during that conversation, there was

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 mention of your being kicked in the face; is that
2 correct?

3 A. Uh-huh.

4 Q. And when Thurston asked, How are you doing? you
5 said, They shot my bro; is that correct?

6 A. Uh-huh.

7 Q. Now, Mr. McCoy asked you when you were on the
8 pavement and your hands were down and you were face down,
9 the back of your hands would have been face up; is that
10 correct?

11 A. Yeah.

12 Q. And when you were in that posture, the first shot
13 that Reef made, which was near you, your hands were down
14 like this; is that correct?

15 A. Uh-huh.

16 Q. There is no question that you and your brother
17 were smoking marijuana that night; is that correct?

18 A. Yes.

19 Q. And as y'all were driving to Charleston, y'all
20 don't know what all Kadeem knew --

21 MR. APOSTOLOU: Judge, leading the witness.

22 Objection.

23 BY MS. SHEALY:

24 Q. What did you know about what Kadeem knew as y'all
25 drove to Charleston?

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 A. Nothing. I knew he was on the phone. People kept
2 calling.

3 Q. Now, you used a phrase that I wasn't familiar
4 with, "the setting up". What do you mean by "the setting
5 up"?

6 A. It's like a family gathering.

7 Q. And is that a family gathering after someone has
8 died?

9 A. Yeah.

10 Q. And you indicated that at that family gathering
11 that was the first time you had heard the name Fat?

12 A. Yeah.

13 Q. Did you know who Fat was?

14 A. No.

15 Q. And you've indicated to us there were friends and
16 family members at the setting up?

17 A. Yes.

18 Q. And was that kind of the talk, that Fat did it?

19 A. Yeah.

20 Q. And before that night, you never heard of Fat?

21 A. No.

22 Q. And had you ever heard of Reef?

23 A. No.

24 Q. Did you and your brother bring an AK47 to Cynthia
25 Drive?

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 A. No.

2 Q. Who had the AK47?

3 A. The dude in the white shirt.

4 Q. Did he have it from the beginning to the end?

5 A. Yes.

6 Q. And the statement that you gave, and the date is
7 important, on May 17th, can you tell the jury what you
8 indicated about how many times Denzel had kicked you
9 initially?

10 A. And two times.

11 Q. Okay. And did you put that in your statement?

12 A. Yeah.

13 Q. And then, if you would, tell us what you said on
14 May 17th about how things went with Fat, beginning on
15 page two. You can just go ahead and start with that,
16 please.

17 MR. APOSTOLOU: I would object to him reading
18 his statement here. This is question and answer.

19 MS. SHEALY: They asked him about what he
20 said initially, Your Honor.

21 THE COURT: Go ahead.

22 BY MS. SHEALY:

23 Q. Yes, we'll start there. We're going to go on to
24 the next page, and put your microphone over there.

25 A. Kicked him two times. Knocked my teeth out. Then

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 the dude shot by my head and I stayed still. Dude in the
2 red made me get up off the ground and open the trunk.
3 Then they start removing stuff from the bins to the green
4 car. Every time he would walk past me, he would kick me
5 in the face.

6 After he kicked me, him and the dude in the white
7 was on my brother. They was moving a lot and that's when
8 I heard boom boom. Then I heard my brother say, Bro I'm
9 hit. That's when I got up and started running the
10 opposite way.

11 Q. Okay. The opposite way. So that day, you
12 indicated the repeated stomping of your head by Denzel
13 Heyward; is that correct?

14 A. Yes.

15 Q. Do you know whether or not you told them about the
16 girl picking up the keys on that occasion? Do you need
17 to see your statement?

18 A. Yeah. I told them she picked up the keys.

19 Q. And tell the jury what you said about how she
20 picked them up.

21 A. At the time I was lying on the ground, girl picked
22 up the keys. I threw it in the road. She picked it up
23 with a rag or something and threw it in the car.

24 Q. Tell this jury if you ever knew Quansantrina
25 Rivers before that night.

JUJUAIN HEMINGWAY - REDIRECT BY MS. SHEALY

1 A. No.

2 Q. Did you even know her name after that night?

3 A. No.

4 Q. Did you know that she turned herself in and gave a
5 similar statement?

6 A. No.

7 Q. What did you tell the police on May 17th about the
8 type of weapon that was used.

9 A. Black male with a banana clip, skinny brown --
10 black male with a banana clip.

11 Q. Then do you describe the person that had that?

12 A. Skinny, brown-skinned, five-ten, white shirt with
13 shorts.

14 Q. Okay. So when you gave your statement that night,
15 you remembered more clearly about what type of clothing
16 he had on?

17 A. Yeah.

18 Q. And what do you say about the description of the
19 guy who stomped you?

20 A. Six-one, about 200 pounds, had a red shirt on, got
21 facial hair, black male.

22 Q. What was the last thing you said?

23 A. Black male.

24 Q. Black male. And the girl that you saw, tell the
25 jury, May 17th, how did you describe how she looked?

JUJUAIN HEMINGWAY - RE-CROSS BY MR. APOSTOLOU

1 A. Black female, 150 pounds; hairstyle, ponytail; had
2 on jeans, blue/gray shirt.

3 Q. And gave those details that night.

4 How did Dashaun Simmons and Denzel react to the
5 fact that y'all did not have a bunch of money or a bunch
6 of drugs?

7 A. Agitated and mad.

8 Q. Say that again?

9 A. Agitated and mad.

10 Q. Was Dashaun Simmons agitated and mad when he took
11 an AK47 and shot your brother twice?

12 A. Yes.

13 Q. Was Denzel Heyward agitated and mad when he
14 stomped you in the head?

15 A. Yes.

16 MS. SHEALY: Beg the Court's indulgence just
17 one moment.

18 Mr. Hemingway, I have no further questions.
19 Please answer any follow-up questions they may have.

20 RE-CROSS-EXAMINATION

21 BY MR. APOSTOLOU:

22 Q. Jujuain, Ms. Shealy asked you a lot of questions
23 about what you said to the police when you were being
24 interviewed while the police were there, and you told her
25 what you told the police, right?

JUJUAIN HEMINGWAY - RECROSS BY MR. APOSTOLOU

1 But when you were on the phone, when the police
2 weren't around, and they asked you if you got -- they
3 didn't get nothing?

4 Your answer was, Oh, no. We didn't have shit.

5 And then, upon further inquiry, you said, I'm
6 about to talk to you. Hold up.

7 And then you said, Yeah, bro. Nigger owed us some
8 bread and shit, "us" being the pronoun for you and
9 Kadeem.

10 So that's the information that you told your
11 cousin when the police weren't around. They didn't get
12 shit; the money was owed to y'all, right?

13 A. You heard the tape.

14 MR. APOSTOLOU: Nothing further.

15 THE COURT: Mr. McCoy?

16 MR. MCCOY: No, sir.

17 THE COURT: All right. You can step down.

18 Okay, folks. That's where we will break for
19 today. Let me ask you to be in the jury room by 9:15
20 tomorrow. I know we worked a little bit later tonight,
21 and we'll try our best to get it finished up in the
22 morning. I think if you get here by 9:15, we should
23 hopefully be well on our way to doing that.

24 Again, when you go home this evening, don't
25 discuss the case with everybody, including other members

1 of the jury panel. Please don't read anything in the
2 newspaper. I didn't see anything in today's paper. I
3 don't know if there will be anything in tomorrow, but if
4 you do read anything, or if you do see that there is any
5 kind of media coverage or anything like that, please
6 disregard it. You'll have plenty of time to read it
7 after the trial is over with. And, again, please refrain
8 from posting anything on any sort of social media.

9 Go home. Enjoy your evening. Thank you for
10 your patience with us here today, and we'll see you
11 tomorrow morning at 9:15.

12 (Recess taken.)

13 (November 14, 2014.)

14 (In open court, jury not present.)

15 THE COURT: At the end of the day yesterday,
16 juror No. 378, Mr. Lawrence Washington, told the bailiffs
17 to tell me that he now knows -- he thinks he knows the
18 Defendant Heyward's family. I don't think he recognized
19 anybody until everybody started showing up, so I thought
20 I would bring him in and see just how close that
21 relationship is.

22 All right?

23 MS. SHEALY: Okay.

24 THE COURT: Have them bring in 378,
25 Washington -- 374, not 378.

WILLIS WALKER - DIRECT BY MS. SHEALY

1 having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 THE WITNESS: Willis Walker, W-a-l-k-e-r.

5 BY MS. SHEALY:

6 Q. Would you please tell the jury what you do for a
7 living.

8 A. Yes. I'm an intelligence analyst for the
9 Charleston County sheriff's office.

10 Q. And what does that mean?

11 A. It means a lot of things. Essentially, I have a
12 lot of different jobs, but I'm assigned to the SeaHawk.
13 Essentially, what it is, is it's a group of individuals,
14 and we all work together. We're somewhat like
15 detectives. We take information. We look at crime
16 trends, social media; we scour the Internet for stuff,
17 social networking sites, and we share information, stuff
18 like that. We analyze phone stuff.

19 We look at a bunch of different things. Our role
20 is similar to a detective, where we go out on the street
21 and do enforcement action and stuff like that. We kind
22 of assist them in their day-to-day duties.

23 Q. And when you said you do stuff with cellphones,
24 what do you mean by that?

25 A. Typically a detective will get a search warrant,

WILLIS WALKER - DIRECT BY MS. SHEALY

1 or a cellphone, and when they get the return from the
2 warrant from the cellphone company, they'll provide me
3 with that. They'll also look at it, but I'll look at it,
4 break it down and look at the -- what we call the cell
5 tower information, and by looking at that, I'm able to
6 map it on a map and show where the cellphone was at a
7 certain time.

8 Q. Okay. We'll go over that in just a second, but
9 showing you what's been previously marked as State's
10 Exhibit 150, in this case did you get the cell tower
11 information for Lorenzo Mehcziz?

12 A. What was the number for that one?.

13 Q. 843-297-0606?

14 A. I did.

15 Q. And did you also get the cell tower information
16 from Denzel Heyward? The telephone number is 469-7487.

17 A. Yes, ma'am.

18 Q. And that's State's Exhibit 162. Tell us a little
19 bit about cell tower information and how a cellphone
20 works.

21 A. Sure. Cellphone is essentially like a fancy
22 radio, or walkie-talkie. When a phone call is placed, a
23 radio signal goes from the phone to a cell tower, which
24 is essentially a big antenna, and from there it's sent to
25 whatever phone that the phone is calling goes to. It

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1 will go to the tower closest to the phone receiving the
2 call, and it bounces back and forth.

3 Q. And when you receive cell tower information, the
4 records themselves, what kind of information do the
5 records include?

6 A. Typically, we'll have -- among other things,
7 they'll have the date and time of the call, whether the
8 call was incoming or outgoing. So whether you are
9 receiving a call or making a call, the phone number that
10 it's coming from or going to, the duration of the time of
11 the call, the first cell tower that the phone hits and
12 sectors to the cell tower -- could I draw that out for
13 you?

14 MS. SHEALY: Yes. Your Honor, with your
15 permission, may we approach the dry erase board?

16 BY MS. SHEALY:

17 Q. We have to be careful about not hitting that
18 screen.

19 A. Yes, ma'am.

20 Q. If you could, explain that to us.

21 A. Typically a cell tower is like a big antennae, but
22 not always. The Francis Marion -- or what is the hotel
23 at King and Calhoun? Francis Marion? There is -- at the
24 top of that big hotel is an antenna there, but you can't
25 really see it, cell cite, cell tower -- different

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1 companies refer to differently, but it's essentially a
2 big antennae.

3 So when a phone call hits that antennae, usually
4 it's going to have a sector so that antenna is going to
5 cover -- this is a 360 degree thing. There's going to be
6 a plate or a sector on the tower, and it's going to be
7 split up into three different areas, so -- let's see on
8 the back drawing, but these are going to be 120 degrees
9 in each sector.

10 So, typically, what that would mean is that a
11 cellphone hitting sector one, two, or three, which is
12 just going to show you what side of that tower that phone
13 is on.

14 Q. Where do you get that information as to whether it
15 would be one, two, or three?

16 A. That's going to be in the cellphone records.

17 Q. Is that what you were telling us about longitude
18 and latitude?

19 A. Yes, ma'am. So it will have a longitude and
20 latitude, which is where the actual tower itself is, and
21 then on that it's going to have which plate, so which
22 side, essentially, of the tower the cellphone call was
23 from.

24 Q. Okay. Did you prepare some data for me as it
25 related to those two telephone numbers?

WILLIS WALKER - DIRECT BY MS. SHEALY

1 A. Yes, ma'am, I did.

2 Q. And showing you what has been marked as State's
3 Exhibit 107 -- and it will appear behind you, could you
4 tell the jury what that reflects.

5 A. Yes, ma'am. So this is based off the cellphone
6 records for this number here. This is showing the tower
7 and then the sector, so the circle that I referred to
8 earlier would be here. So it's hitting off of this --
9 here is the tower itself, so it's hitting off this side
10 of the tower.

11 This is mapped on a three-mile radius from the
12 tower, so it's not like GPS where you can tell me exactly
13 where the phone is, when you get a longitude latitude of
14 the phones, so you have an actual physical address of
15 where the phone is, so it's different than that.

16 It's just going to be able tell you that somewhere
17 in this vicinity, so it could really be anywhere in here.
18 What this is showing -- this is from the records. It's
19 showing these were all calls that were either made or
20 received on May 16th, 2012.

21 This is in military time, and I typically keep it
22 in whatever format the cellphone company sends it back
23 in, so this would -- let's do some math. That would be
24 9:40 p.m. and 21 seconds, and it keeps going down. It
25 goes all the way until the next morning of May 17th at

WILLIS WALKER - DIRECT BY MS. SHEALY

1 2:05 in the morning. This is seconds in this column
2 here.

3 Q. So what that depiction reflects is that between
4 the hours of -- what did you say, 9 what, 9:40?

5 A. Yes, ma'am.

6 Q. Until 2:00 in the morning --

7 A. The next morning, yes, ma'am.

8 Q. Lorenzo Mechiz's phone was in that location?

9 A. Yes, ma'am.

10 Q. Okay. Now, orient us to that location, because
11 you can't see the names of the streets, so could you give
12 the jury some idea --

13 A. Yes, ma'am. This is Main Road here.

14 Q. Leading where? What area of town is that?

15 A. This would be headed towards James Island, on
16 James Island. This would be headed towards the city.
17 Here's Maybank, which is going to head out to Riverland
18 Drive -- I'm sorry, Maybank is going to head toward the
19 city. Here's Riverland Drive. Main turns into Bohicket
20 going this way.

21 Q. I think you may have told us incorrectly at first.

22 A. I did.

23 Q. So reorient us. Main Road is actually where in
24 Charleston?

25 A. Right here.

WILLIS WALKER - DIRECT BY MS. SHEALY

1 Q. Is that on Johns Island?

2 A. Yes, ma'am. Sorry.

3 Q. Okay. And pursuant to my request, did you make a
4 notation as to where 3480 Cynthia Drive is?

5 A. Yes, ma'am. That is right here.

6 Q. So no change in direction from that phone number?

7 A. No, ma'am. So --

8 Q. Let me show you what --

9 A. All these calls were made hitting this tower, off
10 this side of the tower.

11 Q. Okay. Showing you State's Exhibit 108, is that a
12 closer up shot?

13 A. Yes, ma'am.

14 Q. And could you show the jury then where Cynthia
15 Avenue is.

16 A. Certainly. Cynthia Avenue is right here. This
17 box refers to the last slide that we had up there. This
18 shaded box is what we're looking at on this picture, so
19 we're just zooming in a little bit so you can see the
20 streets. Here's the cell tower.

21 Q. And showing you State's Exhibit 109 --

22 A. Yes, ma'am.

23 Q. This is the telephone number for Denzel Heyward;
24 is that correct?

25 A. Yes, ma'am.

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1 Q. And if you could orient us on this slide --

2 A. Sure. So this is a different phone company, so
3 it's going to be -- so you see the tower is a little bit
4 different. Each phone company has their own number for
5 each tower, and this one has got the sector in the tower,
6 so they give you one number which is going to have the
7 sector in it.

8 These calls were placed on May 16, 2012 at 11 --
9 and they have a regular time, not military, so I just
10 keep it in format; 11:18 p.m., 11:23 p.m., and 11:26
11 p.m., and it's hitting off this tower. So on that tower,
12 you could have -- you could have plates for Verizon,
13 T-Mobile, Nextel, Sprint. They could all be on that
14 tower; so it's essentially the same tower, but each
15 company has different plates on the tower.

16 And it's -- here's Cynthia Drive, and all these
17 three calls were made hitting off that tower on this side
18 of the tower.

19 Q. And the last time -- that last phone call from
20 that area was at 11:26 p.m.?

21 A. Yes, ma'am, that's correct.

22 Q. On May 16th?

23 A. Correct.

24 Q. And showing you the closer up view on the next
25 slide, which is 110?

WILLIS WALKER - DIRECT BY MS. SHEALY

1 A. Once again, this is the last slide. This shaded
2 area is what we're looking at now. It's just kind of a
3 zoomed up picture of Cynthia Drive, the tower and the
4 phone calls and May 16th.

5 Q. Okay. And then showing you slide 112, what does
6 this slide reflect?

7 A. This is a phone call either made or received with
8 this number on May 16th at 11:38 p.m. It's hitting off a
9 different -- I believe it's the same tower, yes. It's
10 the same tower, but it's a different sector, so now it's
11 hitting off this side of the tower.

12 Q. And is that suggestive of movement of that phone?

13 A. It is, but prior to that, the cellphone was on
14 this side of the tower. Now it's hitting off this side.

15 Q. And what time was there a phone call placed or
16 received in that slide?

17 A. 11:38 p.m.

18 Q. You can take a seat.

19 Do you know what time the last phone call made
20 from 469-7487 was that night?

21 A. I'm going to refer to the records that you gave me
22 here. Made from -- 7487 you said is the last four of the
23 numbers.

24 Q. 469-7487, the last phone call made from that
25 number.

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1 A. That number on the 16th.

2 Q. At what time?

3 A. Looks like 11:38 p.m.

4 Q. So the slide that we have behind you which shows
5 movement into a different sector, heading in a different
6 direction, the last phone call made on that phone that
7 evening was at 11:38?

8 A. Yes, ma'am.

9 Q. Now, in addition to mapping those items for me,
10 did you also take a look at the exchange of phone calls
11 between 742-8740 which 469-7487?

12 A. I did.

13 Q. And showing you State's Exhibit 105, could you
14 describe the interaction between those two numbers
15 742-8740 and 469-7487?

16 A. Okay. This is showing the date and time that the
17 call was made. This column here designates the number
18 that placed the call. This column reflects the time, the
19 duration or elapsed time of the call, so essentially how
20 long they talked. This is how long the phone rings
21 before this phone picks up.

22 Q. Okay. So it's difficult for us to see the times.
23 If you could just go through the times in chronological
24 order and indicate -- I'm not interested in the elapsed
25 time, and they're in evidence. They can look at that

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1 later, but if you'll could just tell us who called whom,
2 which number called the other, and at what time on May
3 16th.

4 A. Sure. So we start at 1:20 p.m. on the 16th, and
5 I'm going to refer to it, if it's okay, with the last
6 four. So 7487 is contacting 8740. Come down here to
7 1:41, 7487 is contacting 8740; 3:40, same thing. Then at
8 5:02 p.m., we have 8740 contacting 7487.

9 Once again, at 6:26, 7487 is contacting 8740;
10 again, at 6:27 and 7:33 p.m., 8740 is contacting 7487;
11 again at 8:19, 8:39, 7487 contacted 8740, and
12 interchanges keep going; 8740 contacts 7487 at 8:46 p.m.
13 It continues all the way down until 11:26 p.m. on the
14 16th. . .

15 Q. Okay. So that document reflects the exchange of
16 phone calls between those two numbers, and could you tell
17 the jury, please, when was the last phone call placed by
18 742-8740?

19 A. Do you have the phone records for that one I could
20 refer to? I want to make sure.

21 Q. Let me ask you this way: When you were preparing
22 the chart, were you looking to see when last the phone
23 call placed by that number was?

24 A. Yes, ma'am.

25 Q. And do you recall what that time was?

WILLIS WALKER - DIRECT BY MS. SHEALY

1 A. I don't, off the top of my head. I don't want to
2 tell you incorrectly.

3 Q. Okay. Well, while we're looking for those
4 records, let me ask you, when looking at the phone
5 records of Lorenzo Mehciz, the 0606 number --

6 A. Yes, ma'am.

7 Q. Could you tell the jury when the last phone call
8 from 469-7487 took place between Denzel Heyward and
9 Lorenzo Mehciz.

10 A. So between -- and I typically just look at the
11 numbers. I don't worry too much about the names, so
12 between the 0606 number --

13 Q. And the 469-7487. You want me to direct you a
14 little bit?

15 A. Please.

16 Q. So if you were looking at Lorenzo Mehciz, which is
17 the 0606 --

18 A. Yes, ma'am.

19 Q. -- look around the time of 11:23, 5/16 of 2012,
20 around 11:23. Would it be helpful -- you have the 469
21 number; is that correct?

22 A. Let's see. 7487, I do have that one.

23 Q. If you will look at the last time, directing your
24 attention to 11 --

25 A. Okay. I see that. I see the call you're

WILLIS WALKER - DIRECT BY MS. SHEALY

1 referring to.

2 Q. What time was that?

3 A. That was 11:23 p.m.

4 Q. And looking at 469-7487 -- you said that was
5 11:23?

6 A. Yes, ma'am.

7 Q. So that was the last phone called placed -- using
8 the names Denzel Heyward and Lorenzo Mehciz?

9 A. Yes, ma'am.

10 Q. Now, in looking at Lorenzo Mehciz's phone calls,
11 could you tell the jury whether or not an exchange of
12 phone calls begins after that time with 619-5836? And
13 looking at your 0606 number.

14 A. Got you. It does.

15 Q. And what time does that begin?

16 A. May 16th at 11:39 p.m.

17 Q. So we go from 11:23 with Denzel calling Lorenzo,
18 and then the number that starts calling is the 649 number
19 to Lorenzo; is that correct?

20 A. It is.

21 Q. And did you also chart the number of phone calls
22 between Denzel Heyward and Lorenzo Mehciz, that being
23 469-7487 and 297-0606?

24 A. Yes, ma'am.

25 Q. Okay. And showing you State's Exhibit 106 -- and

WILLIS WALKER - CROSS BY MR. McCOY

1 we don't need to go over each of those, but if you would
2 just tell us the beginning time that day that those two
3 numbers begin speaking to each other, or calling each
4 other.

5 A. Yes, ma'am. This here at 1:23 p.m. is when they
6 start, and the last one being on May 16th at 11:23 p.m.

7 MS. SHEALY: Beg the Court's indulgence just
8 a moment.

9 I have no further questions. Please answer
10 any that the defense may have.

11 MR. McCOY: Thank you, Judge. May it please
12 the Court:

13 CROSS-EXAMINATION

14 BY MR. McCOY:

15 Q. Mr. Walker, good morning.

16 A. Good morning.

17 Q. My name is Peter McCoy. I represent one of the
18 defendants in this particular case.

19 We've heard a lot of fascinating information about
20 cellphone towers and cellphone information, and I think
21 it's very valuable and pertinent when it comes to serious
22 crimes, would you agree?

23 A. I would.

24 Q. And we've looked at and we've examined a cellphone
25 for a Kadeem Chambers which was -- I'm sorry, a Denzel

WILLIS WALKER - CROSS BY MR. McCOY

1 Heyward, which was a 469-7487; is that correct?

2 A. Yeah.

3 Q. And when you did your mapping of the cellphone
4 towers, you did it for a particular time. Could you have
5 done it for every time that was basically listed in the
6 cellphone records?

7 A. I could have. It kind of depends on what the
8 detective subpoenas, you know, to get the search warrant
9 for. There's a time frame typically they would ask for.

10 Q. That information is possible?

11 A. It is; yes, sir.

12 Q. It all depends on what, I guess, either, I guess,
13 the prosecutor or the officer asks you for?

14 A. Correct.

15 Q. Okay. And, obviously, there are a lot of phone
16 calls, a lot of information to dissect, and I'm looking
17 at the cellphone records for 469-7487, and let me know if
18 you don't have that in front of you.

19 A. I do.

20 Q. And the way I'm looking at this -- and tell me if
21 I'm wrong. There is a connection time -- a connection
22 date, the originating and terminating number, a lapse
23 time, number dialled, and what does IMEI and IMSI mean?

24 A. Typically, each phone company, when you submit a
25 search warrant, they'll sent you back a legend or a key

WILLIS WALKER - CROSS BY MR. McCOY

1 to kind of how to read that, you know, and they're all
2 different. I can't tell you off the top of my head
3 exactly what that is. I would have to refer to the
4 legend. I wouldn't want to tell you incorrectly.

5 Q. I understand. And when I'm looking over here at
6 the far right column, it says cell location, and it gives
7 a number first, and then it gives what looks to me to be
8 GPS coordinates; is that correct?

9 A. That's correct.

10 Q. And if you were to put these particular GPS
11 numbers that are listed in each individual column, does
12 that give you -- is that what that means, it gives you
13 the cell location?

