

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DERELL GREEN,

APPELLANT

APPELLATE CASE NO. 2011-201486

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

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

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

Attorney for Appellant

ALPHONSO SIMON, JR.
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT #28 (DVD)

- 1 A Yes.
- 2 Q You request any follow-up investigation in the case?
- 3 A Yes, ma'am.
- 4 Q You would request any follow-up forensic testing?
- 5 A Yes.
- 6 Q You would decide if you should try to get more search
7 warrants or request them?
- 8 A Yes, ma'am.
- 9 Q You would set up or, you know, either do your own
10 follow-up interviews or send somebody else?
- 11 A That's correct.
- 12 Q And as lead detective, if there had been a camo
13 jacket found --
- 14 A Yes, ma'am.
- 15 Q -- it's your responsibility to make sure it gets
16 tested?
- 17 A We tried to find one.
- 18 Q Okay. And just to be clear, you had watched the
19 video, right?
- 20 A Yes, I did.
- 21 Q Many times?
- 22 A Yes.
- 23 Q Now Rashawn Bradley was on Bonds Avenue when the
24 shooting happened?
- 25 A Yes.

1 Q For sure?

2 A Yes.

3 Q Where he was you're not exactly sure?

4 A From that video I am.

5 Q Well, you don't know exactly at what time the
6 shooting happened because the shooting's not on the tape?

7 A That's the only part that's not.

8 Q Okay. Well, he wasn't interviewed for a week, right?

9 A That's correct.

10 Q So there was no way for you all to do gun shot
11 residue tests on him?

12 A That's correct.

13 Q And so we don't know what the results would have
14 been?

15 A There was no reason to do it on him.

16 Q Well, you couldn't do it even if you had wanted to?

17 A Correct.

18 Q And you watched the video the day of?

19 A Yes.

20 Q All right. Now Antonio didn't get gun shot residue
21 testing done on him either because you all didn't talk to
22 him for a week?

23 A There was no need to also.

24 Q But you all didn't talk to him for a week?

25 A Correct.

1 Q And now Mr. Washington, you all didn't do any testing
2 on him either?

3 A I did not.

4 Q Well, you're had the lead detective?

5 A Correct.

6 Q You never told anybody to?

7 A No.

8 Q And to your knowledge, was a bike ever located on
9 Bonds Avenue?

10 A Not to my knowledge.

11 Q You didn't instruct anybody to take photographs
12 inside of the house on West Surrey during the search of
13 the home?

14 A That's correct. I was at the precinct.

15 Q But you didn't tell anybody?

16 A No, ma'am.

17 Q And when y'all went looking for the gun in the field,
18 y'all didn't photograph that either?

19 A No, we did not. It was very dark.

20 Q Okay. But y'all have the ability to take pictures?

21 A Yes. If we had found something we would have stopped
22 and we would have took pictures of it.

23 Q And I guess you never searched Daqone Lance's home --

24 A No, we did not.

25 Q -- to look for the gun there?

1 A No, we did not.

2 Q Y'all didn't look at Rashawn Bradley's home?

3 A No, we did not.

4 Q Or Antonio Smalls-Heyward?

5 A No.

6 Q All three of them got charged, though?

7 A Except for Heyward.

8 Q You were going to charge him originally --

9 A Yes, ma'am, I was.

10 Q -- but then they didn't prosecute him?

11 A That's correct.

12 Q You charged all three of them with accessory after
13 the fact?

14 A Except for Heyward. I didn't -- there was no
15 warrant.

16 Q But you were going to?

17 A I was going to, yes, ma'am.

18 Q But lance and Bradley both got charged with accessory
19 after the fact?

20 A Yes. We went off of -- actually, the reason why we
21 didn't check their houses is because we went off
22 Mr. Green's statement that he threw the gun in the field.

23 Q Okay. So you went off his statement completely?

24 A Pretty much.

25 Q So let me clarify. You believe him that he threw the

1 gun in a field?

2 A Yes, ma'am.

3 Q But you didn't believe that he got the gun from under
4 a house?

5 A No, ma'am, I didn't.

6 Q Okay. So you believed one part but not the other?

7 A Well, after viewing the video numerous times,
8 although he does go off camera for a very brief amount of
9 time, I believe it was the right thing.

10 Q Okay. So are you saying that you thought that the
11 gun came from Lance to Derell?

12 A I don't know where the gun came from, ma'am.

13 Q Okay. Let's shift gears.

14 At some point there was a black hoodie taken
15 from West Surrey?

16 A That's correct.

17 Q And I think there's no documentation of that ever
18 going to SLED?

19 A Not to my knowledge, no.

20 Q And there's really no documentation that it ever even
21 got tested?

22 A I believe Sergeant Hallman did that test on it, the
23 presumptive test.

24 Q And he testified it tested negative?

25 A That's correct.

- 1 Q Now do you remember testifying in February --
- 2 A Yes, ma'am, I do.
- 3 Q -- of 2010?
- 4 A Yes.
- 5 Q At a hearing?
- 6 A Yes, I did.
- 7 Q You were under oath?
- 8 A Yes.
- 9 Q And at that hearing you said that Derell Green's
10 clothing tested positive for gun shot residue?
- 11 A Yes, ma'am.
- 12 Q That wasn't true?
- 13 A That was an error on my part. I read the --
- 14 Q It wasn't true?
- 15 A It was an error. It was -- I'm not lying. It was an
16 error on my part.
- 17 Q Okay. Error, lying, it wasn't true, though, right?
- 18 A Correct.
- 19 Q His clothing didn't test positive for gun shot
20 residue?
- 21 A Yes, ma'am, it did not.
- 22 Q Now the first statement that he gave would have
23 happened at 3:45?
- 24 A Yes, ma'am.
- 25 Q And the second would have happened at 7:45 according

1 to these statements?