14 A. No. It gives you the tower.

15 Q. Okay.

16 A. The tower information. Those numbers to the left
17 of that are going to be the tower number and information
18 that is going to have the sector. Like I said, each
19 phone company is a little different, but I believe
20 AT&T would have a sector within that number there.

21 Q. Okay. It's not going to give you the exact
22 location at that moment when that is call made. It won't
23 say that we're in this courthouse right now?

24 A. No. All it tells you is when the call is placed
25 for that phone to hit off this tower, off this side of

WILLIS WALKER - CROSS BY MR. McCOY

1 the tower.

2 Q. Okay.

3 A. So it's not like GPS where it can pinpoint the
4 location, exact location.

5 Q. Is that kind of technology available?

6 A. It is. Cellphone companies don't retain that
7 information. If you need realtime, you know, with the
8 right search warrant or the right circumstances, you can
9 get that, but after the fact you're not going to be able
10 to get that.

11 Q. Okay. And you testified and you've mapped out, I
12 guess, some locations for Denzel Heyward's cellphone,
13 which is the 469 number, and you only did that for a
14 limited, I guess, time frame, citing the list of calls we
15 had here?

16 A. Yes, sir. From what was requested, yes.

17 Q. Did you do the same thing for a 619-5836, a number
18 we heard on direct examination as well?

19 A. I did not map that. I referred to the records and
20 looked at some of the call frequency, or how many times
21 calls were made, but I did not map that.

22 Q. Okay. And did you have an opportunity to match a
23 926-8621, which is Dashaun Simmons's cellphone?

24 A. I'm unfamiliar with that.

25 Q. And, obviously, the two that we have here now are

WILLIS WALKER - CROSS BY MR. APOSTOLOU

1 only the Denzel Heyward 469 number and the Lorenzo Mehcz
2 number, which is the 297 number; is that correct?

3 A. Those are the only ones mapped, yes.

4 Q. Did your investigation lead you in the direction
5 of Dorchester County at all, near Ridgeville?

6 A. Not to my knowledge.

7 MR. McCOY: Okay. Thank you.

8 THE COURT: Mr. Apostolou?

9 MR. APOSTOLOU: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. APOSTOLOU:

12 Q. Briefly: As I understand it, is it accurate to
13 call this sort of a triangulation because we're kind of
14 taking these angles and sort of --

15 A. Define triangulation.

16 Q. You put a map together, basically, that little --
17 I'll withdraw the question. Okay.

18 As I understand your testimony, you prepared this
19 report at the behest of the solicitor's office, or law
20 enforcement, anyway?

21 A. Yes.

22 Q. And they sort of gave you the numbers and the
23 parameters with which to search?

24 A. That being the date and times, yes, sir.

25 Q. Right, the date and times?

WILLIS WALKER - CROSS BY MR. APOSTOLOU

1 A. Yes.

2 Q. And if they had given you other dates and times,
3 you would have been willing to do that search as well,
4 right?

5 A. Sure. If they had provided me with the records to
6 do that, yes.

7 Q. They only asked you to do this one, right.

8 A. One number?

9 Q. The report you just testified to.

10 A. Yes.

11 Q. That's the only one --

12 A. I mean, yes. They asked me for the 469-7487 and
13 the 297-0606.

14 Q. I guess I'm calling one report, it's the
15 interaction between those two phones.

16 A. I did the mapping for those two, and then I looked
17 at the number of times there was communications between
18 others.

19 Q. Right. I understand. Okay. If they had asked
20 you to do more than that, you would have done it?

21 A. Sure.

22 Q. Okay.

23 MR. APOSTOLOU: Nothing further. Thank you,
24 Judge.

25 THE COURT: Redirect?

WILLIS WALKER - CROSS BY MR. APOSTOLOU

1 MS. SHEALY: Just a couple follow-up
2 questions.

3 REDIRECT EXAMINATION

4 BY MS. SHEALY:

5 Q. Mr. Walker, are you familiar with how long
6 cellphone companies maintain the cellphone information or
7 do they vary?

8 A. It varies by carrier, so by Verizon, AT&T, they
9 each have a different retention period.

10 Q. As to how long they'll keep it?

11 A. Yes, ma'am.

12 Q. And when you were telling us about the last phone
13 call placed by the 469 number --

14 A. Yes, ma'am.

15 Q. -- there would have been no cell tower information
16 after that because it had been no longer used; is that
17 correct?

18 A. Correct.

19 Q. You only can map when phone calls are being
20 placed?

21 A. Correct, or received, to the number, and it's
22 picked up, yes.

23 Q. So if a phone had been thrown out and not used
24 again that evening, you wouldn't be able to map where it
25 was?

WILLIS WALKER - CROSS BY MR. APOSTOLOU

1 A. That's correct.

2 MS. SHEALY: I have no further questions.

3 MR. McCOY: Nothing further, Judge.

4 MR. APOSTOLOU: Nothing further.

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

6 All right. You're free to go.

7 Folks, let's take a mid-morning break here
8 and go to the rest room. Don't begin deliberations or
9 discussions about the case, and we'll see you in about
10 ten minutes.

11 (In open court, jury not present.)

12 MS. SHEALY: While we're looking for
13 something, we do have one issue.

14 MR. McCOY: Judge, could we approach?

15 THE COURT: Yes.

16 (Recess taken.)

17 THE COURT: All right. You got your witness?

18 MS. SHEALY: Just one second, Judge.

19 THE COURT: You got your witness?

20 MS. SHEALY: We do. Thank you.

21 THE COURT: Bring the jury in.

22 (In open court, jury present.)

23 THE COURT: All right, folks. We're going to
24 have the State call the next witness.

25 MS. SHEALY: Officer Sherbine.

KEVIN SHERBINE - DIRECT BY MS. SHEALY

1 (Whereupon, the recording was played for the
2 jury.)

3 BY MS. SHEALY:

4 Q. And if we could turn to CD 170, being the phone
5 calls from Dashaun Simmons, if you would please pull up
6 May 22, 2012 at 6:48 and May 22nd at :45.

7 (Whereupon, the recording was played for the
8 jury.)

9 And beginning on 5/23/2012, 9:29. We're going to
10 play 5/23, beginning at 7:03.

11 THE COURT: Who is this?

12 MS. SHEALY: This is still Dashaun.

13 (Whereupon, the recording was played for the
14 jury.)

15 Okay. December 30th, 2012 at 13:37:03,
16 beginning at 12:07. This is on CD 171. It's still
17 Dashaun Simmons.

18 (Whereupon, the recording was played for the
19 jury.)

20 Beg the Court's indulgence just a moment. We
21 have no further questions of Officer Sherbine, Your
22 Honor.

23 THE COURT: Cross?

24 MR. McCOY: No, Judge.

25 MR. APOSTOLOU: No questions.

1 of them.

2 THE COURT: All right.

3 MS. SHEALY: And I'd rather not be limited.
4 I don't intend to go on and on, but --

5 THE COURT: Well, I won't start buzzing you,
6 but how about we aim for 30 minutes, and at that point if
7 you hear me making loud noises in the back, you'll know
8 you've hit the 30 minutes and should think about winding
9 it up.

10 All right. Anybody need anything? All
11 right. Let's bring the jury in. Do you want to rest on
12 the record?

13 MR. McCOY: I'm okay if you tell them we've
14 rested.

15 THE COURT: You want to rest on the record?

16 MR. APOSTOLOU: I don't need to rest on the
17 record.

18 (In open court, jury present.)

19 THE COURT: Well, folks, the defense has now
20 rested and so that means you have heard all of the
21 evidence you're going to hear in the case, so we will now
22 move to the final part of the trial, which is the closing
23 arguments, and then I will charge you on the law that
24 applies to the facts as you find them. After I charge
25 you on the law, then you will retire to consider your

1 verdict.

2 Now, because the State has the burden of
3 proof, the State gets to close, or go last, and so you
4 will hear first from the defendants and then you will
5 hear from the State. After that, again, I will charge
6 you on the law.

7 So, Mr. McCoy, you want to go first?

8 MR. McCOY: Yes, sir, Judge. May it please
9 the Court: Ladies and gentlemen of the jury: It's been
10 a long week, but it's been an even longer two-and-a-half
11 years for my client Dashaun Simmons who I'm proud and
12 honored to represent here today.

13 You heard a lot of testimony this week, heard
14 from a lot of folks who were either on the scene, or a
15 lot of police officers. We'll take a look at who we
16 heard from this week.

17 The first person we heard from, let's get
18 right into it, was Trina Rivers, and what did she do?
19 She came in here. She testified about what happened that
20 night. She was there. There's no denying that. But is
21 she telling the truth? That's the one question that I
22 need each and every one of you to keep in mind when you
23 go back to the jury room and deliberate.

24 Was she telling the truth? How many
25 opportunities did she have to tell the truth? Let's talk

1 about the first statement. She goes in. She talks to
2 the police officer. She's Mirandized. She's given the
3 warning. She signs at the bottom, everything I'm saying
4 is truthful, everything, and does she tell everything?
5 No, she doesn't. She doesn't. Is there a problem with
6 that? There absolutely is.

7 She gets on the stand here this week, and she
8 tells you, I didn't say everything. I didn't do
9 everything because I was scared. I was scared of these
10 two individuals right here.

11 Why does that not make sense? I'll tell you
12 why it doesn't make sense, is what I asked her when she
13 was on the stand.

14 I said to her, What are you scared of?
15 You've already thrown both their names out. The cat is
16 out of the bag. They're labelled as witnesses. They're
17 labelled as suspects in this case now. What are you
18 afraid of, and why did you not follow through and tell
19 the truth the first time?

20 Time passes, and what happens? She gives
21 another written statement. This time it's longer, okay?
22 It's 12 pages, and what does she do in that statement?
23 She doesn't even tell the truth.

24 Where's the problem in that? What's going on
25 there? What is the major piece of evidence that she

1 doesn't tell us? Okay, that she doesn't tell us in the
2 first statement, the second statement? She doesn't say a
3 single think about a gun being there beforehand. She
4 doesn't say a single think about going to Ridgeville,
5 South Carolina, where she sees Dashaun and Denzel pick up
6 a black bag that she could see a barrel of a gun on.

7 She doesn't mention that at all, all right?
8 More time passes, and what does she do? She goes in to
9 the solicitor's office, Jennifer Shealy's office, who is
10 also prosecuting her, all these accessory crimes that are
11 here today, and what does she do there? She signs what's
12 called a proffer or promise agreement with the State,
13 okay?

14 And she signs on the bottom, I'm being
15 truthful. Everything I'm saying is 100 percent accurate,
16 and what I'm telling you is true. I'm not leaving any,
17 zero, details out.

18 Is that true? No, it's not. You heard her
19 again. She got on the stand, and she changed her story
20 one more time. What is important about when she changed
21 it? What is important about when she changed it? Please
22 think about this: It was two days before this trial was
23 set to go, beginning of this year in February, that she
24 comes back into the solicitor's office, and she says,
25 Wait a minute. I remember now. It's all becoming clear.

1 Everything is 100 percent clear. These two guys went to
2 Ridgeville. I drove them there, and when they went
3 inside -- they went inside somebody's house, and they
4 walked out with a black bag. They walked out with it. I
5 couldn't really see a gun, but I could see a barrel. I
6 think it's a gun.

7 Then she put this statement into writing?
8 Absolutely no and not. She did not do that. Is that
9 problematic? Does that raise suspicions to each and
10 every one of you here? I'm arguing to you that it
11 should.

12 Now, let's go to what she says when she's on
13 the stand this week. She gets on the stand. She starts
14 telling her story, and she does a mighty bang-up job when
15 Jennifer Shealy direct examines her; I mean, bang up,
16 boom, answering questions, left, right, getting
17 everything right, right? Y'all heard it when she was up
18 there.

19 What does she talk about? She talks about
20 how she gets down there, she pulls into Lorenzo's house.
21 She doesn't know where they're going. They just say,
22 We're going for a ride. We're going to go ride around at
23 night. We're going to go to this house, Lorenzo's house.

24 They pull into the driveway. They're hanging
25 out when they get there early, okay? Cellphone records

1 are going to show you that. They get there early. She
2 testifies that she has to move the car multiple times.
3 She backs up and moves it one direction, she backs up and
4 moves it in another direction. Then she just tells you
5 she parks the car and she's sitting in the car. And what
6 does she tell you she's doing while she's in there? She
7 tells you on the witness stand that she falls asleep.
8 She goes to sleep. All right?

9 What happens next? She tells you that the
10 car rides down the block. I guess so that she's woken
11 up. I guess that's what happened. The car rides down a
12 block, turns around, and parks behind them, okay? And
13 what does she tell you, tells the jury, and tells this
14 courtroom, under oath, happens next, that we've never
15 heard before in the first three statements, but we heard
16 in the fourth statement, okay, the one that has been
17 orally given and not written down?

18 She says that Dashaun Simmons runs out of the
19 woods with a gun, running out of the woods, just running
20 up to a car, running right out of the woods. What does
21 she tell you about this? Is she sitting around watching
22 the whole thing happen, live and in person, with
23 Hurricane Cynthia well on the way and, basically, a
24 street that is not lit at all? How does she tell you she
25 sees this?

1 She tells you in an open court and wants each
2 and every one of you believe that she sees this through a
3 rear-view mirror in her car. She's sitting in her car.
4 She's sitting in her seat. I don't think if I had a
5 rear-view mirror right now that I could see each and
6 every one of you in the rear-view mirror. I don't think
7 it's possible. What else does she tell you? She says,
8 no, no, no, no, no. I didn't just see it in the
9 rear-view mirror, I saw it on the side-view mirrors. I
10 saw it in the side-view mirrors.

11 We saw the picture of her car. You're going
12 to have it back there with you. I'm going to argue to
13 you, if you look at the back picture of that Seabreeze
14 and look at the back picture of that car, you're not
15 going to see one on the driver's side either. You're not
16 going to see a side-view mirror on the driver's side
17 either, okay? You're not going to see it.

18 It's obviously not on the passenger side, so
19 does she tell us that while she's looking in the
20 rear-view mirror and all of this is going on behind her
21 that she's moving the mirror and watching? Does she tell
22 us that? No, she doesn't tell us that.

23 Does that make sense? What are her motives?
24 That's something that each and every one of you has to
25 consider. What does she tell you? She tells you that

1 Dashaun is wearing a black shirt, and at no time does he
2 take his shirt off and have a white shirt, at no time.
3 Okay? She tells you Fat is wearing red, okay, and she
4 said when those boys pull up, they start to talk.

5 She tells you that Fat goes over and starts
6 to talk to the guy in the passenger-side window, okay,
7 and all of a sudden, after Dashaun runs out of the woods
8 and she sees, off to the side, Hurricane Cynthia on the
9 way, runs out, okay, with this big AK47 and orders
10 everybody out of the car, all right?

11 Then get on the ground. You heard her
12 testify. They get face down on the ground. All right?
13 She says, again, that she's watching this through her
14 side-view mirror and her rear-view mirror and that she
15 sees, from that vantage point, both of those guys on the
16 ground from Myrtle Beach. All right?

17 And what does she say happens next? She says
18 there is a little bit of a fight between Jujuain
19 Hemingway and Fat, okay? But then he gets right back
20 down on the ground, and then she says that Dashaun gets
21 on top of -- okay? You saw me get on the ground earlier.
22 I hope I can get back up after this happens.

23 She saw him get on the ground. She said that
24 Dashaun got on top of the victim in this case, Kadeem,
25 okay? And he's got a gun pointed at the back of his

1 head, just like this. And she says, again, that he fires
2 a shot off to the side and directly towards Jujain
3 Hemingway, who's lying right next to his brother, Kadeem.

4 Does that make sense? Ask yourself. I know
5 I keep repeating myself, but does that make sense? Does
6 it add up? Why is she not saying that in the first
7 statement, in the second statement, or the third
8 statement? Why is she not doing that? What is she
9 trying to hide?

10 I don't know. That's something for y'all to
11 decide, okay, but she says all of a sudden she gets out
12 of the car because she's ordered to go get something out
13 of the hood, okay, of the Mercedes, and I asked her about
14 this.

15 I said, Do you own a car?

16 She said, Obviously, yes, I do.

17 I said, Have you ever looked under the hood?

18 She said, No.

19 And I said, Well, what do you expect to find
20 in the hood of a car? What was hidden in the hood of a
21 car? She goes over and tries to use keys to open the
22 hood of her car. Does that make sense to you? No, it
23 doesn't make any sense to you.

24 What else does she say when she's up there?

25 She says, I don't know what I did with the

1 keys after I got up there. I don't know what happened.
2 I really don't know what happened.

3 She also says, while she's on the stand,
4 under oath, that when that happens, Fat calls Jujuaïn and
5 says, Get over there and open the back trunk of the car.
6 Go open the back trunk.

7 Jujuaïn goes over, opens the back trunk of
8 the car, and she says that Fat went over there, okay, and
9 got out a big suitcase, three feet long and maybe two
10 feet wide, okay? And it's blue, like each one of the
11 juror buttons that y'all have on your shirts right now.

12 And what does she tell you? Oh, we just
13 carried them real light like this and just walked back to
14 the car and just decided to put it in the back and let's
15 go?

16 She tells you, okay, that he has to hold it
17 up in both hands like this and walk it back to the car,
18 walk it back, put it in. Does that make sense? It makes
19 zero sense. What else does she tell you? She tells you
20 that not only do they get in there and get a suitcase, a
21 proposed suitcase, out of that trunk, they grab a bag of
22 fast food out of the back seat and put it in the car too.

23 How does that make sense? The stories don't
24 want to add up. I keep repeating myself, but it's for a
25 reason. Please consider that when you go back in the

1 jury room.

2 What happens next? She's out of the car, so
3 she says she sees two shots go off, and she sees Dashaun
4 do it, okay? First, she says one shot went off towards
5 the ground. Then, when she was on the stand, she said,
6 No, two shots went off on the ground, and two shots went
7 off and hit Kadeem.

8 And she said, After that happened, Jujuain
9 hit the ground, running. He was gone.

10 And what does she say happens after that?
11 They all load up and get in the car. Well, what's in the
12 car at this point? Let's think about it. You've got a
13 three foot suitcase that is two feet wide, in the back
14 seat. You got your stolen fast foot in the back seat,
15 and you got Dashaun loading up an assault rifle in the
16 back seat as well, not even to mention that he's getting
17 in there. He's the smaller guy, so he's jumping in the
18 back seat too. There's a lot going on.

19 They hit the gas and they go, all right? And
20 they're moving.

21 And she says, Hey, I almost hit Jujuain
22 Hemingway, while I was driving the car down the road.

23 I mean, did it happen? I don't know. I
24 don't think that she's very believable. And what does
25 she say also happens? She says Dashaun Simmons rolls

1 down the window and starts shooting out of the car with
2 the assault rifle. Again, these are stories that are not
3 being told on the first statement, the second statement,
4 the third statement, but they're told on a fourth
5 statement, again, that's oral and not written.

6 What's important about what happens next?
7 What does she tell you what happens next? She tells you,
8 okay, that they go to a hideout, and they go to
9 Ridgeville, South Carolina, all right? She tells you
10 they drive up to Ridgeville, same place where they
11 supposedly got the gun, okay, in the fourth statement.
12 They drive up there, they park the car, and they get out,
13 and they hear talking.

14 And they hear -- they call their friend
15 Skrill to come over there, and they're talking about what
16 happened. They're discussing the suitcase and saying
17 nothing's in the suitcase. They got nothing in the
18 suitcase.

19 And they tell you that Dashaun said, Hey,
20 let's burn our clothes while we're up here.

21 Okay? How does that make sense? They're in
22 a hideout, in Ridgeville. There's nothing but a bedroom
23 there, okay? They don't really know where they are, or
24 at least Trina says she doesn't know where they are, so
25 they're going to burn their clothes and hang out up there

1 naked? Let's just hang out. Does that make sense? It
2 makes zero sense.

3 What does she say happens next? She said she
4 hangs out there for a couple days. She hangs out. She's
5 just witnessed a murder, an armed robbery, and attempted
6 murder, and she hasn't even thought one time about
7 calling the police, not one time. Why not?

8 Why, when you saw something like that and the
9 events went down like you said they did, why would you
10 not call the police? To me, that makes zero sense. I
11 can't wrap my head around that, okay?

12 So after that happens, they leave. They go
13 back and forth, and, finally, she talks to her mom, calls
14 her mom on the telephone. Her mom says, You better turn
15 yourself in, and she does, turns herself in, and that's
16 when the saga begins in terms of her changing her stories
17 each and every time she spoke to law enforcement and the
18 solicitor's office.

19 Her mom was on the stand, and she was great.
20 I really enjoyed talking to her. She was feisty. She
21 even said, Hey, there's some hearsay issues in what
22 you're asking me. I don't know if y'all remember that or
23 not, but she did. She said that when she was up there.

24 What else did she say? She said there's no
25 mention of a gun. She didn't mention one gun to me. She

1 didn't mention an armed robbery to me. She didn't
2 mention those things to me when we were there. She just
3 said somebody got shot. She said nothing about these
4 guys bringing a gun to the situation. Her mom said that.
5 Okay? That's what she testified to.

6 To me, you have to think about what's going
7 on behind the scenes, okay? You've got to think about
8 what she's thinking about and why is she not telling the
9 truth? Why is she not doing that? That's part of the
10 problem here. The judge is going to you charge you when
11 we're all finished with your closing arguments that she's
12 going to have to prove -- the State has to prove each and
13 every element of these crimes beyond a reasonable doubt.

14 If you doubt Trina and what she says, even
15 this much, any kind of doubt, you have to find in favor
16 of the defense.

17 MS. SHEALY: I object, Your Honor. May we
18 approach?

19 (Discussion held at sidebar.)

20 THE COURT: I think in the heat of the
21 moment, Mr. McCoy misstated the law, and I will charge
22 you in depth on the law and reasonable doubt, but the law
23 is not -- or is -- as I said at the first of the trial,
24 it has to be sufficient to leave you firmly convinced.
25 It's not a complete absence of any doubt whatsoever, but

1 it just has to be sufficient to leave you firmly
2 convinced of guilt. All right? Go ahead.

3 MR. McCOY: Thank you, Judge. Again,
4 anything I say law related, whether I'm talking about
5 reasonable doubt or elements of the crime, as the judge
6 told you, he's the man up there that is going to read you
7 the law. He's going to tell you exactly what it means
8 and exactly how you should approach it, so defer to him
9 on all charges of the law.

10 And where we left off was talking about
11 Trina, okay, and how her story does not add up and how
12 she has not told the truth; not the first time, the
13 second time, not the third time, even after she signed
14 her promise agreement, but the fourth time, the final
15 time is the truth. All right.

16 Who else was there? Who else did you hear
17 from that was on the scene that night that can tell us
18 what happened in terms of this alleged incident? Jujua
19 Hemingway, and you heard him take the stand. He did a
20 bang-up job when the prosecutor was asking him his
21 questions. He was right on. He said everything he said,
22 right on cue, just like she wants him to do, okay?

23 What happens when cross-examine starts? What
24 happens when that happens? You saw his demeanor change
25 entirely. He didn't want to answer questions; he doesn't

1 want to be cooperative, and, frankly, he came across as
2 not telling the truthful entirely. Anything he said did
3 not sound truthful to me one bit.

4 Let's talk about what I mean by that, okay?
5 She says up there, I've never been to Charleston. I've
6 never been out of Longs, South Carolina. I've never
7 ridden down to Charleston. I don't even know where it
8 is. I've never been to Johns Island. My brother and I,
9 we don't deal in drugs, we don't talk about drugs, but
10 their text message has pictures of drugs.

11 They get in a car to come down to from
12 Charleston. What do they tell you when they get here?
13 He tells you, This was totally coincidental. I don't
14 even know where we have. I don't know how we ended up
15 here. It just happened. We just drove up. We didn't
16 know anybody actually was going to be there.

17 Is that truthful? Did y'all pay attention to
18 the telephone conversation that he had with her while he
19 was in jail? He said in that phone conversation, Yeah,
20 I'm going to Charleston. I'm going to meet up with Fat.

21 He tells me, I am going down there because
22 they owe us money. Not only do they owe me money, they
23 owe my brother money, and that's all our money. We're
24 going down there to collect. We're going down there to
25 collect some money.

1 He doesn't say that in any of his statements.
2 He ain't been truthful. When he signed on the dotted
3 line and said everything I'm saying to the police officer
4 is truthful, is the truth and the entire truth, he
5 doesn't say that in his statements. So they come down.
6 They come down to Charleston. They're going now to
7 collect the bread. He calls it bread. He calls it his
8 money.

9 Why would you come down to Charleston for any
10 other reason than to collect some money? They knew
11 exactly what they're doing. They knew exactly where
12 they're going because they know both of these guys
13 sitting right here. Okay? They pull onto the street.
14 They pull up to Cynthia Avenue. They park their car.
15 They sit there, and they have a conversation with Fat.

16 I'm going to argue too that the conversation
17 didn't go well, and I'm going to argue to you that Fat
18 didn't bring them up money, the 700 --

19 MS. SHEALY: Objection, Your Honor.
20 Objection. May we approach?

21 (Discussion held at sidebar.)