2 A Yes, ma'am.

3 Q Four hours in between?

4 A Yes, ma'am.

5 Q Okay. Do you remember testifying in August of last
6 year?

7 A At the preliminary I think it was?

8 Q You testified at a hearing?

9 A Yes, ma'am.

10 Q And at that time you said that the statements came
11 right after each other?

12 A Pretty much, yes, ma'am.

13 Q But that's not true?

14 A Yes, ma'am.

15 Q You also are responsible for doing, I think it's
16 called, a prosecutive summary report?

17 A Yes, ma'am.

18 Q And you kind of summarize what the evidence is in
19 there?

20 A Yes, ma'am.

21 Q And in that report, you put that Derell Green wrote
22 two statements implicating himself?

23 A Yes, ma'am.

24 Q But that's not true?

25 A Yes, ma'am. That's a mistake on my part.

- 1 Q Okay. But it's not true?
- 2 A Yes, ma'am.
- 3 Q And he gave only one statement implicating himself?
- 4 A Yes, ma'am. Well, actually he did implicate himself
- 5 because he did put himself on Bonds Avenue in the first
- 6 statement.
- 7 Q That's not saying he did the shooting?
- 8 A Correct.
- 9 Q I mean a lot of people said that they were on Bonds
- 10 Avenue.
- 11 A Yes, ma'am.
- 12 Q You didn't say that they implicated themselves?
- 13 A Correct.
- 14 Q I think you testified previously that Derell told you
- 15 he burned the camo jacket?
- 16 A Yes, ma'am.
- 17 Q That's not anywhere in a statement, though?
- 18 A No, ma'am.
- 19 Q It's not anywhere in a police report?
- 20 A No.
- 21 Q And you guys never retrieved the jacket?
- 22 A We did not.
- 23 Q You never tested it?
- 24 A No, ma'am.
- 25 Q And do you remember testifying previously --

1 A Yes.

2 Q -- that there was a camo jacket at the house and that
3 you all just didn't take it?

4 A I was told there was one there by one of the
5 detectives inside the house, but it was not taken.

6 Q Okay. So you were told that it was there but not
7 taken?

8 A Yes, ma'am.

9 Q And you didn't go back to get it?

10 A I was told it wasn't related. I don't remember who
11 told me that, but they told me it wasn't related to the
12 case.

13 Q Okay. So a camo jacket was found at this
14 14-year-old's house?

15 A Yes, ma'am.

16 Q That you say he was wearing --

17 A Yes, ma'am.

18 Q -- a camo jacket --

19 A Yes, ma'am.

20 Q -- and you all didn't go back and get it?

21 A They didn't get it, no, ma'am.

22 Q Well, you're the lead detective.

23 A Yes, ma'am.

24 Q So if anybody's responsible for going to back get it
25 or making sure somebody gets it, it's you?

- 1 A Yes, ma'am.
- 2 Q And you all didn't go back?
- 3 A No, we did not.
- 4 Q And y'all didn't test anything?
- 5 A No, ma'am.
- 6 Q Y'all sent no clothing to be tested?
- 7 A No, ma'am.
- 8 Q And it's your responsibility, if you want the
9 victim's clothing tested, to send it?
- 10 A Yes, ma'am.
- 11 Q You were part of the interview with Antonio?
- 12 A Yes, ma'am.
- 13 Q And you knew he was saying that Daqone Lance passed
14 something to Derell Green?
- 15 A That's correct.
- 16 Q And you were part of the interview with Rashawn
17 Bradley?
- 18 A That's correct.
- 19 Q And you were here when he said Daqone Lance passed
20 something to Derell Green?
- 21 A Yes, ma'am.
- 22 Q And then Daqone Lance told him to go back?
- 23 A Yes, ma'am.
- 24 Q But you didn't believe them?
- 25 A You can see them going back, but I couldn't tell what

1 he said.

2 Q Well, you didn't believe that Daqone Lance passed
3 something to Derell Green?

4 A There's no evidence of that. Just what they said in
5 their statements.

6 Q Okay. Well, if you had believed them, why are we
7 here?

8 A I believe their statements, but --

9 Q Okay. They were here. Your theory is that Daqone
10 Lance gave Derell Green a gun?

11 A My theory, yes, ma'am.

12 Q Okay. But you must not have believed them about the
13 gun?

14 A I don't understand what you're trying to say.

15 Q You either believed them or didn't believe them about
16 the gun being passed to Derell Green from Daqone Lance.

17 A That was a theory. It could have happened.

18 Q Okay. Do you believe them or didn't believe them?

19 A I believe them.

20 Q Okay. You believe them?

21 A Yes, ma'am.

22 Q Well, I don't get that because if you believed them,
23 you would have charged Daqone Lance with murder.

24 A Yes, ma'am.

25 Q Which you didn't?

1 A No, we did not.

2 Q You charged him with accessory after?

3 A Yes, we did.

4 Q And he got probation.

5 A I guess so. I don't know what he got.

6 Q Well, would it surprise you to know he got probation?

7 A No.

8 Q And he's out in the community?

9 A No.

10 MS. EHRLICH: Court's indulgence.

11 (Pause.)

12 MS. EHRLICH: I don't have any further
13 questions.

14 THE COURT: Any redirect?

15 MR. DURANT: I just have one.

16 REDIRECT EXAMINATION

17 BY MR. DURANT:

18 Q On cross-examination, Ms. Ehrlich asked you about his
19 second statement, how many times he shot the gun and you
20 replied four or five times.

21 A That's correct.

22 Q The fact of the matter is he said, "I don't know,
23 maybe four or five times." Is that correct?

24 A Yes.

25 MR. DURANT: Thank you. I have nothing further.

1 THE COURT: Any recross?

2 MS. EHRLICH: No, sir.

3 THE COURT: Detective, you may step down. Thank
4 you very much.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Call your next witness, please.

7 MR. DURANT: Your Honor, we need to call a
8 witness out of order, if you please. We'd call John
9 Roberts from SLED.

10 JOHN ROBERTS, after being duly sworn, testified
11 as follows:

12 THE CLERK: Thank you, sir. If you would take
13 your seat.

14 Sir, if you would state your first and last
15 name, spelling your last for the record, please.

16 THE WITNESS: John Roberts, R-O-B-E-R-T-S.

17 DIRECT EXAMINATION

18 BY MR. DURANT:

19 Q Good morning, Mr. Roberts.

20 A Good morning.

21 Q Could you tell our jury where you're employed?

22 A I work for the South Carolina Law Enforcement
23 Division, more commonly called SLED, in the Trace Evidence
24 Department of the Forensic Services Unit.