22 MR. McCOY: All right, folks. Let's get
23 started back again.

24 Where did I leave off? I left off with
25 Jujuaian Hemingway driving down and getting to the

1 destination on Cynthia Avenue, and I left off with him
2 talking in the car, and you heard the recorded
3 conversation that they were coming down to collect their
4 money, the two of their money, from these two guys on
5 Cynthia Avenue.

6 They get down to Charleston. They park their
7 car. There was an argument that was heard. There was an
8 argument that was heard by neighbors also. They had
9 their windows open. You heard them. They were smoking
10 in the house, and they could hear some people outside
11 arguing. You heard that testimony on the stand.

12 I'm asking and I'm telling you that it was an
13 argument about money. That's what was going on. Those
14 two guys, Kadeem and Jujuain, were not happy. They
15 weren't happy with the amount of money that was there.

16 MS. SHEALY: I object, Your Honor.

17 THE COURT: Overruled.

18 MR. McCOY: So what happens next, okay? What
19 happens next is the fight begins, and Jujuain Hemingway,
20 again, he's sitting here telling us what's going on, and
21 what does he tell us? He says Dashaun Simmons is wearing
22 a white shirt. He says that Fat is wearing a red shirt.
23 He's not being 100 percent truthful. I think you can
24 tell by him being on the stand that he's not being
25 truthful.

1 What does he tell us in his first statement?
2 He says the car is parked, keys were in the ignition.
3 It's running. It's running. He tells us in his first
4 statement that Fat just comes up out of nowhere, opens up
5 the car door, and slugs Kadeem in the head, punches him
6 in the head, okay?

7 He tells you he doesn't see the entire thing.
8 He just knows it happened because he is on his telephone,
9 okay? He's on his telephone. What is most surprising to
10 me, and, I think, was most surprising to the entire
11 courtroom, is what he says next. I asked him, I said,
12 why did you not hit the gas and just go and just leave?

13 And he said, Man, are you crazy? There are
14 30 rounds in that clip. There are 30 rounds in an AK47
15 clip. And he said, Everybody knows that.

16 I didn't know that. I didn't poll the jury
17 like I wanted to, and I didn't poll the people in the
18 audience, but I don't think everybody out there knew
19 that. Ask yourselves, how does he know that? Is it
20 because he packed the clip himself on the way down? I
21 don't know. I think it's for you all to consider, but is
22 he telling the truth? That's where we need to go with
23 this, and he's not. He hasn't been truthful from day
24 one, and he hasn't been truthful when he got on the stand
25 in front of y'all.

1 The reason this is so important, the reason
2 this means so much, is because his life is on the line.
3 I represent Dashaun Simmons. He's facing 30 to life for
4 murder, 10 to 30 for armed robbery, and zero to 20 for
5 attempted murder. His life is on the line. His liberty
6 is on the line.

7 I expect people to come on this witness stand
8 and tell the truth, tell the whole truth. Don't hold
9 back. What's the point of holding back? It's because
10 you're hiding something.

11 So what does Jujuain do next, after the shots
12 ring out? He says the fight was going on. There is a
13 tussle. There is a tussle over the gun. There is a
14 tussle. There's a tussle over the gun. He tells you
15 that he's lying face down on the ground, palms on the
16 ground, okay? That's what he tells us.

17 He says that Kadeem and Dashaun originally
18 start out with Kadeem face down on the ground, Kadeem on
19 top of him, but he turns around, and they're arguing.
20 They're tussling over the gun, and he tells you during
21 that time that Fat is taking the black suitcase, not the
22 blue suitcase, out of the car and putting it in the
23 trunk.

24 What does he do each time he passes? He's
25 kicking him in the head. He's kicking Jujuain in the

1 head? How did he not say that happened? He said it
2 happened six times on the stand. He says he goes back
3 and forth and makes six trips to the car, kicking him in
4 the head each time he goes. If he's making six trips to
5 the car and he's still in the back seat of this
6 Seabreeze, where was Dashaun sitting when they leave?
7 Where was he sitting?

8 Again, it doesn't make sense. It doesn't add
9 up. Does he tell us when he's on the stand Dashaun is on
10 the back seat of the car, AK47 blazing down the street?
11 He doesn't mention it one time.

12 What does he do next? He goes and hides in a
13 porta-potty that's next door, next street over. He calls
14 police. He doesn't call them first, but he calls the
15 police. When the police arrive, he doesn't even give
16 them his real name. He doesn't even give them his real
17 date of birth. Why would you not give the authorities,
18 somebody who's there to help you, your real name and your
19 date of birth? What are you hiding? What's going on?

20 That's something that each and every one of
21 you has to think about, must think about, when you're
22 back in this jury room.

23 There's another piece of this puzzle that is
24 very troubling to me, okay, and you heard it when the
25 gunshot residue expert came up here. She's a fantastic

1 witness, and she does a great job at her job, what she
2 does. What does she tell you? She tells you that
3 Kadeem and she tells you that Jujuaain each have on the
4 front and backs of their hands metal parts.

5 . What does she tell you about that? She tells
6 you it doesn't reach the threshold to move up next to
7 gunshot residue. But wait a minute: There was some
8 gunshot residue, and where was it? It was on the right
9 inside palm of Jujuaain Hemingway. Where does she tell
10 you that comes from? She tells you that comes from
11 handling a firearm. She told you that on the stand. She
12 told you that you can get it on the inside of your hand
13 from firing a gun and you can get it on the outside of
14 your hand from firing a gun, but you can also get it from
15 touching and handling a firearm.

16 He's already told us the 30 rounds in a clip.
17 He's already told us that. Did he load that clip on the
18 way down? Did he handle that firearm and load it up in
19 the car while they're on the way down? That's a question
20 for y'all to think about.

21 Finally, he goes home. He goes home to
22 Longs, okay? He's going back home. Once he gets there,
23 he says he has no idea who Fat is. He hasn't mentioned
24 anything about him. He doesn't know his name. He
25 doesn't know him. Never been to Charleston, but when he

1 gets up here on the stand, he says, Yeah, I did know Fat.
2 I did know him then, but he doesn't mention it in his
3 other statements, and he doesn't mention it on the first
4 photo line-up that he fails to identify anybody on.

5 Is he holding back something? Is he not
6 telling us the whole truth? Again, this goes to straight
7 to the elements that we're here to decide, and it goes
8 straight to reasonable doubt.

9 Please, I implore you to keep that in mind
10 when you're back in the jury room. That's an important
11 piece of evidence. That's an important piece of
12 evidence, the gunshot residue. I've already told you
13 this is a serious case. These are serious crimes that
14 are going on right now. You judge, and I want you to
15 examine each and every person that came on this witness
16 stand, specifically Trina, specifically Jujuain.

17 Ask yourselves, are they hiding something?
18 Ask yourselves, have they told the truth? Ask
19 yourselves, are they holding something back? What are
20 they not telling us? Again, if there is reasonable
21 doubt, if you find any sort of reasonable doubt, then you
22 must let go of Dashaun Simmons. Again, his life is on
23 the line.

24 This case, in my opinion, comes down to two
25 witnesses. It comes down to Trina, and it comes down to

1 Jujuaian.

2 MS. SHEALY: Your Honor, may we approach,
3 please?

4 (Discussion held at sidebar.)

5 MR. McCOY: You're going to have a lot of
6 evidence to look at back here when you go back to the
7 jury room. Ask yourselves, if these guys right here,
8 specifically Dashaun Simmons, if he was there to rob
9 somebody, if he was there to take from somebody, why is
10 there \$700 in Kadeem's pocket? Does that make sense?
11 The scenarios that have been put in front of you don't
12 add up, and I ask you to keep each and every one of those
13 in mind.

14 And I'm going to ask that you go back in your
15 jury room, you take the evidence that's before you, and I
16 ask that you find a not guilty verdict for murder for
17 Dashaun Simmons and a not guilty for an attempted murder
18 and a not guilty for an armed robbery.

19 Let's talk about this for a second. The
20 State has to establish there was malice. Malice is evil
21 in the heart, okay? It's the intent to do wrong. It's
22 the intent to kill somebody. Did he have that that night
23 out on that street? There was obviously a struggle that
24 happens with a firearm. People were fighting and
25 tussling over a weapon, and I'm going to argue to you

1 that Kadeem and Jujuaain brought that gun there. They
2 brought the gun to the scene. They brought the trouble
3 on themselves. To have the weapon there, and then to
4 say, Wait a minute, these guys did it, is wrong.

5 But what is even more wrong is for Trina to
6 say that on her fourth statement. That's wrong. That's
7 not right. Let's talk about how we can find out whether
8 what Trina is saying is true about the earlier part of
9 the day.

10 You've seen the cellphone man get up here and
11 talk about different towers and how things ping off
12 different things and you can tell where a cellphone is,
13 okay? They can tell where they are. The State has the
14 ability to track these cellphones. They have the ability
15 to see where they've gone, to see where they're going,
16 and to see where they've been during the day.

17 Did they show you that information of where
18 the entire phone of Fat has been all day or where Trina's
19 cellphone has been all day or where Dashaun Simmons's
20 phone has been all day? No, they don't show you that.
21 Why don't they show you that? Do they not want to
22 indicate, not want to show you that they didn't go up to
23 Dorchester County in Ridgeville, South Carolina? Is that
24 what they want to show you?

25 Ask yourselves these questions while you're

1 back in the jury room. Again, this is an important day,
2 and I'm going to ask again to find my client not guilty
3 of attempted murder, murder, and armed robbery.

4 Let's look at attempted murder. You have to
5 have malice in your heart to commit a murder. It just
6 doesn't happen. If Dashaun Simmons is sitting point
7 blank to another man that's next to him and just fires a
8 round off, like they said that he does and it just
9 ricochets off his head, why did he just not fire off
10 another round up there and shoot him? It doesn't make
11 sense. Why would you fire off a warning round to
12 somebody who's lying on the ground less than a few feet
13 away from you? It doesn't add up. It doesn't make
14 sense, okay?

15 Let's talk about the armed robbery. You
16 heard on a phone conversation from Jujuan Hemingway --
17 and I don't want to say this in an open courtroom, but he
18 tells you on the phone conversation, No, they ain't get
19 shit from us. They ain't get anything from us, nothing.

20 Was anything taken from them? They're going
21 to tell you now that a bag of hibachi steak food was
22 taken that was over a day old in the car. Is that
23 believable, and a suitcase that had nothing in it?
24 Again, the scenarios do not add up, all right? How can
25 attempted murder and armed robbery happen when the facts

1 don't show it?

2 Now, I've told you, and I urge you to listen
3 to the judge when he's charging you on the law, and once
4 he's charged you on the law, pay attention to reasonable
5 doubt. Pay attention to the evidence of a crime that
6 Dashaun Simmons has been charged with, and, at the end of
7 the day, I'm going to ask you to find him not guilty.

8 Thank you.

9 THE COURT: All right. Mr. Apostolou?

10 MR. APOSTOLOU: Thank you, Your Honor. When
11 we first started in our opening statements, I came and I
12 talked to you. Ms. Shealy got up and she did her opening
13 statement. She did a nice job on her opening statement
14 she set the bar pretty high. She talked about a lot of
15 things.

16 The key to this case, ladies and gentlemen,
17 is the State's theory of this case is based on a lie,
18 start to finish. Kadeem Chambers is dead. That is a sad
19 thing, and truly it is, but the case -- when we started
20 this opening, I told you the case was based on -- the
21 star of the case, the person we need to find it from, is
22 Jujuaain Hemingway, but what information did Jujuaain
23 Hemingway tell us in his direct testimony?

24 First of all, you're going to hear a lot of
25 statements. Y'all are the jury. You are the finder of

1 facts. You make your decisions based off the information
2 that came from right here, based off of right there.
3 Listen to what they said there, and Jujuaian Hemingway got
4 up in his direct and he told a tale, a false tale. That
5 false tale is what the solicitor's office believed to the
6 be facts of the case. They predicated their whole case
7 based off of that.

8 Jujuaian Hemingway doesn't know why he's
9 coming to Charleston. His brother doesn't tell him. His
10 brother just says, Hey, let's go to Charleston, but we
11 know they got there at 11:30, so they would have left
12 Longs somewhere around 9:30, 10:00.

13 So his brother comes to him, 9:30, 10:00,
14 says, Let's drive to Charleston.

15 He doesn't know why. He goes with the
16 brother. They're going to come down here. They can stay
17 the night, or they're going to go all the way back up to
18 Longs? They're going to go back up to Longs. So his
19 statement is he doesn't have any idea why they're coming
20 down here. They get lost once they're here. They don't
21 know where they're going. He doesn't know where they're
22 going, but they get lost while they're down here.

23 They pull over randomly to the side of the
24 road so he can use his apps, so he can find it on the
25 GPS. Suddenly the door comes flying open. They've had

1 the misfortune of pulling their car over to check their
2 apps, to find out where they are, next to two thugs that
3 happened to be standing in the street with an AK47, and
4 these guys just happened to pull up.

5 That's his testimony. That was his
6 testimony: I don't even know where I was. He's looking
7 at the apps. The door flies open. My brother gets hit a
8 couple times.

9 Well, the coroner was here, and they asked
10 about any facial trauma to Kadeem Chambers. No facial
11 trauma to Kadeem Chambers. If he got hit in the face
12 several times, there's going to be some marks now. We
13 asked the coroner about it. It didn't happen, and the
14 reason it's not in the coroner's report is because
15 everything in Jujuaïn Hemingway's tale is a complete and
16 utter lie, and that is the information that the State
17 based their whole case upon, and when you base your case
18 on a lie, your whole case is wrong, and it's a whole lie.

19 Jujuaïn Hemingway's was they opened the door,
20 they punched Kadeem Chambers in the face a couple times,
21 they put us on the ground. They order us to go into the
22 truck. He opens it up and -- and you heard his
23 testimony. Then the incident happens, and then he runs
24 to the outhouse. He didn't know where he was. He's
25 never been to Charleston before. He didn't know where

1 Johns Island was. But then he calls in on the 911 tape,
2 he says something, Johns Island.

3 When I asked him about it, what did he say?
4 He said after running from his brother's murder, he ran
5 to the outhouse, threw his marijuana into the outhouse,
6 and got on his phone and did a search to find out where
7 he was first, and that's how he found out he was on Johns
8 Island.. Then he calls his brother in Longs, South
9 Carolina. Then he calls 911. Then the police come and
10 they take his statement. He gives the false name, and
11 then just the entire statement for it.

12 He doesn't know where he is. He doesn't know
13 these people, and that's what the whole theory the State
14 told you about, and they implicated that maybe Jujuaïn
15 Hemingway doesn't know him, but maybe Kadeem does. Well,
16 the problem with that is we know Jujuaïn knows Denzel
17 Hemingway. If Jujuaïn Hemingway came in here and told
18 you and told the police, the State came here and said,
19 "We came down from Longs to Johns Island to collect the
20 debt from Denzel Heyward, Denzel Heyward didn't want to
21 pay us the money for the marijuana, and he fired -- came
22 out with an AK47 and fired a shot at him. It was Denzel
23 Heyward. He lives right around the corner. He lives
24 right around the corner. We've been here before," we
25 would have had a completely different case, but that's

1 not what he said.

2 He made up this whole stranger robbery. He's
3 never been there before. He doesn't know anything about
4 it. Jujuaian Hemingway gets out of MUSC. He goes up to
5 Longs. He makes a statement to the police. He makes a
6 statement to the police. He makes another statement that
7 night too. He got out at -- I think his testimony was
8 2:00 or 3:00 from MUSC. Then he drove up to Longs.
9 There was some people there. He said he met with the
10 detectives for three hours, and then he has a
11 conversation with Thurston Hardiman, so he made one
12 statement to the detectives that night, and he made one
13 statement to Thurston Hardiman that night, and you heard
14 that tape.

15 This is an individual who he said he doesn't
16 know, has never heard of that, but you heard his
17 testimony, and let's be honest: There was not one thing
18 credible in his testimony, not one, and it was a complete
19 and utter lie, and that's what the State of South
20 Carolina based their whole theory on.

21 If Jujuaian Hemingway had been clear with them
22 and told them, "I met Denzel Heyward before. I've been
23 to his dorm room in South Carolina State. I've been to
24 SC State. I've been to Johns Island," would the State of
25 South Carolina have got up here and said all the things

1 that they said to you? Would they have got up here and
2 talked about this in this same light? The answer to that
3 is no, because their whole entire theory is based on a
4 lie, and we're going to listen to Jujain's statement
5 here in a little while, but I want to talk about some of
6 the other things that we heard about in the opening, all
7 right?

8 Reasonable doubt. Reasonable doubt. Is
9 there reasonable doubt in this case? That's ultimately
10 your question. They have to convince you beyond a
11 reasonable doubt that my client, Denzel Heyward, is
12 guilty of every one of these crimes, every element and
13 every one of these crimes, every element to murder, every
14 element to armed robbery, to the firearm, and to the
15 attempted murder, for you to find him guilty.

16 You have to come back they -- they have to
17 check it off: Did that one happen? Did that one happen?
18 Did that one happen? Did that one happen? And they have
19 to do it to the highest standard in law: Beyond a
20 reasonable doubt. So at the end of the day, if they
21 haven't gotten you to the highest standard, beyond a
22 reasonable doubt, to even one of those elements in those
23 charges, you have to come back with a not guilty.

24 You have to because that's what you took a
25 pledge at the opening of this case to do. It has to be

1 unanimous. All 12 of you have to get up there, -- they
2 have to convince you beyond a reasonable doubt for every
3 element on this case for every charge, and it has to be
4 all 12 of you. If it's 11 to 1, it's not good evidence,
5 and I will tell you, and I will ask, you hold on to what
6 you believe. This is a super serious case, and that
7 might be the understatement of life.

8 This is -- you've heard a lot of testimony.
9 These are monster serious charges. Take your time. I
10 know we're all tired. I know we've been here all week.
11 I don't know if we had to be here all week, if Dashaun --
12 Jujuan Hemingway had told the truth, but we had listened
13 to his statement earlier. I don't know if that would
14 have been completely necessary, but we're here now, and
15 this is monster serious. I would ask you to please,
16 please take your time.

17 Look at all the evidence. Look at every one
18 of these elements, and every single one of you needs to
19 be convinced beyond a reasonable doubt of it. The burden of
20 proof is on the State. We don't have to prove anything.
21 The defendant doesn't have to testify. We don't have to
22 get up and get on the stand. We don't have to prove
23 anything. We don't have to prove we didn't do it. The
24 State has to prove to you, from that chair right there,
25 that all of the elements of all of these things are here.

1 It's their burden of proof.

2 In the investigation -- you didn't hear much
3 about the investigation. They just kind of glossed over
4 that part of it and talked about some of the results from
5 it, but if there's something that they didn't present to
6 you and you've got a question about it and you're saying,
7 God, I wish we had that information and it's not there,
8 hold it against them. It's their job to come in here and
9 give you all the facts that are necessary to make that
10 decision.

11 And I'll tell you, specifically, I'm talking
12 about Quansantrina's testimony, a year-and-a-half after
13 her crime, that that might not bother some people, but
14 that bothers me. When somebody goes in and makes
15 statement number one that they're going to tell the truth
16 and doesn't and then signs the proffer -- the proffer
17 agreement is a whole different animal than a statement
18 that the police officers said she gave.

19 A proffer agreement is a legally binding
20 contract. When you say, I'm going to tell the truth,
21 fully, the complete truth, and you get up there, and it
22 is subject to penalty of perjury, a year-and-a-half after
23 that she says that she saw something that looks like a
24 barrel in Ridgeville, South Carolina -- well, they called
25 an expert here today, and that expert triangulated -- my

1 word; not his -- those cellphones, and he was able to say
2 Denzel Heyward was in that area. Nobody is denying that.
3 That was in evidence, and that's, again, something I
4 really want to tell you about.

5 They presented a case that wasn't what
6 actually the facts were. They presented a case under
7 their whole theory of the case. They can't proceed under
8 the same theory because that's not what the evidence
9 presented because Jujuan Hemingway has obviously known
10 Denzel Heyward. They presented a case based completely
11 off what their old theory was. They're going to have to
12 come up here and modify their theory, because that theory
13 is blown out of the water, but back to the triangulation.

14 They tapped this person, this expert, who
15 testified that, If they had asked me to do another one, I
16 would have done it. I could have done it.

17 Why didn't they go and have that person
18 triangulate Quansantrina's cellphone to show that she
19 went to Ridgeville, South Carolina, on May 16, 2012? And
20 that would have corroborated her story. They didn't do
21 it. They have him right here. They've already used him
22 in this case. Why not ask him to corroborate that super
23 critical fact? They didn't do it, and it's their burden,
24 their burden, to show every detail that you need to make
25 an informed decision in this case. That is a

1 fantastically important issue. They didn't do it.

2 But what did we do? We used the information
3 that we had, the information from Denzel Heyward's
4 cellphone that she said went with her, and we were able
5 to show it never did go to Ridgeville. It never went to
6 Dorchester County at all. The closest it got to is Goose
7 Creek, and there is a 58-minute window there.

8 So as I understand the State's theory, he got
9 up into Goose Creek and said, I've got a 58-minute window
10 to run over to Ridgeville and run back somewhere else so
11 that when my phone gets rung again I'm in a different
12 place. It is a monster, monster part of this case.

13 Did they have a gun before this incident
14 occurred? Easy to prove to you if they tried to
15 triangulate her cellphone, but if they didn't do it, hold
16 it against them.

17 My client's presumed innocent. They cannot
18 withdraw -- he's got a cloak of innocence. They can't
19 pull that off until they've convinced you firmly of all
20 of those details, and, also, it's two separate trials.
21 Mr. Simmons has a case. He's got a great lawyer, but my
22 client is Denzel Heyward, and I'm representing him.

23 So let's talk about the evidence that the
24 State did present to you. Well, they put up some
25 forensics, right? They put up the CSI guys that got up

1 there. They talked about all these great techniques that
2 they have to go in there and find fingerprints, microbes,
3 DNA, all these great things.

4 They got the Mercedes that day. They went
5 into the Mercedes. They did their analysis, and they
6 didn't find anything from Denzel Heyward in there. What
7 was -- Quansantrina's testimony was he was inside the
8 car. Jujuaín Hemingway said they was all inside the car,
9 looking around. There was never any evidence and never
10 any statements about masks. Never any evidence about
11 gloves or anything like that. Well, there is no forensic
12 evidence from Denzel Heyward.

13 Then they put the expert up there, or the
14 witness, and they talked about, well, there's not any up
15 here, but here's some reasons why they could have not
16 been in there.

17 I would suggest to you that the number one
18 reason it couldn't be in there is because he wasn't in
19 the car, because their entire story is a lie, and it's
20 based straight first and foremost on Jujuaín Hemingway
21 who hasn't told the truth one time in this case, start to
22 finish. So there's absolutely zero forensics, zero
23 forensics.

24 The next statement is Quansantrina, all
25 right? This is the evidence: The forensics don't exist.

1 There's only two things to put Denzel in the case at all:
2 It's the statement of Quansantrina and the statement of
3 Jujuin Hemingway, so let's talk about Quansantrina for a
4 second.

5 First, what is her motive? Does she have any
6 reason to come up with a lie? Well, she's got 30 to life
7 on a murder charge. She's got 10 to 30 on an armed
8 robbery. She's got zero to 20 on an attempted murder, so
9 she's got a 40-year mandatory minimum on these charges
10 alone.

11 MS. SHEALY: Your Honor, objection. May we
12 approach?

13 (Discussion held at sidebar.)

14 MR. APOSTOLOU: Well, I'll qualify. I'm
15 talking about Quansantrina's motive. Those are the
16 potential penalties that she is avoiding:
17 30-year-mandatory minimum on the murder case; a ten-year
18 mandatory minimum on the armed robbery, which could be
19 sentenced consecutively; and that could be a 40-year
20 mandatory. That's what she's avoiding, so she's got
21 monster motivation to come up with a different story.

22 Ms. Shealy said something that struck me when
23 Jujuin Hemingway was -- after I cross-examined Jujuin
24 Hemingway, Mr. McCoy crossed him. Ms. Shealy got up
25 there and talked to him again and she said, Jujuin, do

1 you know that Quansantrina Rivers gave a statement that
2 nearly identically resembles yours?

3 And he said, No, I didn't, but that's not the
4 truth.

5 Quansantrina gave statement number one, which
6 corroborated our version of the case. She said she never
7 saw Denzel with a gun. She said the trunk never opened,
8 and she said there was no suitcase whatsoever.

9 Then she made statement number two. She was
10 in jail. She said she didn't put all this information in
11 there because she was fearing for her life. She was
12 going to the jail, and she was going to stay in jail.
13 She said it was because they were out and about and she
14 was fearful of her life. She was not out and about.
15 That doesn't make sense.

16 If she's going to be in a detention center
17 facility, and she's fearful of them who are not in the
18 same detention center facility, so that didn't make any
19 sense at all.

20 What does she do to get out? She's got a
21 small child. She wants to get out. What does she do to
22 get out? She cooperates with the State. She writes this
23 proffer. After they do that, they reduce her bond, and
24 she's able to get out right after that, so what does the
25 second statement say?