25 Q Okay. How long have you been with SLED?

1 A Six and a half years.

2 Q And how long in trace examination?

3 A Six and a half years.

4 Q And what is trace examination?

5 A Trace examination is the analysis of evidence that
6 you generally cannot see with your naked eye.

7 In our department we do gun shot residue, arson,
8 flammable analysis, paint, glass, fibers, duct tape, bank
9 dye packs and explosives.

10 Q Okay. And could you please relate to our jury what
11 education and training you've had in the area of trace
12 examination.

13 A Yes, sir. I have a bachelor's of science degree in
14 chemistry from Texas A&M Corpus Cristi.

15 After I moved here I got my job at SLED and I
16 went through our in-house training program, first in gun
17 shot residue, second in flammable liquids analysis, then
18 in bank dye packs and now through explosives.

19 Our training consists of the trainee basically
20 helping a court-qualified analyst in their case work.

21 In my case I worked directly under my lieutenant
22 who had been there for, at the time, about 13 or 14 years
23 and had been doing gun shot residue for the most part of
24 that 14 years. I helped him with his case work. I
25 learned how to use the instrumentation, how to generate

1 the data off the instrumentation, and then how to write up
2 reports.

3 After six months or so, I was given a case of my
4 own to work and then I was examined and cross-examined by
5 the other court-qualified people in my department, after
6 which I was basically passed to take my own gun shot
7 residue cases, which I have been doing since 2006.

8 Q Okay. And you are, of course, certified by SLED to
9 conduct gun shot residue analysis; is that correct?

10 A Yes, sir, I am.

11 Q And how many gun shot analysis tests have you
12 performed while you've been at SLED?

13 A It's probably approaching the thousands.

14 Q And have you ever been qualified as an expert in the
15 area of gun shot residue analysis?

16 A Yes, sir.

17 Q On how many occasions?

18 A I've been qualified in state court 45 times, probably
19 out of that, 43 in gun shot residue.

20 MR. DURANT: Okay. Your Honor, at this time we
21 would offer Mr. Roberts as an expert in trace analysis.

22 THE COURT: Any objection, any questions?

23 MS. PROCTOR: No, Your Honor.

24 THE COURT: Okay. The Court so finds.

25 MR. DURANT: Thank you, Your Honor.

1 BY MR. DURANT:

2 Q Could you tell our jury just in general terms what
3 gun shot residue is?

4 A Yes, sir.

5 Gun shot residue is the term that we give to the
6 particles that are ejected out of a firearm when you shoot
7 it. It won't come out of a BB gun because that doesn't
8 have a primer. What we're looking at is metals that are
9 ejected from the primer of a bullet.

10 The primer of the bullet is basically the silver
11 center cap on the back end of a cartridge case. It's what
12 sets off the main powder charge, forces the bullet down
13 the muzzle and out towards the target.

14 The metals we look for are lead, barium and
15 antimony, and we look for specific concentrations on four
16 different areas that a gun shot residue is taken from. We
17 look for them on the palms and backs of both hands.

18 We use different instrumentation to find out the
19 metals, and that's what gun shot residue is.

20 Q Okay. And how does gun shot residue get on someone?

21 A There's three main ways to get gun shot residue on
22 you.

23 First of all, by firing a gun. If I go out to
24 the shooting range later this afternoon and I shoot my gun
25 five or six times, I'll have gun shot residue on my hands.

1 The other way is simply by handling a weapon
2 that's been fired. When I go back out to my car and I get
3 my gun out of my car, put it on my hip, I will have gun
4 shot residue on my hands because I fired that weapon.

5 And the other way is by being near it when it
6 goes off. If I take my wife to the range and she just
7 stands there and watches me shoot, because I like to shoot
8 all the ammo up, then she could get gun shot residue on
9 her just by being near the gun when it goes off.

10 Q And how long does gun shot residue remain on a living
11 human being?

12 A Our protocol at SLED is six hours. We've found that
13 somebody just shooting a firearm and then doing simple
14 clerical duties, working on your computer, writing up
15 reports, your body will either wipe it off simply by
16 touching something or will absorb it in the manner of six
17 hours. So after six hours we won't even accept a gun shot
18 residue kit.

19 Q And you tested, I believe, several in this case.
20 Were all of those within the six-hour period?

21 A Yes, sir, that's correct.

22 Q How about on someone that has passed away, does that
23 six-hour limit apply to them?

24 A No, sir, it doesn't. Because they're deceased and
25 their heart stops beating and they're not breathing

1 anymore, the material doesn't get absorbed into their
2 skin. So it will stay on whatever area it happens to be
3 on until it's removed.

4 Q Okay. And the gun shot residue analysis you
5 generally do at SLED are from these kits that you all
6 provide to law enforcement agencies; is that correct?

7 A Yes, sir, that's correct.

8 Q And that's pretty much hands?

9 A It's palms and backs of both hands.

10 Q We talked a little bit about how you get GSR on you.
11 How do you get it off of you?

12 A It's fairly easy to remove. It's almost as easy to
13 remove as it is to get on you.

14 If anybody's ever baked and put flour on your
15 hands, you put your hands under the running water and that
16 flour is gone. GSR is a lot like that. You can wash it
17 off with water very simply. If you wipe your hands on
18 your pants, it goes on your pants. If you touch
19 doorknobs, it goes to the doorknobs. It's very easy to
20 transfer from your hands to something else. And it
21 doesn't take long for all those little transfers to add up
22 and all of a sudden you don't have any gun shot residue on
23 you at all.