1 The second statement is basically a lot of
2 the same points that she has in the suitcase. She says
3 that they were never in the trunk. She says that they
4 didn't -- that she never saw Denzel with a gun, but,
5 yeah, there was the suitcase. Then a year and a half
6 later, days before the schedule of this trial began, she
7 adds in the part about the gun, but the real key to
8 Quansantrina's story is she -- what she added in between
9 the first story and the second story, and, again, the
10 trunk never opened. They didn't have a gun, Denzel.
11 What she added in that statement was the suitcase.

12 The problem with the suitcase is we know it
13 doesn't exist because we have Jujuain Hemingway's
14 statement that they didn't get anything else, and the
15 reason they didn't get anything from us is because we
16 didn't have anything because they were coming down here
17 to collect a debt, and the whole armed robbery theory
18 makes absolutely no sense if you're going to -- you're
19 going to rob somebody that you owe money to? That just
20 doesn't make any sense.

21 They weren't bringing any drugs to him.
22 There is no testimony like that. They're coming down
23 here to collect debt. How do we know that? It's from
24 Jujuain Hemingway -- I'm going to call it his second
25 statement, his real statement, that he made to Thurston

1 Hardiman.

2 When Jujuaïn Hemingway makes his first
3 statement in the presence of the police and then they
4 leave and he gets a phone call, which once is going to
5 more accurate? Which one is going to be less guarded
6 and more truthful, the one where he's in the room,
7 fearful of police, or the one where he feels like it's
8 all clear? He doesn't think anyone is going to be
9 pulling that jail tape. He's not calling anybody in
10 this. That's the one that is going to be most truthful
11 in this case.

12 So Quansantrina added this suitcase. Well,
13 where did they get the suitcase from? They got it from
14 Jujuaïn Hemingway's statement. The police are talking to
15 him. They say, Hey, we know this isn't true. We know
16 there was a suitcase out there. You want to get out, you
17 want to cooperate, you got to tell us the truth, and we
18 know there is a suitcase on it, and she asked for the
19 suitcase, but the suitcase never existed. She added
20 something that we know wasn't there because there wasn't
21 any kind of armed robbery.

22 We'll talk about Jujuaïn's statement, but
23 we're go ahead and play his tape. It's a nine-minute
24 tape, and I apologize for it, but there's a lot of
25 information on there, and this is a monster serious

1 matter.

2 The testimony was he hit Kadeem in the mouth,
3 pulled him out of the car. No facial trauma whatsoever.
4 The triangulation, what we were able to do is show they
5 never went to Dorchester County. They didn't do their
6 own to verify that for you, and the robbery story.

7 Jujuain testified that they were in his
8 pockets, yet the \$648 was in Kadeem's pockets when he
9 gets to the hospital. That doesn't make any sense
10 because the whole robbery thing just never happened.

11 Court's indulgence.

12 (Whereupon, the jail recordings were played
13 for the jury.)

14 All right. This is Jujuain Hemingway. These
15 are hard things to listen to. I have a hard time
16 understanding, but it's very important to understand what
17 he's saying. He's called -- Hardiman is calling him.
18 Hardiman has already heard. This is less than 24 hours
19 after this incident occurred, less than 24 hours after
20 being out here in Charleston County, on Johns Island.

21 His cousin is calling him, and his cousin is
22 in the jail and has already heard that Kadeem is dead.
23 So he calls and he says, What's going on?

24 And Jujuain says, They took my damn dog,
25 which is basically saying this his brother is dead. And

1 then he says -- go ahead.

2 (Whereupon, the jail recordings were played
3 for the jury.)

4 And he says what happened? It happened to be
5 30 minutes after I talked to him the previous night. In
6 his cross-examination, we played the testimony from that
7 16th call, where Jujuan Hemingway tells Hardiman, I'm
8 driving down to Charleston to collect some money,
9 contrary to what he testified that's what he was doing.

10 (Whereupon, the jail recordings were played
11 for the jury.)

12 Okay. This is a person who's testified he's
13 never of Fat, didn't know the him. Never heard his name,
14 even -- just doesn't know him at all, and he's saying,
15 The nigger Fat? I apologize for using these words.
16 These are not my words. I'm sorry.

17 Yeah, bro, I think he was locked up with that
18 nigger or something, man.

19 What, he mentioned my name?

20 No, I remembered you saying you was locked up
21 with that nigger or bra said you was locked up with that
22 nigger.

23 His testimony was he didn't know him. His
24 testimony was he had never had any conversation with
25 anybody about him or nobody had a conversation with him,

1 but his words are, Man, you know that nigger.

2 And he had talked about him with Hardiman
3 before, and he had talked about it with Kadeem, and why
4 is that important?

5 Because his statement wasn't, Fat did it. We
6 came down to collect the debt from him, and he shot us,
7 and he's the guy that did it. His statement was we got
8 lost, they pulled us out, and a stranger assaulted us.

9 (Whereupon, the jail recordings were played
10 for the jury.)

11 All right. He didn't pull the trigger.
12 Another one pulled the trigger. That's what we were
13 talking about in our opening, is Denzel Heyward did not
14 pull this trigger. There are no allegations that he
15 pulled the trigger. He is charged with murder. Well,
16 the only way you can convict him of murder is if you
17 believe the legal theory that the State talked to you
18 about in it's opening, which is the hand of one is the
19 hand of all.

20 The judge is going to charge you on that, and
21 it's a really important law. It's going to be in the
22 charges the judge gives you, but what it says, basically,
23 is if two people are engaged in a conspiracy to violate
24 the law and something happens as a natural consequence of
25 that conspiracy, then you could hold everybody liable for

1 it, just like the person that actually did it.

2 Let's think about that in our case. To find
3 Denzel Heyward guilty of murder, you have to believe that
4 they were in a criminal conspiracy to rob these guys.
5 That's what you have to believe, that you have to believe
6 that they were in a conspiracy to rob these guys.

7 If you do not believe that, after all the
8 evidence that you've heard today, that you cannot --
9 that's the gatekeeping function -- you cannot find him
10 guilty of murder, unless you believe they were actively
11 in a conspiracy to pull a robbery on Jujuaïn and Kadeem,
12 and after you decide that as the gatekeeping function,
13 then you need to decide whether it's a logical
14 consequence of that action.

15 I would suggest to you that there is no --
16 the evidence does not support that they were in a robbery
17 at all. You are not going to rob somebody that you're
18 going to meet. Why were they meeting in that area?
19 Because they had been there before. That's the area that
20 Denzel lived in. There's testimony about Denzel seeing a
21 neighbor who recognized him in that area.

22 If you were going to commit an armed robbery,
23 you are not going to do it in a neighborhood area that
24 people can recognize you in. You are going to go
25 somewhere else. Why did they go in that area? Because

1 Jujuaïn and Kadeem had been there before. They had
2 traveled from Longs to come down there.

3 You heard the testimony. They were there in
4 December of 2011, and they had been there before, so if
5 you cannot believe beyond a reasonable doubt that they
6 were in a conspiracy to commit an armed robbery, you
7 cannot convict him of murder. If you cannot believe
8 they're in a conspiracy to commit an armed robbery, you
9 cannot convict him of armed robbery. If you do not
10 convict him of murder and armed robbery, you cannot
11 convict him of attempted murder.

12 The evidence isn't going to be to support
13 that. If you cannot convict him of any of those three
14 charges, then you cannot convict him of possession of a
15 firearm and a crime of violence.

16 (Whereupon, the jail recordings were played
17 for the jury.)

18 The damn detectives and shit questioned the
19 fuck out of my ass. The damn detectives and shit
20 questioned the fuck out of my ass.

21 This is right after they left. This is less
22 than 24 hours after this incident. This is after he's
23 denied knowing Fat, or anybody by that name. He's never
24 talked to him. Doesn't know anything about him, and he's
25 complaining about the detectives who were there

1 investigating.

2 (Whereupon, the jail recordings were played
3 for the jury.)

4 You don't have to take my words for it. You
5 don't have to listen to the unreasonableness of it. You
6 can talk Jujuaian Hemingway's words for it. Did they take
7 anything from him?

8 No, we didn't have shit, because they were
9 going down there to collect the debt. There is nothing
10 to arm rob. It doesn't make any sense. No, they didn't
11 have shit.

12 Well, let's spin that in the possible way the
13 State of South Carolina can spin that, in their argument,
14 because they get to talk to you last. I know I have been
15 talking a long time, but this is the last time I get to
16 talk to you in this case.

17 The State gets to come up here and gets to
18 talk to you, and they are going to be convinced and
19 they're going to be convincing, but it's not going to
20 support what this is: No, man, they didn't get shit.

21 Well, let's say, hypothetically, they're
22 going to argue that what he meant by that was that they
23 got an empty suitcase, and the suitcase didn't have
24 anything in it. And that argument makes a little bit of
25 sense if and only if he knew what the contents of the

1 suitcase were before the robbery.

2 But what is his testimony? He didn't know
3 there was even a suitcase in the car. This is less than
4 24 hours after the incident. He cannot tell Thurston
5 Hardiman they didn't get shit because the suitcase was
6 empty unless he knows what the contents of the suitcase
7 are, and he doesn't know. His testimony was he has no
8 idea. He never saw it.

9 For all he knows, there's \$50,000 cash in
10 there, and he hit the mother lode. The reason he said
11 they never found shit is because there never was an armed
12 robbery, and they didn't take anything.

13 MS. SHEALY: Your Honor, may we approach for
14 a moment?

15 (Discussion held at sidebar.)

16 MR. APOSTOLOU: When I was talking to
17 Quansantrina, when she was taking her testimony, and then
18 I asked her about the suitcase, and I know I went on and
19 on about it, but what did she say when I asked her about
20 the suitcase?

21 She said, I don't want to talk about that. I
22 don't want to answer that question.

23 Well, why doesn't she want to answer that
24 question? Because there never was a suitcase, and she
25 knew she was making that up, and that's verified by them.

1 The last part that we just heard said, Yeah,
2 the nigger owed us some bread and shit. He owed us some
3 bread. He owed us some money.

4 And, again, this is somebody who has
5 testified earlier he's never even met on direct
6 testimony.

7 (Whereupon, the jail recordings were played
8 for the jury.)

9 Mercifully, that's the last part of the tape
10 I'm going to play. You're going to have this tape in
11 evidence. Take it in there. I went through it with you
12 on purpose because it is impossible to understand unless
13 you have an ear for it and you spent about 700 hours
14 trying to transcribe it.

15 But what he says there is both our bread.
16 I'm riding down there with you. So the State of South
17 Carolina is going to ask you to convict these boys of
18 these monster serious charges, and they're going to have
19 to do it beyond a reasonable doubt, and they're going to
20 do it off of the only evidence in the case, which is
21 Jujuain Hemingway's statement and Quansantrina's
22 statement. That's the only evidence in the case. There
23 is nothing else.

24 Well, you know, the State sort of takes the
25 sting away. I want you to remember thinking about

1 Jujuan Hemingway's testimony yesterday. Was there
2 anything credible about that? Was it perjury? Did he
3 actually lie on the stand in a court proceeding? And if
4 there's nothing credible about it, you cannot base any of
5 your deliberations and convincing off of that.

6 Quansantrina establishes a suitcase that
7 doesn't exist, and we already talked about her problems
8 in this case. The last thing I want to talk to you about
9 is another jury charge that's going to be included in
10 there called mere presence.

11 And what mere presence says is if I'm on a
12 crime scene and a crime happens, just because I'm out
13 there doesn't mean I'm guilty of a crime. Denzel Heyward
14 and Dashaun Simmons are having two separate trials. Even
15 if you find Dashaun Simmons killed a guy in cold blood,
16 and I don't think you will, but even if you did, that
17 doesn't mean anything to Denzel Heyward.

18 Unless they're the hand of one, hand of all
19 and they're engaged in the conspiracy to commit an armed
20 robbery, then mere presence would say that he is not
21 guilty of the crime if he didn't aid or abet. The judge
22 is going to give you that charge, and it's going to be in
23 there.

24 I appreciate everything that y'all have done.
25 I know it's been a long week. I want you to remember how

1 terrible Jujuan Hemingway's testimony was, how terrible
2 his truthfulness was, how terrible his body posture was
3 and his demeanor and how terrible his truthfulness was.
4 That's what their case is based off of. That's their
5 theory of the case that they got in here and told you to
6 start this case off with. That is where they got the
7 whole idea about it.

8 I told you when we started that sometimes the
9 evidence dictates the investigation, and sometimes the
10 investigation dictates the evidence, and I don't know if
11 there is a case more exemplary of that than this one.
12 They got their story from Jujuan Hemingway, and they got
13 all the stuff that they can to fit it in there and to
14 make it -- to believe in what they had.

15 Did they listen to Jujuan Hemingway's tape
16 that they produced to us? Would they have believed all
17 of the things that they told you in the opening statement
18 if they had listened to that nine-minute tape that they
19 produced to us? I would suggest to you that there is no
20 possible way, I hope, that you would convict Denzel
21 Heyward on the charges that he's on. He's been waiting
22 for two-and-a-half years for this day.

23 Please, take your time, all 12 of you. Go
24 through the evidence. Look at it. Realize that there is
25 just no way the credibility issues in this case get over

1 a reasonable doubt. I told you that at the beginning of
2 the case I thought that at the end of the case you would
3 believe my theory more: These guys came down here to
4 collect a drug debt. They brought the firearm in their
5 car. They're the ones that started getting into an
6 argument about it. They brought out the firearm, it got
7 wrestled away from them, and that's when the shooting
8 occurred to them.

9 I told you that I thought at the end of the
10 day you would believe my case more than theirs. That's
11 not the burden for me. The burden for me is, is it
12 possible? Is it possible? When you go in there at the
13 end of the day, are you just able to say it's not even
14 possible to believe Jujuan Hemingway and Quansantrina
15 over all of the other evidence that we see, I suggest to
16 you that there's no possible way that you can convict him
17 on what occurred here, and that's all I've got to say.

18 Thank you very much.

19 THE COURT: Ms. Shealy?

20 MS. SHEALY: May it please the Court: Good
21 afternoon. We would be able to know why Kadeem Chambers
22 came to Charleston, but he's voiceless. We can tell from
23 the text messages that he was getting directions to
24 Cynthia Drive or to Hobson Avenue, and the numbers kept
25 changing.

1 And we know Jujuaïn was the driver, and his
2 brother didn't indicate exactly what they were going
3 there for. What I would invite you to think about when
4 you start out is Sidearis Singleton, Trina's mother.
5 Isn't it refreshing to hear someone, especially a mother,
6 who put before everything the right thing: Trina, a
7 boy's mother has lost her son. You got to do the right
8 thing. You got to turn yourself in.

9 And that family respected human life enough
10 to talk amongst themselves and say, Is this the right
11 thing to do? Should we do it?. Should we make her turn
12 herself in?

13 Nobody was looking for Quansantrina Rivers.
14 Nobody was looking for Denzel Heyward or Dashaun Simmons.
15 She walked into that police station, and she gave the
16 police the name of Dashaun Simmons, the rifleman, and the
17 name of Denzel Heyward, her lover, the father of her
18 child. Mr. McCoy, Mr. Apostolou don't like Jujuaïn
19 Hemingway, and, to be kind of candid with you, that
20 probably wasn't the best example of Jujuaïn Hemingway in
21 this courtroom, but I don't know what it feels like to be
22 17 years old and to have your brother shot beside you.

23 And Mr. Apostolou is a nice man, but he does
24 have a manner of speaking where he chuckles a little at
25 the end of his sentence. I don't think he means anything

1 by it, but if you were Jujuaain Hemingway, sitting on the
2 stand, knowing that Mr. McCoy represents the gunman and
3 Mr. Apostolou represents the stomper and a man chuckles
4 when he asks questions, it probably doesn't put your
5 disposition in the best place.

6 The courtroom is an intimidating atmosphere,
7 and Jujuaain Hemingway had to walk up here, sit down, and
8 look at the killers of his brother, dressed up for court,
9 sitting there represented. They want to criticize
10 Quansantrina and they want to destroy Jujuaain? Guess
11 what? They can't. They can't explain how, when Jujuaain
12 Hemingway, in Longs -- I've never been to Longs. I've
13 lived in South Carolina my entire life -- east of North
14 Myrtle Beach, in a house where they were setting up to
15 mourn the death of a family member, when two officers
16 come and ask you two-and-a-half hours' worth of questions
17 on the worst day of your life.

18 He didn't want to give information. He told
19 you he was angry. Hours before he had been put on the
20 ground, had the road rash to prove it. Had his teeth
21 knocked back in his head to prove it. And, frankly,
22 frankly, had a dead brother to prove it, and he runs for
23 his life, and the police are outside the porta-potty with
24 guns drawn at him. They handcuff him, and he's taken to
25 the hospital, after calling 911 where he pleaded with the

1 dispatcher: Hurry. Hurry.

2 And what did he want to know at the hospital?
3 How is my brother? Is my brother okay? When he came out
4 of that porta-potty, he explained there was two guys.
5 One in the red shirt, one in a white shirt. Fresh out of
6 the porta-potty he told them, and then he went to the
7 hospital. And his mother, his cousins, his brother shows
8 up, and they find out from his family, Kadeem's gone.

9 And then he drives back to Longs with his
10 family, never having slept, mouth a mess, having bled
11 profusely, sore, and he walks up to a home where he hopes
12 he can get some tranquility to think about, to have a
13 moment by yourself, and instead people are gathered, as
14 people do, but that's not what Jujuain wanted.

15 But on May 17th, he started a statement and
16 was reluctant to cooperate. He was frustrated. He was
17 mad. I don't think he liked talking to the police.
18 Nothing about Jujuain would make you believe that he
19 would be excited about talking to the police, but he did.
20 Then he wrote three pages, and they knew he knew more.

21 And they said, You got to start all over
22 again.

23 And he wrote a six-page statement after his
24 mother, Loretta, and his brother said, You got to tell
25 them what you know. You got to tell them what you know.

1 And he told the details, the details of
2 pulling over and having a sensation that something is
3 wrong, the detail of Denzel Heyward approaching the
4 automobile, and at first it seemed casual, and then he
5 hits Kadeem.

6 Remember when Dr. Batalis testified? There
7 was laceration on his head and on his face, and remember
8 the exit wound, road rash. Those two guys were put on
9 that ground. He gave a description of the guy in the red
10 shirt, big fellow, facial hair. I believe he said
11 six-one, six-one, about 200 pounds, had a red shirt on,
12 facial hair, black man.

13 About the girl? 150 pounds, black female,
14 hairstyle, ponytail; had on jeans and a gray shirt. This
15 is May 17th that he gives these details.

16 What kind of weapon did Dashaun Simmons have?
17 A black long with a banana clip, skinny guy, brown skin,
18 had a Geechie accent. He gave them all that information
19 on May 17th. He talked about how every time Denzel
20 Heyward -- about sensing the power in his legs, to kick a
21 man who was down, and to kick him and to kick him and to
22 kick him, enough to cause that kind of damage.

23 He told us about the girl who picked up the
24 keys with something so that nothing of hers would be left
25 on the keys. He told them about the guys yelling at him

1 and wanting the stuff, wanting the money. He told all of
2 that on May 17th.

3 And what did he tell you? The same thing.
4 They put him on the ground. They're looking for stuff.
5 They think this is going to be big, so when you hear that
6 language, they didn't get shit, Mr. Apostolou is right:
7 I am going to attempt to silence you.

8 If you're looking for money and you're
9 looking for drugs and you get a suitcase full of clothes
10 and some half eaten food, in that world, you didn't
11 get -- can't you just see it? Frustration building,
12 getting a little harder. Point that gun down at the
13 head.

14 These guys were emboldened. They were
15 empowered, and then they got mad. All this for nothing?
16 Ask the girl to get out of the car and try to look and
17 see if it was in the engine. They wanted something
18 there. And then, in Charleston, Quansantrina,
19 Quansantrina, who didn't want to tell her mother
20 everything because, remember, her mother doesn't like
21 Denzel. Remember, her mother doesn't even know his
22 friends.

23 Denzel wasn't very kind to Trina. You've
24 heard the classic nature of their relationship, yet she's
25 still gone to see him as recently as October, and why?

1 She didn't want to punish that little girl, Trinity, for
2 the acts that her boyfriend had committed. The little
3 girl wanted to see her dad. You cannot get around that
4 while one is in Charleston, describing the events, who --
5 they're her buds, and she gives those details and she
6 describes those acts, that it just so happens that the
7 victim, who she does not know, and he does not know her,
8 has told the police the same description.

9 But Quansantrina can one up Jujuain. She
10 knew who the other two guys were. Now, they may want to
11 minimize how that would affect Quansantrina, to go with
12 her family and give a statement and to be put in jail?
13 That's not an easy thing for a young girl, a young girl
14 who they have already taken Trinity out of state,
15 smartly, to get her out of a situation.

16 It was a bold move for Quansantrina, and it
17 came from one thing: I need to do right. And as she
18 talked to the solicitor's office, she gave more and more
19 and more details. Let's look at some of the things that
20 both she and Jujuain said: That he and his brother were
21 in the car, and these two ambushed them. Simmons running
22 out of the woods with an AK47.

23 Jujuain said, I don't know where he came
24 from.

25 They both said they got put on the ground,

1 Jujuain and Kadeem, and the road rash proves it. That
2 they were looking for something: Where is the money?
3 Where is the stuff? Increasingly frustrated. One shot
4 next to Jujuain's head. That's not a warning shot.
5 That's an attempt to shoot him, and they want to make a
6 big deal about Ila Simmons through SLED. If you want to
7 hear her testimony again, you can ask to.

8 They don't want you to remember that what she
9 said was, This wasn't the residue from a shooter. It was
10 the residue from someone defending themselves. He's on
11 the ground, his hands are on the ground.

12 MR. APOSTOLOU: Objection. Judge, may we
13 approach?

14 (Discussion held at sidebar.)

15 MS. SHEALY: That his hands were down and
16 what was left behind wasn't enough to say he was a
17 shooter. Defensive, down, hands down on the ground.

18 What else is suggestive of it? These two
19 guys, Jujuain and Kadeem, trying to defend themselves,
20 the way that gunshot goes in Kadeem's leg, as if he's on
21 the ground and the leg is up, to try to block it. No
22 mercy on the part of these two guys, no mercy, no regret.

23 So we were talking about the sameness of what
24 Quansantrina and Jujuain were saying. Two men, an AK47
25 with a banana clip. Quansantrina gets the keys without

1 touching them by using a rag. One shot, then rapid two
2 shots, a bag of food, the way the cars were parked:
3 Jujuain told you, I went down the road. I had to turn
4 around and come back and re-pull over.

5 Quansantrina told you, The car came down the
6 street. It turned around and came back and pulled over.

7 The details match. They corroborate each
8 other; the tussling over the gun -- Kadeem knew that they
9 weren't playing. They shot at his brother, and he's
10 trying to get the gun and they're tussling with him, and
11 Dashaun Simmons, Dashaun Simmons, gets that opportunity
12 to use it. Big day for Dashaun. There's not just one
13 shot, there are two. One to the chest, one to the leg.

14 What else do Jujuain and Trina also say about
15 the stomping? She's telling in Charleston that Denzel
16 Heyward, red shirt, is stomping the kid in his head. It
17 takes a high level of malice to take your foot and stomp
18 someone in the head, not once, not twice, but repeatedly.

19 Another thing they both said, she says that
20 when they go tearing out of there, tearing down Cynthia
21 Avenue, or Cynthia Drive, she almost hits Jujuain.
22 Jujuain tells you he hears a car coming up right behind
23 him. He's running as fast as he can and seeks shelter on
24 Thorpe Constantine Road. Let's talk about that recording
25 for a minute.

1 Probably the most important part of it, the
2 part that Alex played, Apostolou played, were the first
3 three words: His name's Fat.

4 Is that how you refer to someone that you
5 know, or is that how you refer to someone that the people
6 at your house have been telling you his name is Fat? The
7 other guy, Thurston, told him about being locked up
8 together before, but what else is said on that phone
9 call?

10 He didn't pull the trigger. The other one
11 pulled the trigger. Jujuaïn gave that detail to his
12 cousin as well: My brother died. My mind is on my
13 brother.

14 In whatever way Jujuaïn Hemingway's
15 personality might not have been the way we hoped for,
16 there was one thing clear: In every question he
17 answered, his mind is on his brother. Two-and-a-half
18 years later, his mind is on his brother.

19 Let's talk a little bit about what
20 Quansantrina said that has also been corroborated.
21 Remember she told us that when they got back in the car
22 Denzel got rid of the phone? Willis Walker, Willis
23 Walker today, told you, right after the shooting, That
24 phone's not used anymore. The words of a guilty man.
25 Get rid of that thing, and then he started using

1 Quansantrina's. She said it, and the records reflect it.
2 That's whose number starts calling Lorenzo.

3 Jujuin Hemingway told you that on May 19th,
4 when they brought him the line-up with Denzel's picture
5 in it, that he could have identified him. He knew it was
6 him, but he didn't know what he wanted to do. He hadn't
7 had time to think.

8 Next day, when Charles Lawrence brings the
9 line-up and he had a little more time to be contemplative
10 and to think, he identifies Denzel Heyward. Jujuin
11 Hemingway, 17 years old, two days after the death of his
12 brother, realizes, I got to tell them who did it.