24 Q Okay. Basically what you're looking for is a certain
25 threshold of concentration; is that correct?

1 A Yes, sir, that's correct.

2 Q How about gloves?

3 A Gloves will keep it from getting on your hands as
4 long as they're fairly solid, like leather gloves. If
5 you've got a good pair of leather gloves, the gun shot
6 residue will get on the gloves and not your hands. If you
7 have mesh, cheap mesh gloves, it could go through the mesh
8 and get on your hands, but it's more than likely going to
9 get on the gloves.

10 Q Okay. And with regard to this case, I'm going to
11 hand you what's previously been marked as State's Exhibits
12 30, 31, and 32, previously identified as gun shot residue
13 kits obtained from Derell Green and Taron Maybank and I
14 believe Daqone Lance, and I'd ask if you recognize those
15 items.

16 A Yes, sir, I do.

17 Q And how do you -- why do you recognize them?

18 A These are the remnants of gun shot residue kits that
19 agencies submit to us.

20 This one is State's Exhibit 30 from Larry Taron
21 Maybank.

22 When it comes into our department, we'll put an
23 evidence tag on it. It has our lab number and a bar code
24 and the item number that it's submitted under.

25 And in this case, it's my item number four.

1 It's initialed by our technician who preps the case, and
2 it's initialed by me who runs the case, and that's how I
3 recognize it.

4 All three of these have any initials on them and
5 our lab number and item numbers on them.

6 Q Okay. And with regard -- let's start with State's
7 Exhibit No. 30. Who is that? I believe -- was that
8 Mr. Maybank's kit?

9 A Yes, sir. No. 30 is Larry Taron Maybank.

10 Q Okay. And did you perform an analysis on the gun
11 shot residue kit submitted on the victim, Larry Taron
12 Maybank?

13 A Yes, sir, I did.

14 Q And what were your results regarding your analysis of
15 the sample from Mr. Maybank?

16 A On the samples that we analyzed, which were the right
17 palm and the right back of the hand and the left palm and
18 the left back of the hand, the quantities of metals that
19 we found did not indicate the presence of gun shot
20 residue.

21 Q Okay. How about State's Exhibit No. 31, whose kit is
22 that?

23 A No. 31 was from Derell Jamal Green. That's what it's
24 listed on on the GSR kit.

25 Q Okay. And did you perform an analysis of that GSR

1 kit?

2 A I did.

3 Q And what were the results of your analysis of State's
4 Exhibit No. 31, the kit obtained from Derell Green?

5 A On the right palm, right back, left palm and left
6 back, the quantities of metals found did not indicate the
7 presence of gun shot residue.

8 Q Okay. And how about 32, whose kit was that?

9 A Daqone Jerome Lance.

10 Q And likewise did you perform analysis on that sample?

11 A Yes, sir, I did.

12 Q And the results?

13 A On the right palm, the right back, the left palm and
14 the left back, the quantities of metals found did not
15 indicate the presence of gun shot residue.

16 Q So basically all three of those samples were
17 negative?

18 A Yes, sir.

19 Q Does that mean necessarily that the defendant in this
20 case, Derell Green, did not fire a weapon?

21 A No, sir, it doesn't.

22 Q And why not?

23 A Like I said, gun shot residue is easy to remove. If
24 there's a significant time lapse between the time of the
25 suspected shooting and the time that the kit's collected,

1 it could have been rubbed off.

2 MR. DURANT: Okay. Your Honor, at this time we
3 would offer State's 30, 31, and 32 into evidence.

4 THE COURT: Any objection?

5 MS. PROCTOR: No, Your Honor.

6 THE COURT: All right. Admitted without
7 objection.

8 (WHEREUPON, STATE'S Exhibits Nos. 30, 31, 32
9 were admitted into evidence.)

10 MR. DURANT: If you'd please answer any
11 questions Ms. Proctor may have for you.

12 THE WITNESS: Yes, sir.

13 CROSS-EXAMINATION

14 BY MS. PROCTOR:

15 Q Are you Officer Roberts or Mr. Roberts?

16 A Mr. Roberts is fine.

17 Q Mr. Roberts, when you were talking about when you
18 fired your gun at the practice range, sometimes soot got
19 on your wife's clothes, correct?

20 A Yes, ma'am, it can.

21 Q And you can also get soot from gun powder residue, I
22 guess, from wiping your hands on your pants; is that true?

23 A Yes, ma'am.

24 Q Now are you ever sent clothing, say a victim's
25 clothing?

1 A We get sent victim's clothing; however, we don't do
2 victim's clothing for gun shot residue.

3 Q Okay. But do you ever look -- do you ever test,
4 since you said you're also -- do you ever test any
5 firearms?

6 A I don't test firearms.

7 Q Okay. So you wouldn't be able to do any -- to tell
8 how close, say, the distance of a gunshot was by soot on
9 clothes?

10 A That I do.

11 Q Okay. So if you have, say, a victim's clothing with
12 the bullet hole with soot on it, would that sometimes help
13 to be able to tell how far the shooter was from him?

14 A It can; however, to do that test, I have to have
15 obviously the victim's clothing, I have to have the
16 firearm that was used, and I have to have enough
17 ammunition coming from that firearm to test. I can't --
18 you can't find, let's say, a revolver --

19 Q Correct.

20 A -- like a .38 that only has five shots. If there are
21 four shots fired and there's only one cartridge left in
22 that firearm, I can't do the test because I don't have
23 enough ammunition and it has to be from that firearm. You
24 can't find a firearm with four missing shots and then find
25 a box of bullets with 50 in it and say, oh, this is the

1 box. I can't -- I won't do that because I have to have
2 the exact ammo, the ammunition that was fired in the
3 incident.

4 Q Okay. But in this case you weren't sent any
5 clothing?

6 A No, ma'am, I was not.

7 Q Were you sent a camo jacket?

8 A No, ma'am.

9 Q Or a black hooded sweatshirt?

10 A No, ma'am.

11 Q Or any khaki pants?

12 A No, ma'am.

13 Q And you stated that, you know, if somebody washes
14 their hands, that the gun powder residue is gone?

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

16 Q But if somebody's standing next to you, as you said,
17 and you shoot a gun, some of the gun powder residue can go
18 on their clothing?

19 A Yes, ma'am, it can.

20 MS. PROCTOR: I have no further questions.

21 THE COURT: Any redirect?

22 MR. DURANT: No, sir, Your Honor.

23 THE COURT: Okay.

24 MR. DURANT: I would ask that Mr. Roberts be
25 allowed to go to Beaufort.

1 THE COURT: All right. Officer Roberts, you may
2 be excused. Thank you so very much.

3 THE WITNESS: You're welcome.

4 THE COURT: Have a safe trip. Where is it,
5 Beaufort you're headed?

6 THE WITNESS: Yes, sir, Beaufort.

7 THE COURT: All right. Have a safe trip.
8 Call your next witness, please.

9 MR. DURANT: The State would call James Sturkie.

10 JAMES STURKIE, after being duly sworn, testified
11 as follows:

12 THE CLERK: Thank you, sir. If you would take
13 your seat.

14 Sir, if you would state your first and last
15 name, spelling your last for the record, please.

16 THE WITNESS: James Sturkie, S-T-U-R-K-I-E.

17 DIRECT EXAMINATION

18 BY MR. DURANT:

19 Q Could you tell our jury where you're employed, sir?

20 A City of North Charleston Police Department.

21 Q And how long have you been with North Charleston
22 Police Department?

23 A A little over eight years.

24 Q What you do at North Charleston Police Department?

25 A I'm a detective.

1 Q And were you doing the same thing on February the
2 5th, 2010 at approximately 12:42 in the afternoon?

3 A Yes, sir, I was.

4 Q In that capacity, did you have an opportunity to
5 respond to the scene, the scene of this shooting on Bonds
6 Avenue?

7 A Yes, I did.

8 Q When you arrived, what did you observe?

9 A I saw the victim laying on the asphalt off to the
10 side of the roadway. There was an administrator, I
11 believe, from the school standing there and several other
12 people.

13 Q Okay. What did you do upon arriving on the scene?

14 A I saw that there was no officers on scene yet so I
15 secured the scene by getting crime scene tape placed
16 around the scene.

17 Q Do you know if any witnesses to the incident were
18 located at the scene, not necessarily by you, by other
19 detectives?

20 A Yes, sir. A Jacquintus Washington was located nearby
21 at the laundromat.

22 Q Was he transported to headquarters?

23 A Yes, he was.

24 Q And at around 1:30 where did you go?

25 A Back to the police station.

1 Q And why were you advised to respond back to the
2 police station?

3 A Because some officers had Shalaine Jenkins, who was a
4 witness, said she knew something about the gun that was
5 used.

6 Q And are you aware of whether or not Ms. Jenkins
7 provided a statement?

8 A Yes, she did.

9 Q To whom?

10 A I believe Detective Cook.

11 Q Could it have been Detective Faison?

12 A I'm sorry, yes, it was Detective Faison. I
13 apologize.

14 Q Okay. Back at headquarters did you have an
15 opportunity to interview Jacquintus Washington?

16 A Yes, sir, I did.

17 Q Okay. And he wrote out a statement himself; is that
18 correct?

19 A Yes, sir, he did.

20 Q What happened after he wrote out that first
21 statement?

22 A He didn't -- he described being there at the scene,
23 walking with the victim. He described some details of
24 what the shooter was wearing.

25 Q Okay. And I believe there's some testimony first

1 that he provided a statement that said he didn't see the
2 shooting?

3 A Yes.

4 Q What I'm asking, sir, is what happened. Why did he
5 change his story when you talked to him?

6 A Well, we continued talking to him. We knew
7 something -- there was a video that showed several people
8 walking away from the school, and with him being one of
9 them, and he just seemed as if he wanted to -- there was
10 more to this story. So we kept talking to him and he had
11 given us a description of the suspect. He gave us all
12 sorts of details about the suspect except for the name.

13 Q Okay. Appeared to know the suspect?

14 A Yes.

15 Q Did he know where the suspect lived?

16 A Yes. He gave a street.

17 Q Okay. And he was able to identify the suspect from a
18 photographic lineup, correct?

19 A Yes, sir.

20 Q Now are you aware that Derell Green was picked up
21 that same day and taken to the station around 3 or so,
22 2:30 or 3; is that correct?

23 A Yes.

24 Q Who originally interviewed him?

25 A Detective Kramitz did.

1 Q And did you participate in that interview at all?

2 A No, I did not.

3 Q Now moving ahead to about 7 p.m., did you have an
4 occasion to speak with the defendant Derell Green
5 yourself?

6 A Yes, I did. Detective Miller and I went into the
7 interview room.

8 Q And why?

9 A We had looked at all the information and we were told
10 about the videotape of the students coming and going and
11 the descriptions that were given and Mr. Green was wearing
12 a camouflage jacket, he was in the video. Shalaine
13 Jenkins had given us a statement saying that -- having him
14 in possession of a gun earlier that morning.

15 MS. EHRLICH: Objection. Hearsay.

16 BY MR. DURANT:

17 Q That's okay. You don't have to say -- she's already
18 testified.

19 THE COURT: Well, I mean, she already testified
20 on cross-examination.

21 MS. EHRLICH: She said she didn't say any of
22 that, though.

23 THE COURT: Pardon?

24 MS. EHRLICH: She said she didn't say any of
25 that, though.

1 MR. DURANT: That's fine, Your Honor. I'll move
2 on.

3 THE COURT: Okay. I'll sustain the objection.

4 BY MR. DURANT:

5 Q And you interviewed Jacquintus Washington at the
6 time, correct?

7 A Yes.

8 Q And he identified Derell Green as the shooter?

9 A Yes, he did.

10 MS. PROCTOR: And, Your Honor, would you just
11 note our previous objection under the Biggers hearing to
12 this?

13 THE COURT: Yes, ma'am. Overruled. And I
14 believe the statement's in evidence. Isn't that correct?

15 MS. PROCTOR: No. We're talking about the ID.

16 THE COURT: Oh, okay, the identification.

17 MS. PROCTOR: Yes. Thank you.

18 THE COURT: All right.

19 BY MR. DURANT:

20 Q So would it be safe to say that when you all were in
21 there at 7 o'clock you didn't believe what he told you
22 earlier?