13 He would have had absolutely no reason to
14 identify someone other than the one who stomped his head
15 and rode to Cynthia Drive with Dashaun Simmons and the
16 AK47, bent on mischief, malice in their heart. They
17 thought, It's going to be a payday, and it wasn't.

18 Let's focus now for a second on the hand of
19 one is the hand of all. His Honor will instruct you
20 about the hand of one and the hand of all, and let me
21 tell you about it factually, and then I'll address it
22 legally.

23 When two guys go to a house and get an
24 assault weapon and it's loaded and it has a banana clip
25 and they put it in the trunk of a car and they lie in

1 wait and they rob two people, it doesn't matter if Denzel
2 Heyward was holding the gun or if Dashaun Simmons was.
3 They acted together. They committed this crime together.

4 His Honor will instruct you, if a crime is
5 committed by two or more people who are acting together
6 in committing a crime, the act of one is the act of all.
7 A person who joins with another to commit an unlawful act
8 is criminally responsible for everything done by the
9 other person which happens as a probable or natural
10 consequence of the acts done to carry out the common
11 plan.

12 For example, two people can be guilty of
13 killing another person when only one of them had a gun,
14 there was only one bullet, and only one of the two fired
15 the shot that caused the death: Textbook hand of one,
16 hand of all. This case is textbook.

17 Let's reflect on the jail calls, and I do
18 know they were very hard to understand, but if you need
19 to listen to them again, we can; however, in looking at
20 the call that was made on June 1st, Denzel Heyward:
21 Trina done flip on me. Ain't shit. My mom and boys
22 don't listen. So go to her hard. Go to her hard.

23 Go hard, wanting Quansantrina to change her
24 story.

25 And Dashaun Simmons, classic words, not I

1 didn't do anything, but, None of this shit be happening
2 if I kept my dumb ass sitting in my house, man.

3 Talking about getting a lawyer: Miracle
4 stories, but he real, real expensive. If I get him on my
5 team, I ain't need to worry about shit. I want an N word
6 that he work on miracle stories. I know I'll be good.

7 If you're innocent, are you in need of a
8 miracle story? If we could listen to May 23rd, 12:58,
9 what you will hear is, That's what one of my charges say.
10 Hold on I'll read it to you.

11 This is Dashaun Simmons: One of them saying
12 murder, one saying attempted murder, but the interesting
13 one is armed robbery. The witness, Trina, snitching and
14 shit.

15 Snitching, not lying, not making things up,
16 snitching: She telling everything, and it's going to be
17 her word against mine because they ain't got no evidence
18 yet. They just holding me. They did not identify Fat at
19 the line-up because like the girl, Trina, she snitching.

20 The bitch telling on me is what's really got
21 me fucked up right now. Fat, they picked him out of a
22 line-up.

23 While he's pulling that up, let's go back to
24 Denzel Heyward's phone calls for that day, and Mr. McCoy
25 put up his assistant about the cell tower information.

1 When you're riding with your buddy and your girl is
2 driving you to go get an AK47, it's probably enough
3 entertainment for you. That's when you're not making
4 phone calls, and there were two hours, two hours, when he
5 wasn't making calls. They're getting jacked up for that
6 night.

7 And the phone call from Dashaun Simmons,
8 12/30/2012:

9 What's going on, fool?

10 What's up, boy.

11 Chilling, man.

12 Everything good with you?

13 Chilling man, just chilling. What's going
14 on, bro?

15 Man, there's so much mixing up, man. So much
16 coming from different sides. I hear a little bit of this
17 and a little bit of that and shit, but I ain't paying any
18 attention, Ns, keep trying to slimeball each other, but
19 at the same time I keep telling you, telling this N on
20 the other N, I could slime all this in. I could slime
21 all this in back in August if I wanted to snitch on this
22 man. Snitch.

23 Ain't nobody trying to slimeball nobody
24 because if I slimeball him and he slimeball me, we all
25 going down. Only thing I try to do is get you and the

1 other people to do what they got to do, so one of us gets
2 out there and we can make shit happen, because he ain't
3 going nowhere. That's why you really need to be keeping
4 up with this case. Dog ain't going nowhere. Too much
5 shit points towards him.

6 He's saying he ain't even been there and the
7 victim picked him out of a lineup, the victim. The
8 victim, the victim. That's going to make you look
9 stupid.

10 That's what that N say? He say he ain't been
11 there?

12 From my understanding, y'all trying to tell
13 you and everybody else he ain't been there and he ain't
14 did this and he ain't did that, but everything is
15 pointing towards him, but the only thing -- excuse me,
16 pointing towards me is Trina's statement.

17 But at the same time, I ain't trying to
18 slimeball him, dog, because it's my homeboy and shit, but
19 let's keep this shit real.

20 He's trying to make it seem like he trying to
21 tell you to say that he ain't been there or change it to
22 say what he got to say, but if you do that and make it
23 say what he want to say, he's going to make you look
24 stupid, because how is he going to say he wasn't there
25 but the victim put him on the scene, bro? Victim.

1 Dude about to call his name and say he did
2 this and did that, and his brother picked him out of a
3 line-up. That's what I try to sit there and tell you.
4 Ain't nobody trying to slime on nobody. I try to get you
5 to change that so I can get out there and make it so all
6 of us be straight.

7 Only thing this N word give out is harassing
8 this girl and threaten this girl on the phone and trying
9 to get you to do this and make you look stupid.

10 That shit ain't going to work. You know what
11 I'm saying?

12 See what you're saying.

13 Ain't nobody trying to get out here and
14 slimeball nobody. Just do what I ask you to do so I can
15 get out of here and I can make this shit and try to make
16 this shit not even go to trial so all us don't go to
17 prison.

18 I got it. I'm going to try and get it done.

19 On May 16, 2012 Cynthia LaRoche, who thought
20 she'd moved to a quiet, safe area of town, heard the
21 blasts fired by Dashaun Simmons so loud that one street
22 behind and across the street she thought it had entered
23 her 18-year-old daughter's bedroom wall. Four of those
24 that night; one on the ground, two in Kadeem, and one on
25 the way out.

1 THE COURT: Ms. Shealy, it's time to start
2 winding it up.

3 MS. SHEALY: That evening, these two guys,
4 acting all bad, took an AK47 and took the life of Kadeem
5 Chambers. He didn't deserve to die that way. They don't
6 deserve to get away with it.

7 Thank you.

8 THE COURT: All right, folks. My jury
9 instructions will take about 15, 20 minutes, so why don't
10 we, because it's been an hour and a half, take a
11 ten-minute restroom break and come back fresh, and I'll
12 start you on the charge. It's still too early to begin
13 deliberations, but I'll have you back in about ten
14 minutes and we'll finish up.

15 All right.

16 (Recess taken.)

17 (In open court, jury present.)

18 THE COURT: All right. Be seated. All
19 right, folks. We are back to the final phase of the
20 trial before we turn it over to you to begin
21 deliberations for your verdicts, and I want to remind you
22 that during your trial, you and I have had certain duties
23 to perform. I told you about those at the beginning of
24 the trial.

25 As the trial judge, my duty is to preside

1 that and initial, and then on that one part where we cut
2 and paste in, we added the burglary and kidnapping.

3 I struck through those, initialed it, and
4 wrote murder, attempted murder, armed robbery.

5 MS. SHEALY: Okay. Thank you.

6 THE COURT: All right. Thank you.

7 Everything is back. I've discharged the alternates, and
8 tell the jury they can begin deliberations.

9 (At 5:25 p.m., the jury retires to deliberate
10 their verdicts.)

11 (7:44 p.m., in open court, note received from
12 the jury.)

13 THE COURT: Everyone has agreed to this
14 reply: The statements were not admitted into evidence;
15 however, you can listen to the testimony where they were
16 discussed if you would like.

17 (Recess taken.)

18 (7:56 p.m., in open court, note received from
19 the jury.)

20 THE COURT: The jury wants to hear the
21 recording of Quansantrina Rivers.

22 It says, Please provide recording of
23 Jujuain's testimony, and they need a device to play the
24 CD's of the recorded phone calls, and then this is the
25 one that troubles me.

1 They want to hear the closing arguments
2 regarding the telephone conversation by the defense
3 attorney for Heyward, and then they want to hear the
4 closing argument regarding telephone conversations of the
5 State.

6 I'm not inclined to play back closing
7 arguments. They're not evidence, but I'll be glad to
8 hear anybody on that, if they want to make -- I've never
9 had a jury ask me, but my inclination is that's not
10 evidence. They're argument.

11 MS. SHEALY: I agree with that, Your Honor.

12 MR. McCOY: I would tend to agree with that
13 too, Judge.

14 MR. APOSTOLOU: The only thing that gives me
15 pause on that, Judge, is some of our testimony regarding
16 those phone conversations -- those phone conversations
17 are difficult. Maybe -- I think both the State and I
18 have the transcript of it. Perhaps we just send the
19 transcript of it back with them.

20 THE COURT: Well, transcripts didn't come
21 back in. I'm not inclined to let them have it. They can
22 have the CDs and they can play them and listen to them
23 all they want.

24 MS. SHEALY: They're not going to be able to
25 do that back in their room just because the CDs have more

1 things on it than -- in other words, the disk doesn't
2 just reflect the calls that were played in court. Now, I
3 don't know whether the court reporter --

4 THE COURT: Well, what I was going to do is
5 have her go back and play back the testimony of
6 Quansantrina and Jujuaian back there. She can play it for
7 them, they can hear it, and just instruct them that she
8 plays it through. If they -- if they've heard all
9 they've wanted and they all want to stop to stop, but not
10 to discuss the testimony in front of her. Then when
11 their food comes, they can eat while they're doing it,
12 and handle the two testimony requests that way.

13 And then if you're telling me that this is
14 the room where they don't have that, when they want to
15 hear the CDs, we'll just have to bring them in here and
16 play that.

17 MS. SHEALY: I don't know about that. What
18 I'm saying is, the CDs are on disks. The disks have
19 conversations from the jail, other than the ones that
20 were played. Remember how he was having to find them?

21 THE COURT: I'll guess we'll just have to
22 bring them back in. I know in the one jury room, they
23 had a laptop set up for them to be able to play it.

24 MS. SHEALY: But, again, what I'm saying is,
25 we were playing excerpts from phone calls, so there are

1 some things on the disks themselves that didn't get
2 played in front of the jury, so we wouldn't be able to
3 just give them a disk, even if they could hear it.

4 THE COURT: You don't have the ability to
5 turn a disk --

6 MS. SHEALY: We could do that if you wanted
7 us to take the time to do that.

8 THE COURT: Why don't you do that while she's
9 playing that, because Quansantrina is going to be a while
10 and Jujuaian is a while, so you could burn one that gets
11 just the edited portions, and then when they're done
12 listening to that, then we'll have that ready by then.

13 MR. McCOY: The one at issue, the closing
14 arguments, what was said on the phone call that was done
15 by Mr. Apostolou and, then the phone calls, plural, that
16 were done by Ms. Shealy in her closing?

17 THE COURT: It says, also the closing
18 argument regarding the telephone conversation -- and I
19 can't make out -- I guess it's of defense attorney for
20 Heyward. So it's the closing argument regarding the
21 telephone conversation of defense attorney Heyward. That
22 would be Mr. Apostolou, and then the next one is the
23 closing argument regarding the telephone conversation
24 from the State.

25 So they want to hear the portions of the

1 closing arguments that they made on the telephone
2 conversations.

3 MS. SHEALY: But do we know from that note
4 which telephone conversations?

5 THE COURT: I just read it to you verbatim.

6 MS. SHEALY: We maybe could get that
7 clarified.

8 THE COURT: Well, why don't I bring them in
9 and tell them what the deal is, and I'll have them play
10 back -- I'll send her back in there to do that, and then
11 I'll write a note saying which telephone conversations
12 they want to hear, we'll burn it to a DVD or a CD while
13 they're listening to that, so they can listen to it back
14 there, but I'm not going to play back your closing
15 arguments.

16 All right?

17 MS. SHEALY: Yes, sir.

18 THE COURT: Bring them back in.

19 (At 8:04 p.m., in open court, jury present.)

20 THE COURT: All right. Let me go over your
21 request with you.

22 We can provide the audio of the testimony of
23 Trina and Jujuan. Each of those are a couple of hours
24 long. I don't know if there's particular parts that you
25 wanted to hear or not, but what I'll do is, I'm going to

1 send you back so you can listen to them there, and the
2 court reporter will go back there so she can play, and
3 then your pizza should be getting here. You can set and
4 eat and listen to them.

5 If you want the whole thing played back,
6 she'll play it from the beginning to the end. If you
7 want her to go to just portions of it, you just let her
8 know what portions you want. What's important is that
9 she can't be in there -- just like you couldn't come out
10 here and deliberate in front of everyone, she'll play the
11 portions you want. When you've heard everything that you
12 want to hear, then she'll leave, and then you can resume
13 your deliberations, but don't deliberate in front of her.
14 All right? So we can do that for Trina and Jujuaian.

15 Again, we'll play the whole thing if you
16 want, but if you want just portions of it, you need to
17 let her know which portions you want and she'll get that.

18 Now, as far as playing the CDs, while you're
19 doing that, if you want all of the different phone calls
20 that were made, we'll -- the thing is, right now they're
21 on a couple of different CDs, and there's other things on
22 the CDs that didn't come into evidence.

23 If there is a particular one or two that you
24 wanted to listen to, let us know; otherwise, I'm going to
25 have them prepare a CD where they take all of the ones

1 that you heard, burn it to one CD, and then we'll send it
2 back with a laptop for you to listen to.

3 As far as listening to the closing arguments
4 of the lawyers, that's not evidence, and so we don't play
5 those back for you. Okay? So that's the deal.

6 Go on back there, and she'll come back. When
7 the pizza comes, you can just write while you're
8 listening. Again, if you just want to listen to some of
9 it, let her know what parts they are or where they're at.
10 The problem is of course I've had three different court
11 reporters this week and she wasn't here either one of
12 those days, but she'll try to find around whatever it is
13 you're looking for.

14 Okay? Thank you.

15 (Jury resumes deliberations.)

16 (In open court, jury not present.)

17 MS. SHEALY: The only concern I would have,
18 if the jury would articulate what they're interested
19 in -- I don't mean any disrespect to the court reporter,
20 but if she's -- for her to be trying to find where it is
21 that they're interested --

22 THE COURT: How else would you have me do
23 this?

24 MS. SHEALY: I think that --

25 THE COURT: It's specialized software. I

1 can't just send her in and have her play it and then walk
2 out, so it's either that, or they all come out and listen
3 to it for however long, but she's got to be there one way
4 or the other.

5 MS. SHEALY: What I'm saying is, what you
6 told them is, if you tell the court reporter what you're
7 interested in, she'll try to find it, and what makes me a
8 little nervous is -- and I'm not familiar with it, but
9 maybe it's easy enough to do, but otherwise I would be
10 concerned if they said, I'm interested in the suitcase.

11 You know, I don't know what that means to her
12 to be looking through all the testimony to find
13 references to the suitcase.

14 THE COURT REPORTER: I can do that with my
15 software. I have an audio that the other reporter left,
16 and what she did on that was just note the time for
17 direct and cross and redirect. So if they said, We want,
18 you know, redirect of Trina, I'll just pull that part up,
19 but I don't know any way to search through her audio.
20 Mine actually has the text with the audio.

21 THE COURT: The first one, she was doing the
22 old-fashioned, with the mask. The second one, she didn't
23 have realtime like she does, but she can scroll through
24 and find a part, but the first two can't do that. She
25 would basically have to kind of hunt and peck around.

1 So it may be they just listen to the whole
2 thing. That's all we can do. Okay?

3 MS. SHEALY: Okay.

4 (Recess taken.)

5 (11:56 p.m., in open court, note received
6 from the jury.)

7 THE COURT: They sent a note saying they are
8 in agreement with four counts. Can you help, or what do
9 we do now?

10 So I was going to call them in and give them
11 an Allen charge and see if they want to continue tonight
12 or come back tomorrow. All right?

13 MR. McCOY: Maybe I misread it or
14 misunderstood it --

15 THE COURT: They are in -- we are not in
16 agreement on four counts, is what it says.

17 MR. McCOY: Okay.

18 THE COURT: Can you help, or what do we do
19 now?

20 MR. APOSTOLOU: On behalf of Mr. Heyward, we
21 would object to the giving of an Allen charge at this
22 point. They've obviously given it plenty of thought, and
23 we would just object to it.

24 MR. McCOY: For the record, we would ask that
25 we continue tonight.

1 THE COURT: Well, I'm going to give them the
2 option tonight and I'll encourage them to continue, but
3 if they do want to go home -- I mean, it's midnight, so
4 at some point, they'll either stay here all night or ask
5 to go home.

6 MR. McCOY: My only fear is I know we've
7 released our alternates too, so that kind of scares me to
8 let the folks go home tonight.

9 THE COURT: I understand.

10 MS. SHEALY: You are going to give them the
11 Allen charge?

12 THE COURT: Uh-huh.

13 (In open court, jury present.)

14 THE COURT: Be seated.

15 All right, folks. You have sent in a note
16 that says you are not in agreement on four counts, and is
17 there anything, basically, I should do to help you out or
18 what you do now.

19 Well, here's what we do when I get a note in
20 like this and you haven't been able to reach a unanimous
21 verdict now, and I'll just kind of outline some thoughts
22 to you, all right?

23 You've heard all the evidence that you're
24 going to hear in this case. You've heard all the
25 arguments. It's obviously a very difficult case. You've

1 been at it for about seven hours now, and it is almost
2 midnight. We couldn't really ask you to do much more
3 than you've already, and that is to be conscientious and
4 try to reach a unanimous decision.

5 What I tell folks when they ask me what they
6 should do, I say, well, you know, when you have something
7 less than a unanimous decision -- and I don't want to
8 know what your vote breakdown is or what charges you
9 agreed upon and not agreed upon at this point. I would
10 just say there's usually -- you know, there's usually a
11 majority, there's usually a minority, sometimes it's
12 split evenly, but what I say is, you know, you've been
13 back at it a while.

14 I think it might be helpful if you go back
15 and listen to what the side says that's not in agreement
16 with what you believe. Listen to see if you think they
17 have some merit. I'm not suggesting that you change your
18 mind, I'm just saying perhaps it would be helpful if you
19 kept an open mind and considered whether or not -- what
20 the other side says and does it have merit. If you're in
21 the majority, listen to what the minor has to say; if
22 you're in the minority, listen to what the majority has
23 to say.

24 Essentially, what happens is if you can't
25 reach a decision, then I would have to declare a

1 mistrial, and we would have to retry the case some other
2 day. We would go through exactly the same process that
3 we went through to get you. We'll bring in a group of
4 jurors. We would go through asking the questions, and,
5 essentially, they would hear the same evidence that
6 you've heard.

7 I don't have any reason to believe they would
8 hear anything different than what you heard, and I have
9 absolutely no reason whatsoever to believe that I would
10 find or that we would find any 12 more fair and impartial
11 folks than you. It would be just as difficult for them
12 to reach a decision as you, and I don't think we would
13 find 12 people that were more conscientious than you
14 folks have been.

15 And so I would ask that you go back and try
16 again to see if you can reach a unanimous verdict. You
17 know, I hate to break a deliberation up over days, but
18 bottom line is, it's midnight, and if you folks can go
19 back and deliberate some more and see if you can, based
20 on what I've told you, listen to what the other side has
21 to say. Listen with an open mind, and if you can reach a
22 unanimous decision and reach it tonight, that would be
23 great. If you feel like, well, you've done all you can
24 do tonight and you want to come back tomorrow morning and
25 deliberate more, then we'll respect your wishes on that.

1 So, having said that, if you would, go back
2 to the jury room, work on this some more, and let me know
3 what your decision is.

4 (Jury resumes deliberations.)

5 (In open court, jury not present.)

6 MS. SHEALY: Your Honor, one thing that
7 occurred to me is if they have not reached a verdict on
8 four but have reached a verdict on four, do we need to
9 inquire whether they've made a decision as to one
10 defendant already --

11 THE COURT: I'm not going to make any
12 inquiries yet. I want to see just what they come up
13 with, and if they tell me they can't reach an agreement
14 on something, then we'll find out what they have reached
15 an agreement on. Okay?

16 (Recess taken.)

17 (1:08 a.m., in open court, note received from
18 the jury.)

19 THE COURT: The note says they still can't
20 seem to reach a unanimous decision, so bring them back
21 in. Is everybody in here?

22 MS. SHEALY: Your Honor, could we approach
23 really quickly?

24 THE COURT: Yeah.

25 (1:11 a.m., in open court, jury present.)

1 THE COURT: All right. Thank you. Be
2 seated.

3 Madame Foreman, your note says that you
4 weren't able to agree, and it doesn't seem like you can
5 reach a unanimous decision. Your earlier note said that
6 you couldn't agree on four, which could be read to mean
7 that you had reached it on four or some. Have -- were
8 you able to reach a verdict on any of the charges, or are
9 you not able to reach a verdict on any of them?

10 THE FOREMAN: We have been able to reach it
11 on some.

12 THE COURT: Did you write that down on the
13 verdict form? No? Well, I would like you to go back,
14 and the ones that you did reach a unanimous verdict on,
15 write what the verdict is, and then we'll come back in
16 here and I'll receive those verdicts. Okay? So y'all go
17 back there.

18 (Jury retires to the jury room.)

19 (Court's Exhibit No. 1-7 were marked for
20 identification.)

21 (1:20 a.m., in open court, jury present.)

22 THE COURT: All right. Madame foreman, the
23 verdicts that you have here, these are unanimous verdicts
24 that you're handing to the bailiff?

25 THE FOREMAN: Yes.

1 THE COURT: Go ahead. Hand them to him, and
2 the rest of the indictments, you have not been able to
3 reach a decision on, correct?

4 All right. Mr. Heyward, indictment
5 2014-GS-10-762 is for murder, and the jury was not able
6 to reach a verdict on that one. 2014-GS-10-763 is the
7 indictment for attempted murder, and the verdict is
8 guilty.

9 Indictment 2014-GS-10-765 is an indictment
10 for armed robbery. The jury found you guilty.
11 2014-GS-10-767, possession of a firearm during the
12 commission of a violent crime, the jury found you guilty.

13 Mr. Simmons, indictment 2014-GS-10-758 was
14 for murder. The jury was not able to reach a verdict on
15 that indictment. Indictment 2014-GS-10-759 is for
16 attempted murder. The jury found you guilty.

17 Indictment 2014-GS-10-760, armed robbery, the
18 verdict is guilty. Indictment 2014-GS-10-761, possession
19 of a firearm during the commission of a violent crime,
20 the verdict is guilty.

21 Ladies and gentlemen: If this, in fact, is
22 your jury would you please indicate that by raising your
23 right hand?

24 All right. Let the record reflect the jury
25 has raised their right hands. Y'all wish to have the

1 jury polled?

2 MR. McCOY: I do, Your Honor.

3 MR. APOSTOLOU: Yes.

4 THE COURT: All right. Y'all be seated. The
5 clerk will poll the jury.

6 (Whereupon, the jury was polled and all
7 jurors indicated their agreement with the verdicts.)

8 THE COURT: Now, folks I want to thank you
9 for your jury service this week. Jury service is never
10 easy, even on the simplest car wreck cases, the civil
11 side. The cases like this -- y'all had a difficult case.
12 This was a very difficult case, and that was obviously
13 reflected in the fact that you took so long to reach a
14 verdict, and it was very difficult for to you reach one.

15 We ask people to do a very challenging job
16 when they show up, and that is listen to what got said in
17 court here, don't talk to other people, don't listen to
18 what outside influences are, just listen to what you hear
19 in this courtroom, and then take the law that I tell you
20 applies and come up with a verdict.

21 And, you know it's been my experience that
22 people, when they get that jury notice, when they first
23 get it, most of them are, like, You know, I really would
24 like to do that, just some other time, but then they get
25 here, and they really do get invested in the process.

1 One of the things that I do as part of my
2 duties is I kind of keep an eye on what's going on around
3 and make sure nobody is nodding off and falling asleep,
4 and there wasn't one time throughout this entire trial
5 that I noticed anybody on the jury that was not giving
6 whatever was being done their absolute fullest attention.

7 That's actually kind of rare, but it goes to
8 show you that it was an interesting case, and, you know,
9 as I think I mentioned earlier in the week, when people
10 will -- I will sometimes run into them in the street, and
11 they'll tell me that they were glad that they got the
12 chance to serve on the jury because they learned a lot
13 about the system.

14 You learn a lot about making a group
15 decision, and you have your views, each of you
16 individually, which you had to see how it meshed with
17 everybody else's. And part of the duty of the system is
18 just a wide, diverse group of folks. You heard me say
19 that during the qualification on Monday. It's not an
20 easy thing, and so y'all have done a tremendous job this
21 week, and you've done what we asked.

22 People usually want to know if they did the
23 right thing. I tell them whatever you do is the right
24 thing. It's a process, that's what this is really about,
25 and, you know, 12 people, citizens of the county, not

1 government employees, people getting paid by the
2 government to make these decisions, but they're fellow
3 citizens, they come in, take time off from their work and
4 their regular life and make big decisions like this.