23 A That's correct.

24 Q Okay. Well, just tell them that, okay?

25 And so who went with you?

1 A Detective Miller was in the room with me.

2 Q And he was in the same interview room?

3 A Yes, sir. We were sitting at a table.

4 Q Were you aware if he had already been advised of his
5 Miranda rights?

6 A Yes, sir. I believe the Miranda -- his copy of the
7 form was still on the table.

8 Q And what was his demeanor at the time that you went
9 in there?

10 A Well, he was sitting there calm, not really paying
11 attention to -- didn't seem like he had much thought going
12 on.

13 Q Okay. Did he appear to be under the influence of
14 anything?

15 A No, sir.

16 Q Were you able to communicate with him?

17 A Yes, he was communicating and speaking to us.

18 Q Did you understand what he said?

19 A Yes, I did.

20 Q Could he understand what you said, or appear to
21 anyway?

22 A Yes.

23 Q Did he ever exhibit any kind of confusion or anything
24 of that nature?

25 A No, he did not.

1 Q Was there anything about his demeanor that indicates
2 to you that he didn't know what was going on?

3 A No.

4 Q So what happened? I mean, how did it go?

5 A Well, we were sitting there. Detective Kramitz had
6 already been in there, spoke to him. He'd given his
7 version of the story. His clothing was a different color
8 than what was in the video. And we knew from the witness
9 statements that he was not telling the truth, so I urged
10 him to tell the truth.

11 Q I mean, did you tell him flat out, you were not
12 telling us the truth?

13 A Yes, yes. I had -- about his story --

14 Q Did you tell him why you knew he wasn't telling the
15 truth?

16 A Yes, I did. I told him that we knew that he's
17 already been identified as having the gun. He had been
18 picked out of a photo lineup, described by Jacquintus
19 Washington as the shooter.

20 Q Okay.

21 A And he was on video at the school.

22 Q And what happened?

23 A Well, we were in there for 20, 25 minutes speaking to
24 him. I could see that he was -- we were hitting on some
25 topics that he was real sensitive about. He would look up

1 when I mentioned, you know, that he did it for, you know,
2 because he was intimidated by the victim at some point,
3 and I offered him several reasons as to why: Maybe it was
4 guns, girls, drugs or something of that nature that he was
5 concerned about.

6 Q Okay. And what kind of tactic did you use, I guess?
7 Were you being stern, were you being the fatherly type,
8 were you being angry, were you being -- I mean, what was
9 your approach?

10 A No, sir, I was calm, just talking to him as if I was
11 a church member concerned about his well-being and him
12 telling the truth and getting the emotional weight off his
13 shoulders.

14 Q Okay. And so kind of being the more fatherly type,
15 I'm assuming?

16 A Sort of, yes, sir.

17 Q I believe at a previous hearing you indicated you put
18 your hand --

19 MS. EHRLICH: Objection.

20 THE WITNESS: Yes, sir, I placed my hand on his
21 shoulder.

22 THE COURT: I'm sorry, what? What's your legal
23 objection?

24 MS. EHRLICH: Leading the witness.

25 THE COURT: Well, I think he was just -- go

1 ahead. That's overruled.

2 MR. DURANT: Thank you.

3 BY MR. DURANT:

4 Q You indicated you put your hand on his shoulder. Why
5 were you doing that?

6 A Because I could tell that he was -- he wanted to say
7 more than he was saying and we had already approached him
8 with the facts that we had of his being on video, wearing
9 the camouflage jacket, the friend seeing him with the gun,
10 the photo identification, and we had talked to him about
11 that and he seemed to be a little bit more receptive and
12 then I put my hand on his shoulder and urged him to tell
13 the truth.

14 Q And what did he do?

15 A And then he said, "They ganged me, they took my
16 chain." And then he explained that he had a gold chain
17 with a Jesus head on it that was -- that he'd found at a
18 bar or at a party and a month prior to this incident that
19 he was jumped by several guys and they took his gold
20 chain.

21 Q And he said that one of the guys that jumped him was
22 the victim in this case?

23 A Yes, it was.

24 Q Okay. Did he indicate what kind of gun he used?

25 A It was a black .38 revolver with five rounds.

1 Q And so how long were you all in there totally, you
2 and Detective Miller?

3 A Detective Miller and I were in there 25 -- 20, 25
4 minutes.

5 Q Okay. And during the time that you and Detective
6 Miller were in there, did you or Detective Miller promise
7 him anything?

8 A No, sir.

9 Q Threaten him in any way?

10 A No, sir.

11 Q Offer him leniency?

12 A No, sir.

13 Q Threaten his family?

14 A No, sir.

15 Q Did he ask for a lawyer?

16 A No, sir.

17 Q Did he invoke his right to remain silent?

18 A No, sir.

19 Q Did he ask for his mother?

20 A No, sir.

21 Q Now after he admitted to you what had happened, who
22 ended up taking his statement?

23 A Detective Kramitz was informed of what had happened,
24 what was said in the interview room and then he came back
25 inside and started a second statement.

1 Q Okay. And so Detective Kramitz was actually the
2 scribe of the second statement; is that correct?

3 A Yes. He wrote the second statement, yes.

4 Q Now did you witness the second statement?

5 A Yes, I did.

6 Q Were you in there the entire time or did you just
7 come in at the end and witness it?

8 A No, I came in at the end to witness it.

9 Q Okay. And I believe it was brought out previously
10 that your name appears to be as a signature on a witness
11 line on the first page of the first statement and the
12 three -- last three pages of the second statement.

13 First of all, did you have any involvement in
14 the first statement at all?

15 A No, I did not have involvement.

16 Q Okay. And do you know how that happened?

17 A Detective Kramitz apparently came out of the room
18 with the statement and during the comparison of the
19 statements, one of the top form from the first statement
20 was placed on the second --

21 Q Okay.

22 A -- and then when I went back into the room --

23 Q The first pages were mixed up; is that correct?

24 A Yes, they were mixed up. And when I went back into
25 the room to ask Derrell if he was -- if this was what he

1 had told Detective Kramitz just as he had told Detective
2 Miller and I, he said yes, and that's when I signed the
3 form.

4 Q Okay. Is that the time you signed it?

5 A Yes.

6 MR. DURANT: Could you please answer any
7 questions defense counsel may have for you.

8 THE WITNESS: Yes.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MS. EHRLICH:

12 Q Detective Sturkie, you work for North Charleston
13 Police Department, right?

14 A Yes, ma'am.

15 Q And so you're aware of all the policies and
16 procedures in place?

17 A Most of them, yes, ma'am.

18 Q And those are there to kind of guide you on what to
19 do?

20 A Yes, ma'am.

21 Q And that includes a section on interviews?

22 A Yes, ma'am.

23 Q And that's not just for suspects, it's for any
24 interviews, right?

25 A Yes, ma'am.

1 Q So you're familiar with the policy that the number of
2 persons permitted in an interview room should be limited
3 to two officers?

4 A Yes, ma'am.

5 Q Okay. And you were part of an interview with
6 Shalaine Jenkins?

7 A Yes, ma'am.

8 Q And I believe you wrote a report?

9 A Yes, ma'am.

10 Q And in your report you documented what happened, just
11 like your role in the investigation, right?

12 A Yes, ma'am.

13 Q And there were four officers in there talking to her?

14 A Yes, ma'am.

15 Q Not two?

16 A Yes, ma'am.

17 Q You, Detective Cook, right?

18 A Yes, ma'am.

19 Q Louis?

20 A Yes.

21 Q And then one other officer, Riedel?

22 A Riedel.

23 Q Okay. And when you interviewed her, you were aware
24 of her age at the time?

25 A Yes.

1 Q Fourteen?

2 A Yes.

3 Q Now you also participated in an interview with Mr.
4 Washington?

5 A Yes.

6 Q And you talked to him first?

7 A I don't think that I talked to him first, but I did
8 speak to him, yes.

9 Q You were the first one to actually get in there and
10 get a statement, though, right?

11 A Yes.

12 Q And he told you he didn't see the shooting first?

13 A Yes, he did.

14 Q That he was walking when the shooting happened?

15 A Yes.

16 Q And heard gunshots?

17 A Yes.

18 Q And didn't see the shooter?

19 A Yes.

20 Q Right?

21 After he gave that statement, you didn't let him
22 leave, right?

23 A Yes.

24 Q You kept him there?

25 A Well, he stayed, yes.

1 Q Okay. And then you came back to him to ask him more
2 questions?

3 A Okay.

4 Q Right?

5 A Yes, we talked to him more.

6 Q And I think you kind of maybe started to push him a
7 little bit more?

8 A Yes, because he had given us descriptions of the
9 people that were involved and we knew that because of the
10 video, that he was pretty much on with the descriptions
11 and the address.

12 Q Okay. Now I think in your report you wrote that you
13 explained the importance of telling the truth?

14 A Yes.

15 Q And that his lip started quivering?

16 A Yes.

17 Q And that's when he changes his story?

18 A Yes.

19 Q And gives you the description of the person he says
20 was the shooter?

21 A Yes.

22 Q Now just like the policies for a regular interview,
23 you know that there's special policies for juvenile
24 interviews, right?

25 A Yes.

1 Q And you know that you're supposed to take special
2 consideration when interviewing a juvenile?

3 A Yes.

4 Q Make sure that their rights are explained, take extra
5 effort?

6 A Yes.

7 Q All right. And one of the policies says that, you
8 know, asking for a parent is like asking for an attorney
9 in your department?

10 A Yes.

11 Q And so if during the interview he had asked for his
12 mother, you would have had to stop your interview?

13 A Yes.

14 Q You were talking to Derell by 3 o'clock?

15 A Yes.

16 Q And I think you were asking him kind of like
17 identification information?

18 A Yes.

19 Q Name?

20 A Yes.

21 Q Age?

22 A Yes.

23 Q Gave you his age and date of birth?

24 A Yes.

25 Q I think you also got his mother's contact

1 information?

2 A Yes, ma'am.

3 Q And that's because he gave it to you?

4 A Yes, ma'am.

5 Q You didn't do anything to call his mom, right?

6 A His mother was on scene when he was taken.

7 Q I'm asking what you personally did. You didn't
8 personally do anything?

9 A No, ma'am.

10 Q You didn't call her from the station?

11 A No, ma'am.

12 Q And really it's to your advantage if he doesn't ask
13 for his mom, right?

14 A Yes.

15 Q Because then you've got to stop your interview?

16 A Yes.

17 Q All right. So you also never told Derell, hey, look,
18 you can ask for your mom?

19 A No, I did not.

20 Q Now after you talked to him at the very beginning,
21 you didn't go back in until four hours later, like around

22 7?

23 A Around 7, yes, ma'am.

24 Q At that point was he still handcuffed?

25 A Yes.

- 1 Q Still no mother there, right?
- 2 A That's correct.
- 3 Q And you didn't give him his rights again?
- 4 A I did not.
- 5 Q Detective Kramitz hadn't been in there in awhile, to
6 your knowledge?
- 7 A I'm not really sure what time he left out of the
8 interview room before I went into the interview room.
- 9 Q Okay. But you knew that basically that interview was
10 over and y'all were going to kind of switch gears?
- 11 A Yes.
- 12 Q You were going to go in?
- 13 A Yes.
- 14 Q And that's the point where you go in and you don't
15 tell him anything what charge he's got, right?
- 16 A I don't recall telling him about the charge.
- 17 Q Okay. It's the same room that he's had been in since
18 he first got there?
- 19 A Yes.
- 20 Q Hadn't, you know, been moved into a different room or
21 anything like that?
- 22 A No, he was never moved.
- 23 Q And in your report you said that you explained the
24 importance of telling the truth?
- 25 A Yes.