5 We can't ask more from citizens, so you have
6 truly earned our thanks. I would like to say you've
7 earned your pay, but it's really not much. It's a
8 pittance. I'm glad we were able to buy you lunch and
9 some doughnuts. I wish we could do a better job than
10 pizza in the evenings on the nights we do that, but y'all
11 have earned our thanks for that, and I won't keep you any
12 longer.

13 It's 1:30 in the morning. You broke the
14 record, my personal record, for having a jury out. I
15 know you're tired. Please drive home carefully. The
16 sheriff's deputies will escort you back to the parking
17 lot, and, please, again, accept my sincere thanks on
18 behalf of the citizens of State of South Carolina for
19 your jury service this week. All right? Thank you very
20 much.

21 (Jury dismissed.)

22 THE COURT: On the two indictments for
23 murder, that would be indictment 2014-GS-10-758 against
24 Mr. Simmons, and 2014-GS-10-762, the murder indictment
25 against, Mr. Heyward, I would declare mistrials on those.

1 As for the others, are there any motions that
2 you wish to make at this time before we move to
3 sentencing?

4 MR. McCOY: Judge, again, I would just renew
5 all previous objections.

6 THE COURT: All right. Mr. Apostolou,
7 anything?

8 MR. APOSTOLOU: We renew our motion for
9 directed verdict. We would also request that -- make a
10 motion for a new trial. There were some serious Bruton
11 issues involved with those jail tapes, the fullest extent
12 of which I don't believe was readily apparent when they
13 first played them, but, obviously, they're in the
14 closing. There are some serious Bruton issues there.
15 There was the confrontation clause --

16 THE COURT: I don't think any of those were
17 raised.

18 MR. APOSTOLOU: No, I understand that, Judge.
19 I understand. In addition to that, Judge, I request that
20 we defer sentencing due to the hour to the extent we've
21 all been here.

22 THE COURT: Well, I'll tell you what:

23 MS. SHEALY: May I be heard as to that issue,
24 to delay sentencing?

25 THE COURT: The motions are denied for the

1 record.

2 Go ahead.

3 MS. SHEALY: This family has been here from
4 Longs, South Carolina. Talia, Kadeem Chambers's sister,
5 has got to be at work tomorrow at 2:00. It would be a
6 great hardship for these folks to come back for
7 sentencing.

8 THE COURT: I agree. I was thinking about
9 that. One time I thought, well, I'll do it Monday
10 morning, but they are from out of town, and that would be
11 a hardship, so we will move to sentencing.

12 Is there anything the State would like to
13 bring to my attention?

14 MS. SHEALY: Yes, Your Honor. May I hand up
15 the sentencing sheets?

16 THE COURT: Uh-huh.

17 MS. SHEALY: And, Judge, could I hand up some
18 pictures of Kadeem Chambers that his family brought that
19 they'd like you to see?

20 THE COURT: Sure.

21 MS. SHEALY: Would I be interrupting you if I
22 also asked you something else right now?

23 THE COURT: Go ahead.

24 MS. SHEALY: Apparently the family has a
25 video they made contemplating this sentencing hearing. I

1 think he said it lasted just a few minutes, five minutes.
2 Would you entertain seeing that?

3 THE COURT: What kind of --

4 MS. SHEALY: I don't know, actually. They're
5 just pictures of Kadeem Chambers.

6 THE COURT: Is it something you can play up
7 here?

8 MS. SHEALY: Yes.

9 THE COURT: Go ahead.

10 MS. SAVAS: Your Honor, Kadeem Chambers and
11 Jujuain Hemingway's sister has a brief note that she
12 would like to have read, if it's all right with Your
13 Honor.

14 THE COURT: All right.

15 MS. SAVAS: Hello. My name is Talia
16 Chambers, and I'm the sister of the late Kadeem Ali
17 Chambers and also Jujuain Hemingway.

18 The past almost 30 months now my family chain
19 has been seriously and unforgettably broken. This has
20 hurt my family and I badly. On May 17, 2012, when my
21 brother Kadeem Ali Chambers was executed, it was the
22 worst day of our lives, a day we will never forget. No
23 one will never feel my family and I's pain. We will
24 never again get the chance to hug, kiss, laugh, or joke
25 or even see the crazy, ugly faces that Kadeem was to

1 make. All we have now is sweet memories, pictures, and
2 the thought of our loved one.

3 My family lost a son, a brother, a grandson,
4 uncle, and cousin, and, most of all, a dear friend above
5 all. My little brother was a very good, humble,
6 peaceful, well-mannered, loving, and most caring person.
7 To know Kadeem was to love him.

8 So now, today, on November 14th, 2014, I
9 stand here, two years later, for justice, peace, but,
10 most importantly, closure for our loved one, the late
11 Kadeem Ali Chambers, and to look into the eyes of the two
12 monsters and murderers that took our loved one from us.

13 So, with that said, I would like for you to
14 have no mercy upon Denzel Heyward or Dashaun Simmons
15 because they had no mercy on our child on the night of
16 May 17, 2012 when our lives was turned upside down. I
17 feel even to have life in jail is still too sweet for
18 them. At least they moms can see them, their brothers
19 and sisters can talk to them, and their grandmothers can
20 at least get the chance to hug and to hold them. My
21 family will never have that chance again.

22 So when you give judgment, please consider
23 that if you let them go they can do this again to
24 somebody else's child, maybe even one of yours, so I
25 think they should have to live their life in jail, to sit

1 and think about the wrong that they did, the life they
2 destroyed, the hearts they left empty.

3 Thank you.

4 THE COURT: Thank you.

5 MS. SHEALY: Regarding their prior records,
6 you had heard of Mr. Heyward's prior record for two armed
7 robberies when he was a juvenile, which was only four
8 years, I believe, before this incident occurred. He also
9 has a previous receiving stolen goods conviction.

10 You've heard the testimony of Quansantrina
11 about the violence at this man's hands towards her. He
12 literally hit her at the North Charleston municipal
13 court, which was videoed, when they were going down to
14 get bail money back on a pending drug charge that he,
15 Dashaun Simmons, and Quansantrina Rivers, still face.

16 Just for the Court's edification, on that
17 occasion, which was one month prior to this event, there
18 was a weapon in the car.

19 Dashaun Simmons has a prior weapons charge,
20 breach of trust, fraudulent intent, possession of
21 marijuana charge, forgery charge, driving under
22 suspension charge, and he made bail, Your Honor, for
23 approximately, I believe it was, a month, then picked up
24 new charges and then failed to come to court twice for a
25 bond revocation and was then picked up on a bench

1 warrant. He has obviously no regard for the law.

2 I understand that the murder charges, they
3 were not found not guilty, there was just no verdict
4 reached, and in a heinous crime like this, I'm asking for
5 consecutive time. It's not just an armed robbery that
6 would be deserving of 30. It's not just an attempted
7 murder that would be deserving of a 20 or the weapons
8 charge, it's the combination of the three, and one young
9 man lost his life that evening.

10 We are asking for consecutive time.

11 THE COURT: All right. Mr. McCoy?

12 MR. MCCOY: Thank you, Judge. May it please
13 the Court: Your Honor, it's obviously been a long week.
14 It's been a hard-fought battle, and I believe the
15 evidence is the fact that we had a jury that was out for
16 roughly eight hours. I think there were some issues that
17 were given to the jury to discuss to create or show some
18 sort of reasonable doubt. We obviously had our theory of
19 the case and how this case went down.

20 We absolutely respect the verdict of the
21 jury, Your Honor, and I would ask you, myself and Sarah,
22 my co-counsel, have obviously put our hearts and souls
23 into this case and the defense of Dashaun Simmons, and
24 while there was no verdict reached on the murder charge,
25 I know we have a guilty verdict on the other three

1 remaining charges.

2 He's been joined in court this week by family
3 members who have been here to support him. The
4 grandmother was actually here earlier. She had to leave,
5 so she's no longer here. Your Honor, I'd ask you to
6 please not sentence on the fact that the murder was --
7 basically, you know, there was decision made on that, so
8 I would ask you not to take that into consideration in
9 terms of the sentencing, and I ask that you please take
10 into account Mr. Simmons's prior record, which is
11 minimal, and please sentence accordingly.

12 THE COURT: Mr. Simmons want to say anything?

13 MR. McCOY: No, sir, he does not.

14 THE COURT: All right. Mr. Apostolou?

15 MR. APOSTOLOU: Judge, Mr. Heyward has been
16 in jail for two-and-a-half years for this.

17 I echo a lot of the sentiments of Mr. McCoy.
18 It's obviously a hard-fought battle, Judge. I think that
19 a good theory was floated. We respect the judgment of
20 the jury.

21 I've known Denzel a long time. I've known
22 his family. I've been at their home. His brother is
23 here. He's not the monster that the State portrays him
24 as, Judge. I've known him on a personal level. I would
25 ask that you show him consideration, and I would ask that

1 you sentence him accordingly.

2 I don't know if he wants to speak? No,
3 Judge.

4 MR. McCOY: Judge, the only other thing I
5 would add too is Mr. Simmons has served exactly 24
6 months.

7 THE COURT: All right. Mr. Heyward want to
8 say anything?

9 MR. APOSTOLOU: No, Your Honor.

10 THE COURT: All right. Gentlemen, stand.

11 You know, there seems to be something going
12 on in society which -- I don't know, young people don't
13 seem to have any regard for life. You know, things are
14 solved with violence, with guns, and there's just a total
15 disregard for the fact that we're talking about other
16 human beings, and I don't really know how to resolve that
17 problem from a societal standpoint.

18 It's clear to me from the evidence that the
19 jury had before them that, you know, there was lying in
20 weight for this robbery and attempted murder to take
21 place. That's highly disturbing to me, and it shows
22 premeditation, malice, and it shows just the total
23 disregard for other human beings. And I don't really
24 know of any way to solve that other than when the case
25 comes before me to put people like you away for as long

1 as you can.

2 I think you forfeited the right to walk
3 amongst people for as long as I can put you in jail, and
4 I'm going to give you each 30 years on the attempted
5 murder. After you finish that, you can do 30 years on
6 the armed robbery, and after you finish that, you can do
7 the five years on the weapons charge. You'll get credit
8 for time served.

9 Good luck. Thank y'all very much. It's been
10 a long week, and see you around. You did a great job.

11 - - -

12 (Whereupon, the proceedings were concluded.)

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED
IN GENERAL SESSIONS COURT
FOR THE NINTH JUDICIAL CIRCUIT
2014 NOV 24 PM 3:46

STATE OF SOUTH CAROLINA,

Warrant No. M998135,
M998136, M998149

BY: MH

v.

DENZEL HEYWARD,

MOTION FOR NEW TRIAL
DUE TO IMPERMISSIBLE
BRUTON TESTIMONY

Defendant,

Charges: Attempted Murder,
Armed Robbery, Possession of
a Weapon During a Violent
Crime

TO: The Honorable Roger Young, General Sessions Court, Charleston County

THE DEFENDANT NOW COMES before this Honorable Court, by and through counsel, Alex N. Apostolou, respectfully requesting this Honorable Court for an Order granting a New Trial in this matter due to the Jury improperly being exposed to Co-defendants statements that should have been prohibited by Bruton. The trial of this matter was held Monday, November 10 through Friday, November 14, 2014. Defendant was found guilty of Armed Robbery, Attempted Murder, and Possession of Firearm During a Crime of Violence and sentenced to 65 years of incarceration. This motion follows.

During the joint trial of Defendant Denzel Heyward and Deshawn Simmons, the State introduced recorded jail tapes of Deshaun Simmons. In Simmons jail tapes, he is heard speaking to a third party but talking about his co-defendant, Denzel Heyward. Simmons' testimony was basically cross exam free testimony of one defendant testifying against another defendant. This type of testimony is violative of the Confrontation Clause and prohibited by Bruton. It should not have been before the jury in Denzel Heyward's trial. See *Bruton v. United States*, 391 U.S. 123, 126, 88 S. Ct. 1620, 1622, 20 L. Ed. 2d 476, 479 (1968)

Joint trials of co-defendants are only proper where no Bruton issues exist. Where Bruton issues exist, separate trials are appropriate. Since Simmons made this testimony, it would be only admissible in Simmons' trial. It would not be admissible as evidence in Heyward's trial at all. But for the fact they were co-defendants, Heyward's jury would never have heard Simmons' jail conversations or his comments regarding Heyward.

The Confrontation Clause of the Sixth Amendment to the United States Constitution guarantees a criminal defendant the right to confront and cross-examine the witnesses against him, and the Fourteenth Amendment applies this right to the States. U.S. Const. amends. VI and XIV; *State v. Henson*, 407 S.C. 154, 161, 754 S.E.2d 508, 512 (2014). In a joint trial, the admission of a non-testifying co-defendant's confession that incriminates another defendant violates the other defendant's right of confrontation. *Bruton*, 391 U.S. at 126, 88 S. Ct. at 1622, 20 L. Ed. 2d at 479; *Henson*, 407 S.C. at 161-62, 754 S.E.2d at 512.

Specifically in this case, in one of his recordings, Simmons references a co-operating co-defendant as "snitching" to police. The State argued that the usage of the term "snitch" suggested Simmons admitted the person was being truthful, which can be a logical interpretation of the term. However, it is known to defense counsel that in certain sections of society, specifically the section occupied by the defendants, the term "snitch" solely means to talk to the Police at all; there is no inherent judgment placed on the veracity of the statement. This is the type of information that could be uncovered through cross-examination, had it been available for these Bruton type comments, and precisely why Bruton type statements are prohibited in the first place.

Counsel would have objected to the inclusion of these statements had he been made aware of their existence. In addition to the over one thousand pages of discovery produced by the State, the State produced over 2 years worth of jail calls for Denzel Heyward and Deshawn Simmons and several months worth of jail tapes for their co-defendant, Quasantrina Rivers. As it pertains to Denzel Heyward, the State identified the specific section by date and time that it intended to introduce as evidence in the criminal trial. These items were reviewed by Defense counsel and determined to be properly admissible under the Rules of Evidence, and counsel agreed to admit these tapes without objection.

Counsel for Heyward was unaware, however, that the two years of jail calls from Simmons included testimony by Simmons about his co-defendant Heyward. Counsel would never have agreed to let this testimony into the trial of his client. The State never informed Heyward's lawyer that the small portions of the hundreds of calls it intended to use at trial included testimony about Heyward. The items introduced by the State were patently, on their face, violative of Bruton, which was surely known to the State. The State knew this testimony invoked Bruton issues but provided no notice to Defense counsel of this important issue. The mere production of two full years worth of jail tapes of a Co-defendant is insufficient notice that the State intended to seek introduction of Bruton type material involving non-impeachable testimony of one co-defendant against another. Had notice been given, an objection surely would have been lodged.

Without forewarning that the portions of Simmons tapes the State sought to introduce included testimony about him from his co-defendant, Heyward's counsel was unaware until introduction at trial that Simmons's tapes included testimony prohibited by Bruton, which should never have been before Heyward's jury. These items were played into evidence at the end of the state's case in chief. Had counsel been noticed pretrial that the tapes included prohibited comments, defense counsel would have had time to investigate the matter thoroughly, including playing them for his client, likely having them transcribed, and would have known of their full contents. At their initial playing in the courtroom, the recording was so difficult to understand that Heyward's counsel did not fully appreciate the import of this testimony at that time. It was not until the State read the transcripts of these calls during their closing arguments that defense counsel got the full appreciation of the significance of these statements.

Certainly if counsel had notice that Simmons statements included Bruton triggering testimony pretrial and would be available to the same jury hearing Heyward's case, counsel would have moved for separate trials. At a separate trial this information would not be admissible in the case of State v. Denzel Heyward. At the very least, a better appreciation of this information that early notice would have provided would have impacted Denzel Heyward's decision on whether to testify in his own defense.

The jail recordings of Simmons that included the portions of Simmons' calls wherein he testifies about Heyward, was one of the last items requested by the jury and

provided to them prior to their reaching a verdict. This was not a case of overwhelming evidence. The jury deliberated for eight hours and remained deadlocked on one of the counts even after eight hours of deliberation and an Allen charge. In a case this close, there can be no harmless error. Simmons testimony about Heyward contained in his jail calls was prejudicial and significantly impacted the outcome of this case.

Additionally, any comments made Deshawn Simmons would only be evidence against Deshawn Simmons. Simmons comments would not be evidence against Denzel Heyward at all. This point was never clarified for the Jury. As a result, the Jury was able to use Simmons out of court statements against both defendants, not just Simmons. Denzel Heyward was prejudiced by the Jury being able to use someone else's statements against him without the purging effect of cross-examination.

The very recent Supreme Court case of *State v. Daniel D'Angelo Jackson*, Opinion No. 5278, which was filed November 5, 2014, dealt with similar issues. In that case, the Court held,

"the State emphasized the statements throughout trial, especially during its closing argument. Finally, the trial court did not give the jury a limiting instruction that it may consider the statements only against Canty. As the Eighth Circuit noted in *Gayekpar*, "[w]ith no cautionary instruction, the jury was free to consider [Canty]'s statements when it decided the sufficiency of the [State]'s case against [Jackson]." 678 F.3d at 637."

The Court further opined, "we do not believe this "properly admitted evidence of guilt is so overwhelming, and the prejudicial effect of the codefendant's admission is so insignificant by comparison, that it is clear beyond a reasonable doubt that the improper use of the admission was harmless error." *Henson*, 407 S.C. at 167, 754 S.E.2d at 515 (internal quotation marks and citation omitted). *See also* 407 S.C. at 158, 167, 754 S.E.2d at 510, 515 (finding a *Bruton* violation and concluding the error was not harmless, even where two co-conspirators testified Henson was the shooter and gave other testimony corroborating the State's evidence against him); *State v. Singleton*, 303 S.C. 313, 314-15, 400 S.E.2d 487, 487-88 (1991) (finding a *Bruton* violation and concluding the error was not harmless, even where "[t]he victim testified that appellant walked up to his car, pointed a pistol in the car and demanded he turn over his money"); *Edmond v. State*, 341

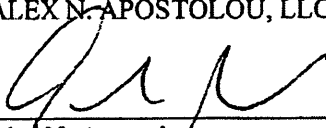
S.C. 340, 349, 534 S.E.2d 682, 687 (2000) (concluding "evidence of petitioner's guilt was not overwhelming as the State's entire case was built on circumstantial evidence.")

Similar to the Jackson case, Denzel Heyward was prejudiced by admission of Bruton prohibited testimony and further prejudiced by the failure to inform the Jury that Simmons' statements could only be used as evidence against Simmons, and not as to both Defendants. We, therefore, request an Order granting a new trial in this matter.

Respectfully Submitted,


ALEX N. APOSTOLOU, LLC

BY:



Alex N. Apostolou
215 East Bay Street, Suite 406
Charleston, South Carolina 29401
843-853-3637, Fax 843-853-3638
Attorney for Plaintiff

November 21, 2014

BY: 
JULIE S. ANDERSON
CLERK OF COURT
2014 NOV 21 PM 3:46

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN GENERAL SESSIONS COURT.
) FOR THE NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,
DENZEL HEYWARD,

) Warrant No.: M998135,
) M998136, M998149

) MOTION TO RECONSIDER
) SENTENCE IMPOSED

Defendant,

) Charges: Attempted Murder,
) Armed Robbery, Possession of
) a Weapon During a Violent
) Crime

FILED

2014 NOV 24 PM 5:46

CLERK OF COURT

BY [Signature]

TO: The Honorable Roger Young, General Sessions Court, Charleston County

THE DEFENDANT NOW COMES before this Honorable Court, by and through counsel, Alex N. Apostolou, respectfully requesting this Honorable Court to Reconsider the Sentence imposed following conviction of the above referenced charges. The trial of this matter was held Monday, November 10 through Friday, November 14, 2014. Defendant was found guilty of Armed Robbery, Attempted Murder, and Possession of Firearm During a Crime of Violence and sentenced to 65 years of incarceration. This motion follows.

Upon conviction, the Defendant in this matter was given the maximum sentence possible for each conviction, and each sentence was set to run consecutively. Denzel Heyward was literally given the maximum sentence possible as a result of his convictions. In the interests of Justice, the Defendant requests this Court reconsider.

The sentencing of the Defendant occurred after 1 am on Saturday morning, following an exhaustive weeklong trial, a long Friday of court, and an eight-hour jury deliberation. Due to the lateness of the hour and extreme emotional and physical fatigue of all involved, Defense Counsel requested that sentencing be deferred. After considering this request, the Court denied the request and proceeded with sentencing.

Given the impossibly long day which proceeded his sentencing, the interests of Justice are best served by reconsidering the sentence imposed. Denzel Heyward was a

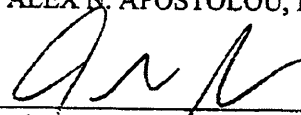
sophomore at South Carolina State University at the time of this incident and a student in Good Standing. He is a son, grandson, great grandson, brother and father. He is father of two children. Throughout this process, he has been surrounded by family members who love and care for him. At the time of these convictions he had no prior adult record. His only juvenile record occurred when he was fourteen years old. He responded to that incident by not only graduating from the Military Magnet High School, but also enrolling in college. While this is certainly a tragic situation, for the crimes he was convicted, Denzel was given an unusually harsh sentence.

Denzel Heyward was charged with but not convicted of Murder. Following his convictions on the charges referenced above, the State played a video tribute to the Victim of the Murder, Kadeem Chambers. This emotional video had a dramatic impact upon the Court but again Denzel Heyward was not convicted of the murdering of this individual. The video and emotion inherent therein were related to a charge that the Defendant was convicted and should not play a role in the sentencing of this Defendant.

Mr. Heyward requests this Court to Reconsider the sentence imposed and reduce the sentence given. This request is consistent with the best interests of Justice.

Respectfully Submitted,

ALEX N. APOSTOLOU, LLC

BY: 

Alex N. Apostolou
215 East Bay Street, Suite 406
Charleston, South Carolina 29401
843-853-3637, Fax 843-853-3638
Attorney for Defendant

2014 NOV 24 PM 3:46
CLERK OF COURT
MAY

FILED

November 21, 2014

PAGE _____ OF _____

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # _____

DATE _____

STATEMENT OF Jalvin Hernandez

ADDRESS [REDACTED] PHONE # _____

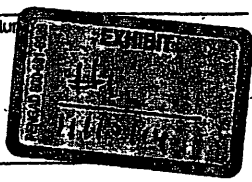
EMPLOYER: _____ PHONE # _____

RACE: Black SEX: Male DATE OF BIRTH: 04/05 [REDACTED]

Me and my brother Khadeem was chillin together at my house playing the X box games. Then he got up and was like he gotta go handle some business in Charleston he didnt say a specific part. I was like you want your little brother to ride with you since I havnt chill wth him for a couple days. He was like yea come on. so I got my Jacket and left with him. ~~He~~ He asked me did I want to drive I was like sure why not I havnt never been on a road trip like that driving. When I got in the car ~~the~~ his gas needle was full thats ~~not~~ usual because he never have his gas needle full. It was like he had already planned to take a road trip and he wanted to chill wth me before he left. But anyway we didnt stop to no stores on the way to Charleston. We had a good conversation about our dad that part away he was like broh we can be anything we want if ~~we~~ we use our heads like daddy. He just kept going on and on about our dad. We had another conversation about how he want me to do all the right things in life and make better decision then him.

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES: _____

X
Signature _____


I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

X
Signature _____

PAGE 2 OF _____

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # _____

DATE _____

STATEMENT OF _____

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

When we got all the way to Charleston my brother got phone calls people asking where he was at. I think it was his nephew or somebody other like it told him he was on the beach. When I was driving in Charleston my brother gave all the directions all I knew is that we was to downtown Charleston and we got lost to where we was suppose to go on my brother was like fuck it I'm going home I guess he got mad because he couldn't find out where he was trying to go so he told me to pull on this street I remember what it was called it was John Island and he told me to park on the side of the road so he can get his gps working. When he was in the middle of doing that he was like something don't feel right bruh I was like why you say that soon as I said that somebody walk on the passenger side where my brother was at - and punch him in the face in told him to get out the car with his hands in the air then they told

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

X _____
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

X _____
Signature

PAGE _____ OF _____

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # _____

DATE _____

STATEMENT OF _____

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

me to get out an dont man they said
 if I man or make a send they was going
 bill us so I shut up then my brother was
 like man we aint got nuttin yall can check
 everything then ~~they~~ one dude started going throw
 the car the other dude had a rifle pointed at my
 head when they ~~had~~ ^{off a} recognize we didnt have nuttin,
 they got mad on started beating me thats when
 my brother was like chill man thats my little brother
 when he said that thats when the dude fired the
 rifle by my face. Then they said pop the truck
 then I got up an pop it then they layed me
 back on the ground then thats when they started
 going to my brother ~~saying~~ ^{sit} telling him he was going
 die if I didnt tell them where the money was ad
 I guess they thought I had all the money
 because I was driving. Thats when I heard 2 or
 3 gun shots then I just hepped up an ran an get
 to a safe location to call the police

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

X

Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

X

Signature

PAGE 1 OF 6

CHARLESTON COUNTY SHERIFF'S OFFICE STATEMENT

OCA # 2012-007855

DATE 5-17-12

STATEMENT OF Jujain Hemingway
ADDRESS [REDACTED] PHONE # 843-602-8093
EMPLOYER: Abeth myrtle beach High PHONE # 843-251-8918
RACE: Black SEX: male DATE OF BIRTH: [REDACTED]

Begin My brother ~~the~~ came to my house around 9:00 stayed over here and played the video game. Then outta no where he said he had to go to Charleston to handle some business. I was like do you want me to ride wit you he said yea I would like you to since I havent chill wit you in a couple days. We didnt stop to no gas station or any kind of stores on the way to Charleston. On the way there me and my brother had deep conversations about our dad that past. We also had conversation about the right decision you make in life. When we get to Cynthia drive my brother said man we lost so I turn around in somebody yard on Cynthia drive in come back up the way I come on he told me to pull on the side of the road so I pulled on the left side. We sat there for like a minute then we seen this SUV box looking truck coming towards us. I didnt look back to see if the car turned or broke. But before I seen the truck I seen a green ~~the~~ car parked at this house drive way. But anyways we was sitth in the

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WITNESSES: [Signature] 10254

X Jujain Hemingway Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT X Jujain Hemingway Signature



PAGE 2 OF 6

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2012-007855

DATE 5-17-12

STATEMENT OF Juajuan Hemingway
ADDRESS _____ PHONE # _____
EMPLOYER: _____ PHONE # _____
RACE: _____ SEX: _____ DATE OF BIRTH: _____

car for like 2 min then this dude in a red shirt with a low haircut with a beard about 6"11" TH opened my brother door and ~~the~~ ^{OH} punch him in the face another dude in a white shirt about 5'11" TH came running up to my brother side of the car and told him not to move and told me not to move or he will kill us. Then the guy with the gun came to my side and told me to get out with my hands out when I get out he told me to get on the ground when I get on the ground I heard my brother and the other dude in the red talking my brother said when I don't have no money then that's when the dude with the gun made me get up and lay in the middle of the Rd along with my brother. Then the dude in the red walk towards me and kick me 2 times real hard knocking my teeth out. Then the dude shoot by my head with the rifle then that's when I stayed still. Dude in the red made me get up off the ground and open the trunk of the car then he started removing stuff - from the back to

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WITNESSES: [Signature] 10254

X Juajuan Hemingway
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT X Juajuan Hemingway
Signature

PAGE 3 OF 6

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2012-007855

DATE 5-17-12

STATEMENT OF Jujuain Hemingway
ADDRESS _____ PHONE # _____
EMPLOYER: _____ PHONE # _____
RACE: _____ SEX: _____ DATE OF BIRTH: _____

to the green car everytime he would walk pass me he would kick me in the face. ~~after~~ after he kicked me him and the dude in the white was on my brother they was moving alot then thats when I heard boom boom then I heard my brother say bruh I'm hit thats when I got up in started running the opposite way the car was parked then I heard the 2 guys jump in the car on the scene I ran in these people yerd jump there face and fell in a ditch and hopped on other face in ran in a construction bathroom

End: I called 911 emergency

middle At the time we was laying on the ground a girl picked up the keys I threw in the road she picked it up with a ray or something and jump in the car and left with the bene

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES [Signature] 10254

X Jujuain Hemingway
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT X Jujuain Hemingway
Signature

PAGE 4 OF 10

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2012-007855

DATE 5-17-12

STATEMENT OF Jujuain Hemingway

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

① DESCRIBE THE GREEN VEHICLE THAT ^{YOU} STATED PULLED OUT OF THE
ABANDONED RESIDENCE AND FACED THE OTHER DIRECTION?
Older model tinted windows 1990's

② DESCRIBE THE SUBJECT THAT HAD WHAT YOU STATED TO BE A RIFLE (AK-47)?
Black long with a banana clip, skinny, Brown skin "5'10"
white shirt with shorts on he had geechie accent

③ THE ^{subject(s)} ~~ONE~~ I ASKED YOU TO DESCRIBE IN QUESTION #2, WAS ^{SHE} HE A MALE
OR FEMALE? Male

④ DESCRIBE TO SUBJECT WHO STATED THAT KICKED YOU?
6'1 about 200 pounds had a red shirt on
gots facial hair black male

⑤ DESCRIBE THE FEMALE WHO YOU SAW PICK THE KEYS UP FROM OFF
OF THE GROUND WHILE YOU WERE ON THE GROUND?
Black female about 150 pounds hair style ponytail
had on jeans with a gray shirt on

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TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES [Signature] 10254

x Jujuain Hemingway
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT x Jujuain Hemingway
Signature

PAGE 5 OF 6

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2012-007855

DATE 5-17-12

STATEMENT OF Jiujain Hemingway
ADDRESS _____ PHONE # _____
EMPLOYER: _____ PHONE # _____
RACE: _____ SEX: _____ DATE OF BIRTH: _____

⑥ CAN YOU POSITIVELY IDENTIFY THE BLACK MALE WEARING THE RED SHIRT WITH THE LOW HAIR CUT & BEARD? IF YOU SAW HIM IN PHOTO LINE UP?
YES

⑦ WERE ANY OF THEM MENTIONED ABOVE WEARING ANY JEWELRY AT THAT TIME? NO

⑧ COULD YOU IDENTIFY ANY OF THE SUBJECTS MENTIONED ABOVE BY THEIR VOICES? NO

⑨ WERE ANY OF THE ABOVE MENTIONED SUBJECTS WEARING A HAT OR A JACKET OR GLOVES?
NO

⑩ COULD YOU SMELL THEIR BODY SCENTS?
NO

⑪ WERE ANY OF THEM WEARING GLASSES?
NO

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WITNESSES

[Signature] 10254

X Jiujain Hemingway
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

X Jiujain Hemingway
Signature

PAGE 6 OF 6

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2017-007855

DATE 5-17-17

STATEMENT OF Jujuain Hemingway

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

(12) DID YOU EVER SEE THE ABOVE MENTIONED SUBJECTS BEFORE THIS INCIDENT?
NO

(13) DID BOTH SUBJECTS HAVE GUNS?
NO

(14) DID YOU SEE THE LICENSE TAG ON THE GREEN OLDER MODEL VEHICLE
YOU DESCRIBED EARLIER?
NO

(15) HAVE YOU TOLD THE TRUTH?
YES

(16) DO YOU HAVE ANYTHING ELSE TO ADD? NO
NO

~~Jujuain Hemingway~~

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WITNESSES: Jain 10254

X Jujuain Hemingway
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT X Jujuain Hemingway
Signature

PAGE 7 OF 8

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA# 2012-007855

DATE 5-17-12

STATEMENT OF Jiquain Hemingway

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

17) DID YOU SEE ANY TATTOOS AND/OR SCARS ON ANY OF THE SUBJECTS THAT WAS AT THE SCENE THAT NIGHT?
No

18) DID YOU SEE ANY BUMPER STICKERS, RIMS OR ANYTHING OUT OF THE ORDINARY ON THE GREEN OLDER MODEL VEHICLE WHICH YOU DESCRIBED AS THE SUSPECT VEHICLE?
No

19) DO YOU REMEMBER SEEING THE SHOES/BOOTS ANY OF THE SUBJECTS WERE WEARING? Tennis shoes
Dark shoes both male subjects, the female had on dark shoes also Air forces 1

20) HOW OLD DID THE FEMALE SUBJECT APPEAR TO BE TO YOU WHEN YOU SAW HER? like 18 to 20

21) WHAT COLOR SHORTS WAS THE B/M WEARING THAT RED SHIRT?
Red cargo shorts that fitted him well

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WITNESSES: [Signature] 10254

Jiquain Hemingway
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

Jiquain Hemingway
Signature

PAGE 8 OF 8

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2012-007855

DATE 5-17-12

STATEMENT OF Jajuan Hemingway

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

22) WHAT COLOR SHORTS WAS THE B/M CARRYING THE RIFLE WEARING?
Black baggy shorts or dark blue

23) WHAT SHADE OF GREEN WAS THE CAR COLOR?
Dark green

24) HOW DO YOU KNOW THAT THE GREEN VEHICLE WAS AN OLDER MODEL CAR?

25) WHEN YOU WERE LYING FACE DOWN IN THE ROADWAY DID ANY OF THE SUBJECTS SAY ANYTHING? The girl said what yall about to do they said we about to kidnap these niggas

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES

[Signature] 10254

X Jajuan Hemingway
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

X Jajuan Hemingway
Signature

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE
CHARLESTON HEIGHTS, SC 29405-7789



CRIMINAL INVESTIGATIONS DIVISION
(843) 554-2473

J. AL CANNON, JR., ESQ.
SHERIFF, CHARLESTON COUNTY

Report of Photographic/Physical Lineup

OCA #: 2012-007855 Date: 5/18/2012

Time: 4:35 PM Location: [REDACTED]

Investigating Deputy: DET. OWEN

Identifying Witness (name & DOB) JUJUAN HEMINGWAY [REDACTED]

JH 1. I am going to show you a series of photographs/physical lineup of individuals or an array of six photographs of individuals (circle appropriate one). The photographs that I am about to show you are placed in no special order.

JH 2. These photographs may or may not be the person who committed the crime. It is just as important to clear innocent people as it is to identify possible suspects. Whether or not you identify someone, the police will continue to investigate.

JH 3. After you are done, I will not be able to provide you with any feedback or comment on the results of the process.

JH 4. Do not discuss this identification procedure or the results with other witnesses in this case.

JH 5. Focus on the event: the place, view, lighting, your frame of mind, etc. Take as much time as you need.

JH 6. People may not appear exactly as they did at the time of the event, because features such as clothing, style, hair color, hair style, etc. may change, even in a short period of time.

JH 7. As you look at the photographs, tell me if you recognize the person in them. If you do, please tell me how you know the person, and in your own words, how sure you are of the identification.

Witness Identification Statements

Identification Made: Yes ___ No

[Signature]
Independent Administrating Deputy's Signature

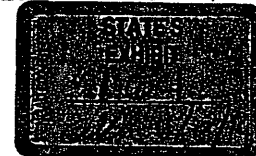
Jujuan Hemingway
Witness Signature

J. ALEXANDER
Print Name

Jujuan Hemingway
Print Name

[Signature]
Deputy Sheriff's Signature

J. ALEXANDER
Print Name



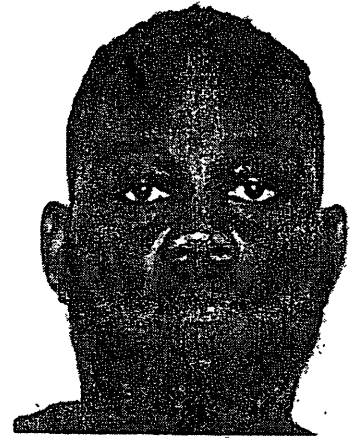
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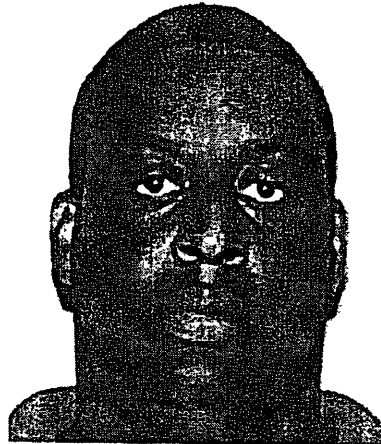
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6

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE
CHARLESTON HEIGHTS, SC 29405-7789



CRIMINAL INVESTIGATIONS DIVISION
(843) 554-2473

J. AL CANNON, JR., ESQ.
SHERIFF, CHARLESTON COUNTY

Report of Photographic/Physical Lineup

OCA #: 2012-007855 Date: 5/18/2012

Time: 3:20 PM Location: [REDACTED]

Investigating Deputy: DET. OWEN

Identifying Witness (name & DOB) JUJUAN HEMINGWAY [REDACTED]

- JH ✓ 1. I am going to show you a series of photographs/physical lineup of individuals or an array of six photographs of individuals (circle appropriate one). The photographs that I am about to show you are placed in no special order.
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Witness Identification Statements

Identification Made: Yes No

[Signature]
Independent Administrating Deputy's Signature

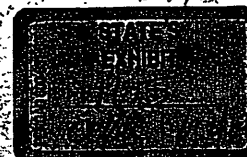
J. ALEXANDER
Print Name

[Signature]
Deputy Sheriff's Signature

J. ALEXANDER
Print Name

Jujuan Hemingway
Witness Signature

Jujuan Hemingway
Print Name



CCSO-179 01/04/10

R000670



1



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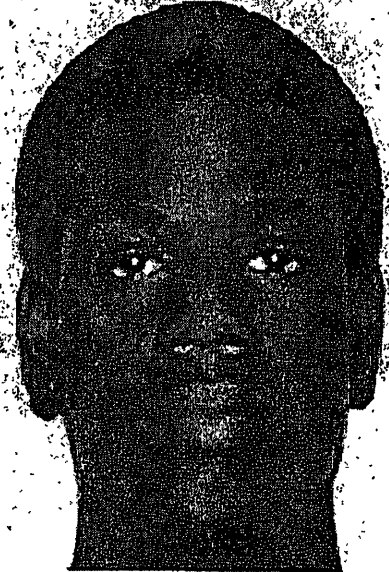
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CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE
CHARLESTON HEIGHTS, SC 29405-7789



CRIMINAL INVESTIGATIONS DIVISION
(843) 554-2473

J. AL CANNON, JR., ESQ.
SHERIFF, CHARLESTON COUNTY

Report of Photographic/Physical Lineup

OCA #: 2012-007855-B

Date: 5/19/2012

Time: 1945

Location: 109 Hwy 57 Conger, SC 29506

Investigating Deputy: Det. D. H. Owen

Identifying Witness (name & DOB) Jujuan Hemingway, DOB [REDACTED]

JH 1. I am going to show you a series of photographs/physical lineup of individuals or an array of six photographs of individuals (circle appropriate one). The photographs that I am about to show you are placed in no special order.

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JH 7. As you look at the photographs, tell me if you recognize the person in them. If you do, please tell me how you know the person, and in your own words, how sure you are of the identification.

Witness Identification Statements

Identification Made: Yes No

This face how he got fat Jaws and the doctor, I know him
face that was the guy staying at the delaware waiting for us

[Signature]

Independent Administrating Deputy's Signature

Charles Lawrence

Print Name

[Signature]

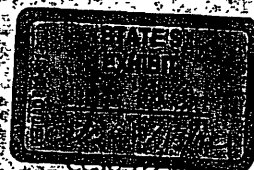
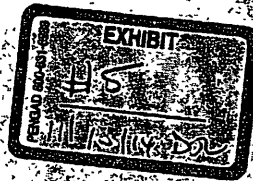
Deputy Sheriff's Signature

D. H. OWEN

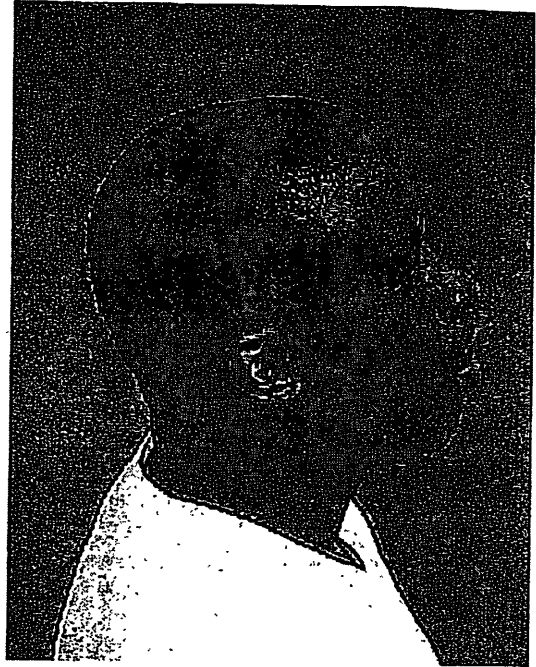
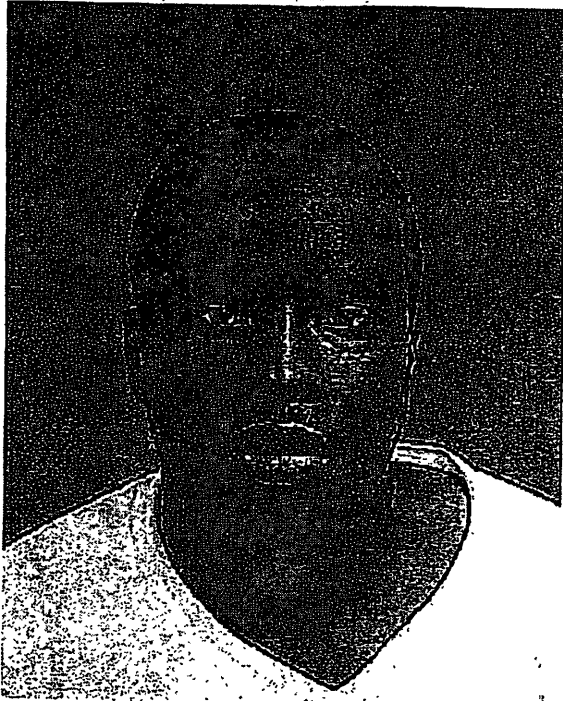
Print Name

Jujuan Hemingway
Witness Signature

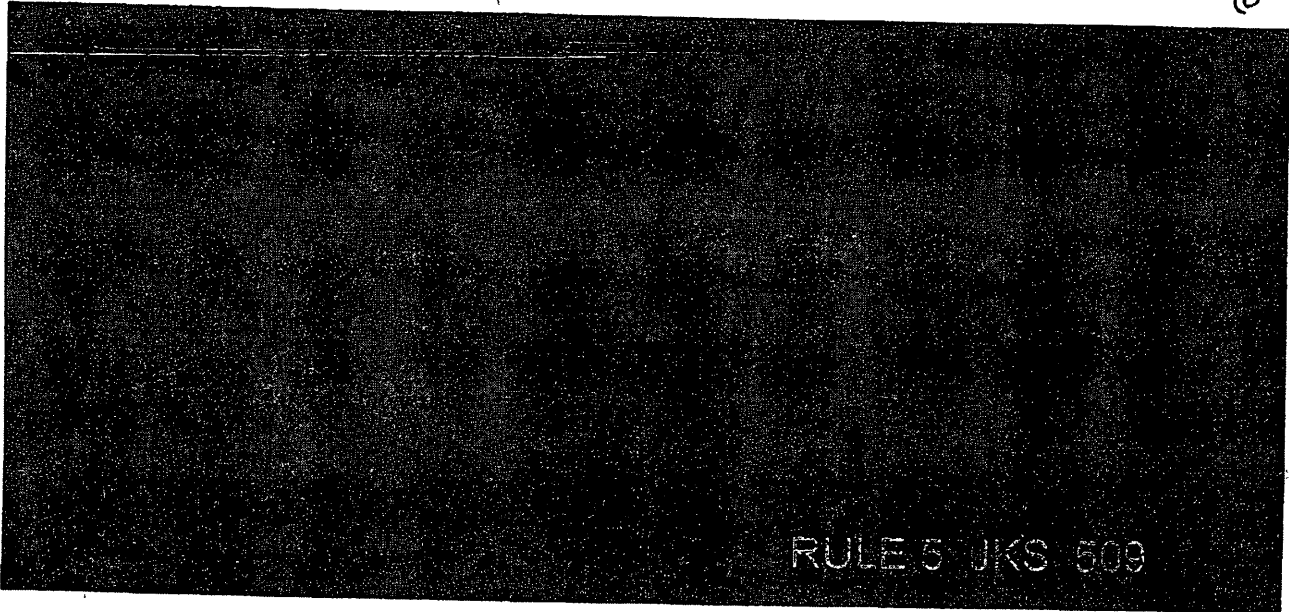
Jujuan Hemingway
Print Name



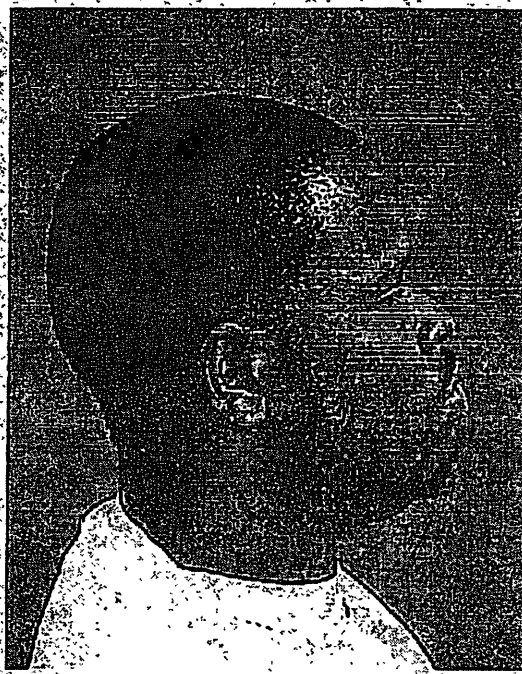
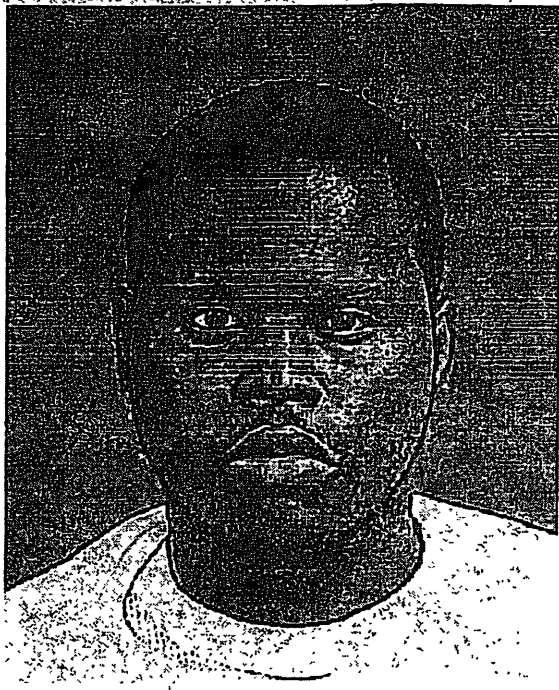
RULE 5 JKS 507
Photos 1-6



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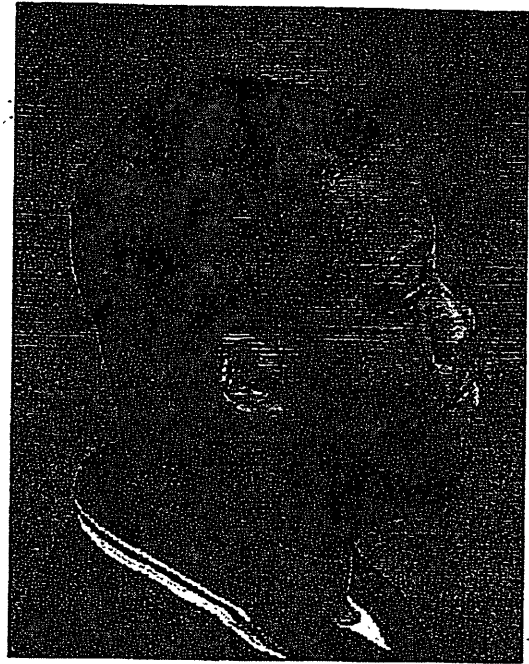
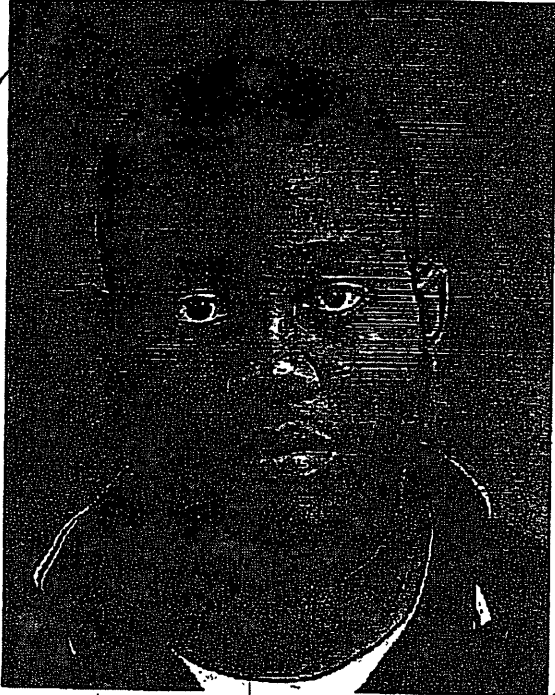
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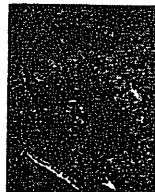
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RULE 5 JKS 510

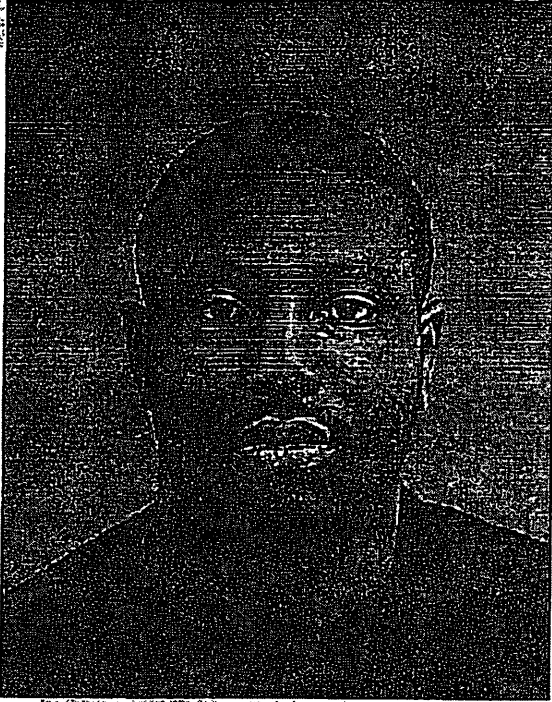


5-19-12
7:50pm
JA

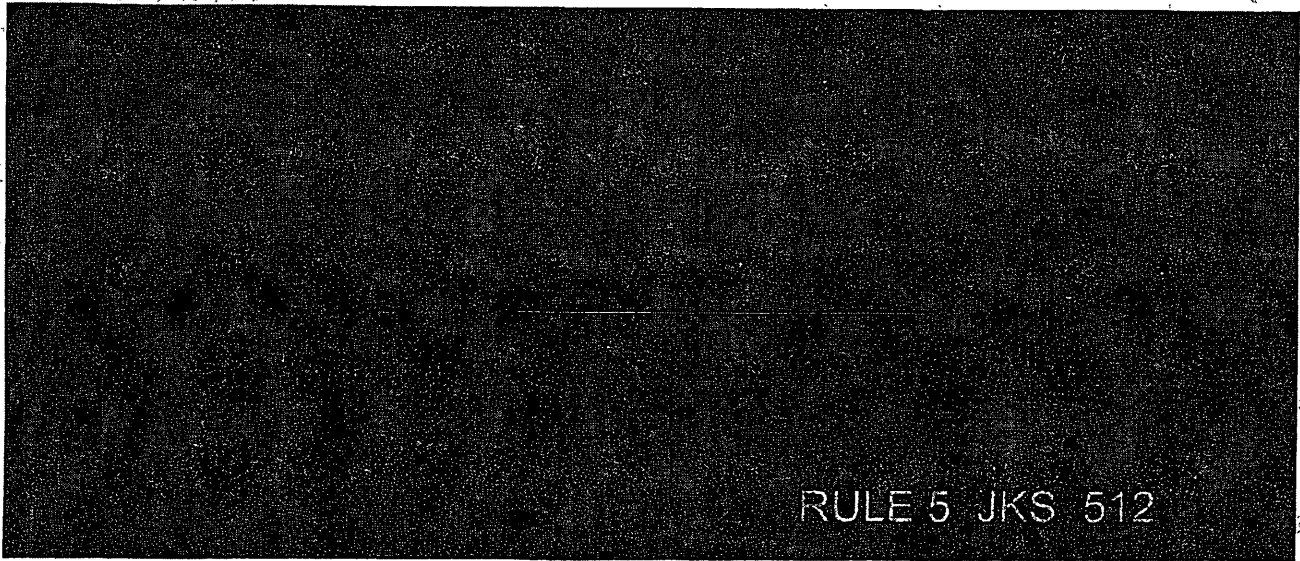


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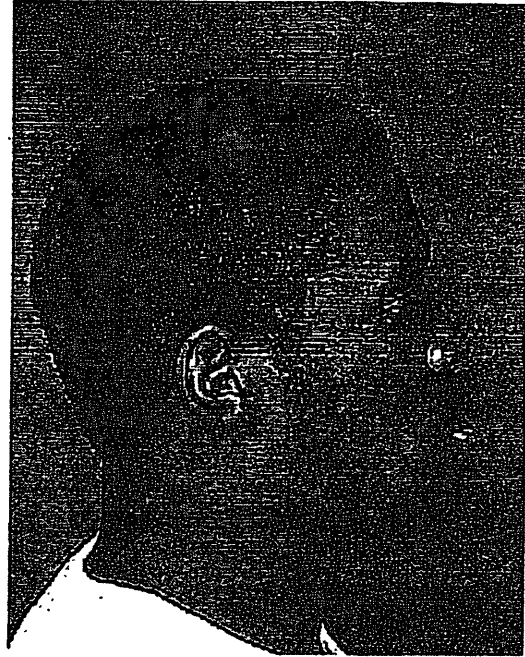
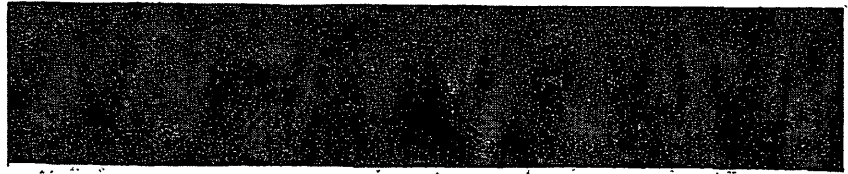
RULE 5 JKS 511



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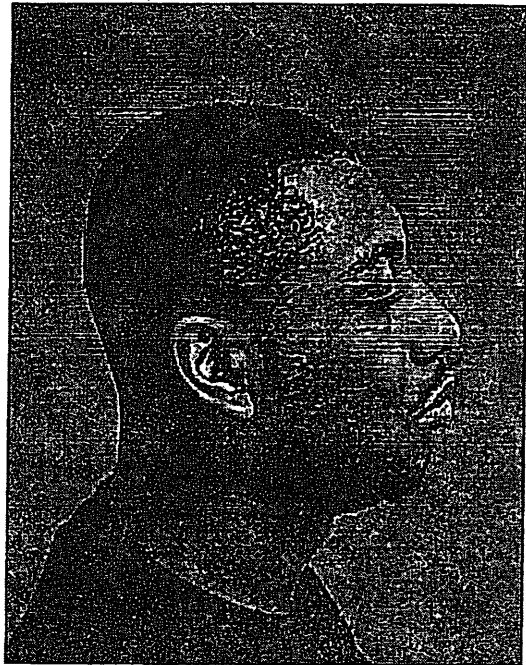
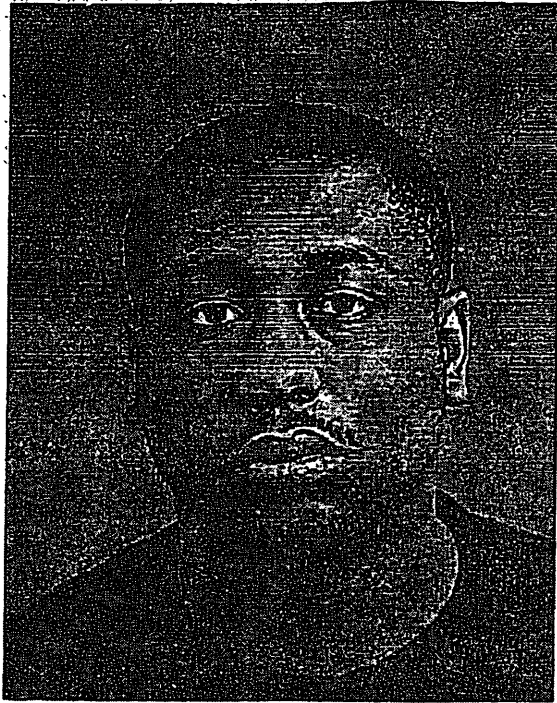
RULE 5 JKS 512



5



RULE 5 JKS 513



2



RULE 5 JKS 514

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE
CHARLESTON HEIGHTS, SC 29405-7789



CRIMINAL INVESTIGATIONS DIVISION
(843) 554-2473

J. AL CANNON, JR., ESQ.
SHERIFF, CHARLESTON COUNTY

Report of Photographic/Physical Lineup

OCA #: 2012-007855-B Date: 5/19/2012
Time: 1958 Location: 109 Hwy 157, Longs, SC 29568
Investigating Deputy: Det. D. H. Owen
Identifying Witness (name & DOB): Jujuain Hemingway, DOB [REDACTED]

- JH 1. I am going to show you a series of photographs/physical lineup of individuals or an array of six photographs of individuals (circle appropriate one). The photographs that I am about to show you are placed in no special order.
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Witness Identification Statements

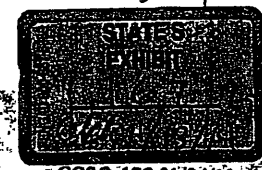
Identification Made: Yes ___ No

None of the guys look familiar

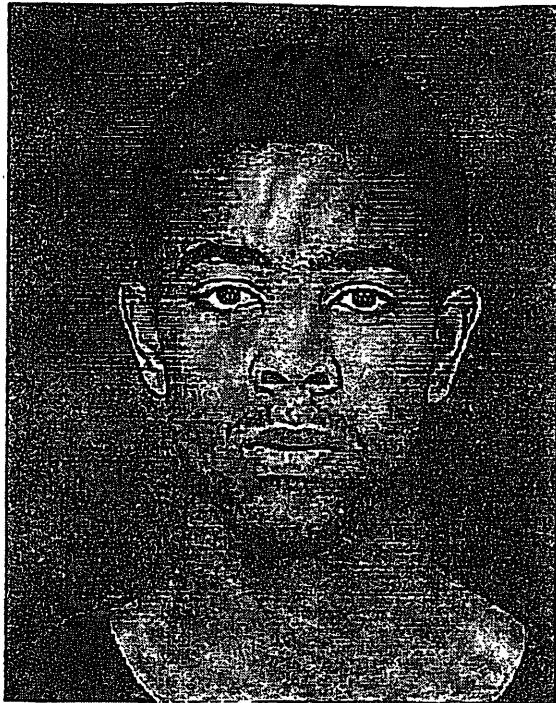
[Signature]
Independent Administrating Deputy's Signature
Charles Lawrence
Print Name

Jujuain Hemingway
Witness Signature
Jujuain Hemingway
Print Name

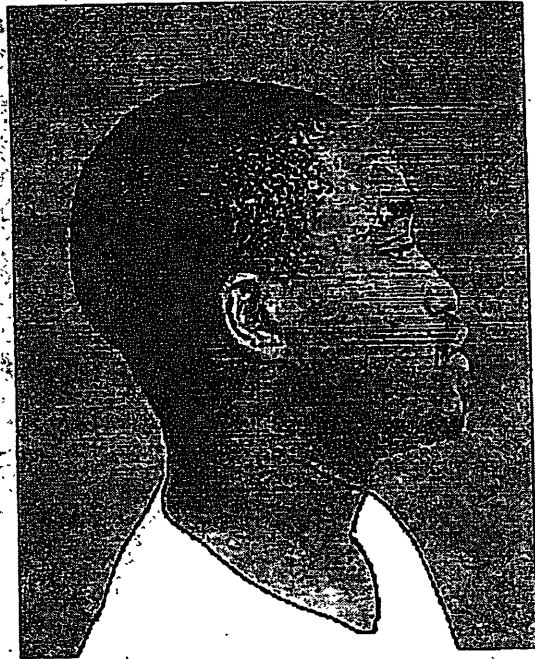
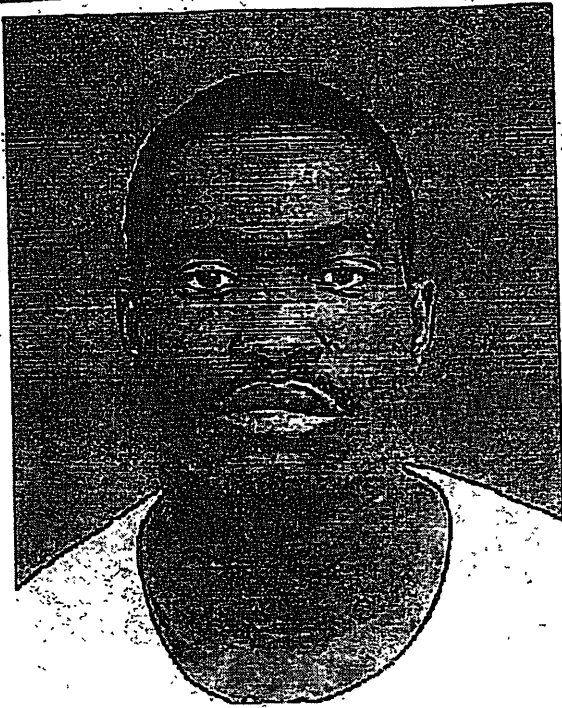
[Signature]
Deputy Sheriff's Signature
D. H. OWEN
Print Name



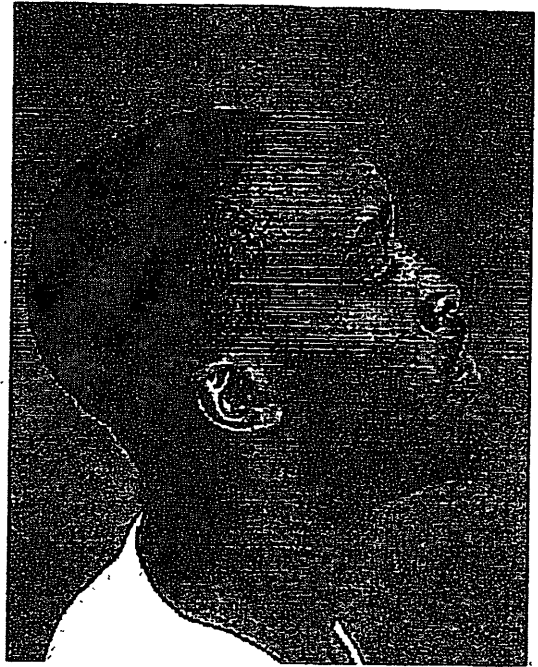
RULE 5 JKS 515
CCSO-179 01/04/10
Photos H T

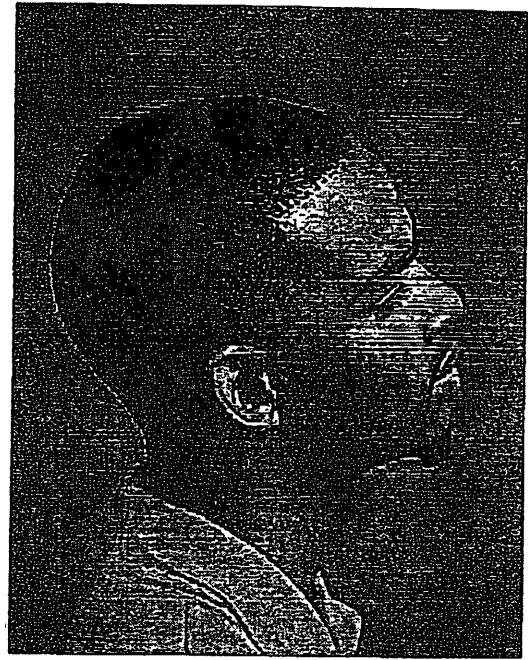
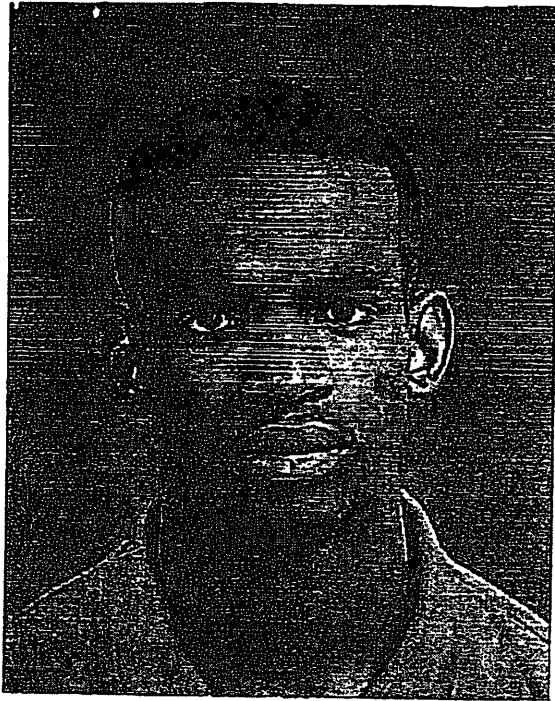


A



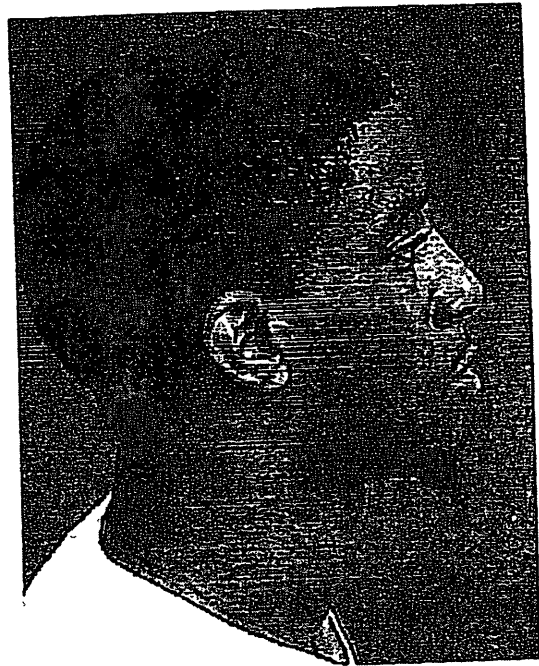
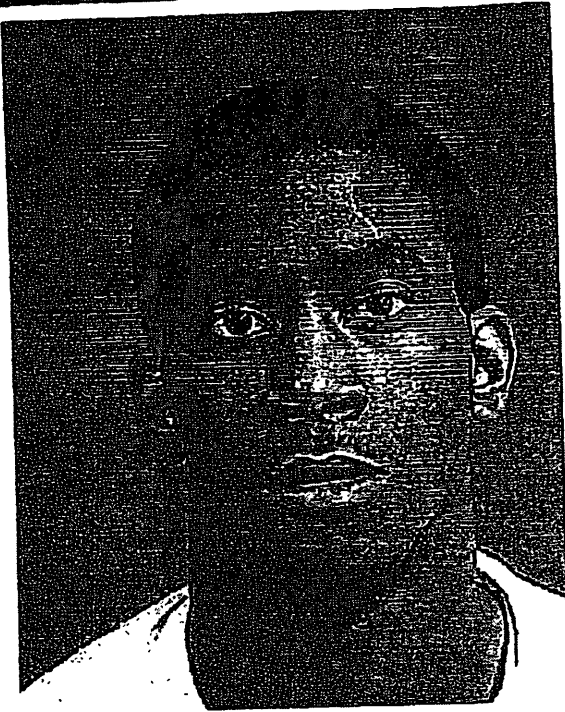
B





E

RULE 5 JKS 519



F

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 FINEHAVEN DRIVE
CHARLESTON HEIGHTS, SC 29405-7789



CRIMINAL INVESTIGATIONS DIVISION
(843) 554-2473

J. AL CANNON, JR., ESQ.
SHERIFF, CHARLESTON COUNTY

Report of Photographic/Physical Lineup

OCA #: 2012-007855-B Date: 5/19/12
Time: 20:06 Location: 109 HWY 57 LONGS, SC 29568
Investigating Deputy: Det. D. H. Owen
Identifying Witness (name & DOB) Juana Hemingway, DOB [REDACTED]

- 1. I am going to show you a series of photographs/physical lineup of individuals or an array of six photographs of individuals (circle appropriate one). The photographs that I am about to show you are placed in no special order.
- 2. These photographs may or may not be the person who committed the crime. It is just as important to clear innocent people as it is to identify possible suspects. Whether or not you identify someone, the police will continue to investigate.
- 3. After you are done, I will not be able to provide you with any feedback or comment on the results of the process.
- 4. Do not discuss this identification procedure or the results with other witnesses in this case.
- 5. Focus on the event: the place, view, lighting, your frame of mind, etc. Take as much time as you need.
- 6. People may not appear exactly as they did at the time of the event, because features such as clothing style, hair color, hair style, etc. may change, even in a short period of time.
- 7. As you look at the photographs, tell me if you recognize the person in them. If you do, please tell me how you know the person, and in your own words, how sure you are of the identification.

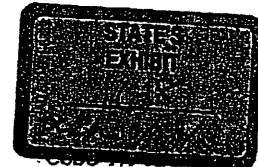
Witness Identification Statements

Identification Made: Yes No

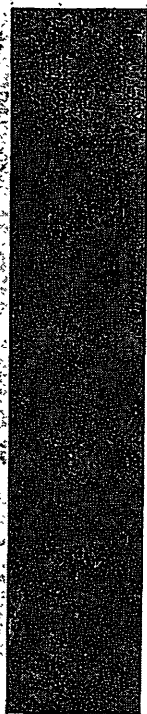
[Signature]
Independent Adminstrating Deputy's Signature
Charles Lawrence
Print Name

Juana Hemingway
Witness Signature
Juana Hemingway
Print Name

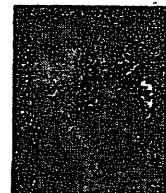
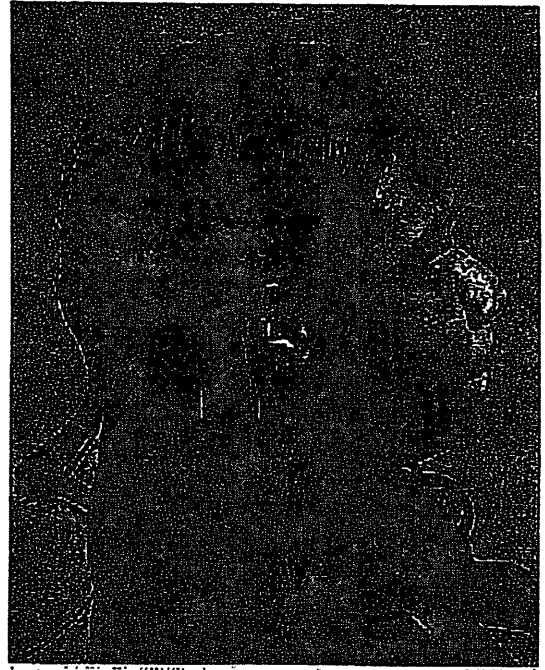
[Signature]
Deputy Sheriff's Signature
D.H. Owen
Print Name



RULE 5 JKS 521
77-67



1-1



2.A





3-A

State's Exhibit 171

Telephone calls of Deshaun Simmons (December 30, 2012, at 13:37)

Retained by Charleston County Clerk of Court Pursuant to Rule 210(f), SCACR

① Please provide recordings of TRINA'S TESTIMONY

② Please provide recording of ~~JUSTIN~~ HEMINGWAY'S TESTIMONY
JUSTIN

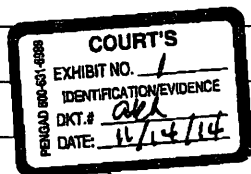
③ ~~SOBRIETY TESTING~~
DEVICE TO PLAY CD'S OF recorded phone calls.

④ Also the closing argument regarding the telephone conversation of defense Attorney for Heyward

⑤ Closing argument regarding telephone conversation of state.

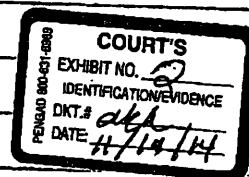
MARIA ROMERO

11/14/2014



Can you please define a
hostile witness

Martha
MR omero
#210



Can we get the other
2 jail calls from
Simmons

MARINA ROMERO

NOV 14 2014

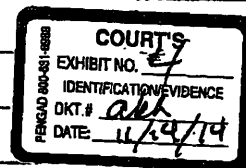


We need to hear TJ and
Juan after call the next
day the 17th

Also dec Simmons calls

Martha Romero

NOV 14, 2014



Do ~~do~~ you
still have
the Dec.
tape from
summons

PC81AD 800-601-6889	COURT'S
	EXHIBIT NO. <u>5</u>
	IDENTIFICATION/EVIDENCE
	DKT.# <u>212</u>
DATE: <u>11/14/14</u>	

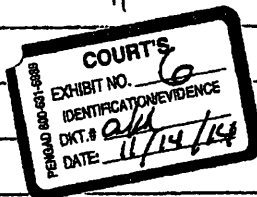
Natalia Gomez
Nov 14, 2014

We are not in
agreement on

4 counts, can

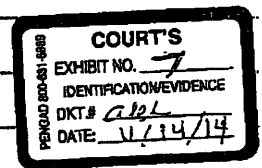
you help or what
do we do now

Marta Ramos
AN 11/20/14



We still do not
agree and it doesn't
seem like we can
reach a unanimous
decision

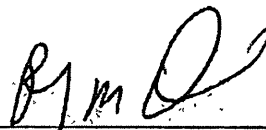
Martha Ramirez
NOV 8, 2014



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,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 29th day of September, 2016.

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,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 29th day of September, 2016.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Charleston County
Honorable Roger M. Young, Circuit Court Judge
RECEIVED
SEP 29 2016

THE STATE,

SC Court of Appeals

RESPONDENT,

V.

DENZEL HEYWARD,

APPELLANT


CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon J. Clayton Mitchell, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 29th day of September, 2016.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 29th day of September, 2016.



(L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.