1 Q You said he was lying?

2 A Yes.

3 Q You told him he was lying and the truth was that
4 he was the shooter?

5 A Yes.

6 Q And so you had made a decision at that point he was
7 lying and the other witnesses were telling the truth?

8 A Yes.

9 Q So really it didn't matter what he said because it
10 wasn't the truth unless he said, "I'm the shooter?"

11 A Yes, because we already knew the truth.

12 Q Well, you knew what you believed to be the truth,
13 right?

14 A Yes.

15 Q You tell him anything like, "it's important to tell
16 the truth, that's the right thing to do?"

17 A Yes.

18 Q I think you told him, "tell the truth, you'll have
19 the weight lifted off your shoulders?"

20 A Yes.

21 Q And that's when you started kind of pushing him more?

22 A What do you mean "push"?

23 Q I'm not talking physical push. I'm talking --

24 A Yes, I did urge him to tell the truth.

25 Q Okay. And did you tell him anything about not

1 getting out?

2 A What do you mean?

3 Q Never going home?

4 A No, I did not.

5 Q Okay. So this kind of urging, how you word it, went
6 on for 20 minutes?

7 A Yes, ma'am.

8 Q And then he starts showing physical signs of wanting
9 to tell the truth?

10 A Yes.

11 Q According to your report?

12 A Yes.

13 Q And I think that you describe that as his lips were
14 quivering?

15 A Yes.

16 Q Kind of like Mr. Washington's?

17 A Yes.

18 Q And I think that you and I can agree that every time
19 somebody's lips quiver doesn't mean, oh, they want to tell
20 the truth?

21 A No, that does not mean that.

22 Q Could mean that somebody's scared?

23 A Yes.

24 Q Or intimidated?

25 A Yes.

1 Q Tired?

2 A Yes.

3 Q Upset?

4 A Yes.

5 Q But for you, that meant, "all right, he's going to
6 tell me what I want to hear?"

7 A Well, along with his demeanor. He changed. He kind
8 of slumped down a little bit in his seat.

9 Q Well, he'd been there awhile, right?

10 A And his eyes were tearing up, yes, but he was
11 sitting.

12 Q Okay. So at this point he's also crying?

13 A He's not crying, but his eyes are tearing up, yes.

14 Q All right. And so after these physical signs of
15 wanting to tell the truth, you started to talk to him
16 more?

17 A Yes.

18 Q I think you said that you kind of asked him, "Were
19 you intimidated by this guy?"

20 A Yes.

21 Q And you were kind of talking to him like he was
22 dealing with high-school type issues?

23 A Yes.

24 Q And asked him if it's about girls, right?

25 A Yes.

- 1 Q Money?
- 2 A Yes.
- 3 Q Drugs?
- 4 A Yes.
- 5 Q So you threw it all out there for him?
- 6 A Yes.
- 7 Q Just pick one?
- 8 A Yes.
- 9 Q All right. And then after all that, after the
10 crying, right?
- 11 A Yes.
- 12 Q And you telling him "you were intimidated by him?"
- 13 A Yes.
- 14 Q And you telling him what it might have been about, he
15 gives a statement?
- 16 A Yes.
- 17 Q And he says, "I was ganged," right?
- 18 A Yes, ma'am.
- 19 Q And that's when he says that he shot the victim,
20 right, to you?
- 21 A Yes, he said that.
- 22 Q Okay. And so once you got what you said was the
23 truth, you went to Detective Kramitz?
- 24 A Yes, after he told me again what happened. I didn't
25 just have him say that and then --

1 Q So you practiced it?

2 A -- immediately went out of the room.

3 What's that?

4 Q So you have to practice it before Detective Kramitz
5 came in?

6 A No. I just clarified what he said.

7 Q So after you gave him some stuff to pick from --

8 A Yes.

9 Q -- and he picked it?

10 A Yes. Well, he did not pick the things that I put out
11 there. That was a scenario that I gave him.

12 Q Okay. Well, you said, "You were intimidated by him,"
13 right?

14 A Yes.

15 Q And that's when he told you the stuff about the gang?

16 A Yes.

17 Q You had asked if -- you gave him different things
18 that it could be about?

19 A Yes.

20 Q And that's when he said it was about a piece of
21 jewelry, right?

22 A Yes.

23 Q So you offered him some stuff to take?

24 A But I did not offer him any property or any physical
25 things that he could touch.

1 Q Okay.

2 A That's not what I offered.

3 Q All right. I got you.

4 Now, I think you said that during the interview
5 you kind of got in close proximity to Derell?

6 A Yes, ma'am.

7 Q And you're tall?

8 A Yes, ma'am.

9 Q You're what, six five?

10 A Yes, ma'am.

11 Q And he at the time, do you know his height?

12 A Five five, five six.

13 Q So you're over him by at least a foot?

14 A When I'm standing up, yes. But we were sitting down.

15 Q Okay. But you came in the room and he saw you?

16 A Yes.

17 Q And when you walk in a room, I think it's fair to say
18 you're noticeably tall?

19 A Yes.

20 Q And so you sit down in close proximity to him, right?

21 A Yes.

22 Q And put your hand on him?

23 A Yes, I did. I mean, my hand reaching out to somebody
24 on the shoulder.

25 Q I'm not talking about punching him. I'm not talking

1 about --

2 A No, no, no. Me reaching out is I have a pretty long
3 wingspan here, so yes, I wasn't that close to him.

4 Q Okay. So you were reaching like this?

5 A Almost just like this, around the corner of the
6 table, yes.

7 Q And this was to be fatherly?

8 A More like a concerned community member.

9 Q Like a church counselor, I think you said?

10 A Yes.

11 Q Telling him to get, you know, the weight off his
12 shoulders, something like that?

13 A Yes, ma'am.

14 Q And when you were at the station that day, at some
15 point you had contact with Daqone Lance?

16 A Yes, I did.

17 Q Now, I'm not asking you what he said. I'm just
18 asking you did, okay?

19 At that point did you know he was at the house
20 with Derell Green when he was picked up?

21 A Yes.

22 Q And he came to the station at the same time?

23 A Yes.

24 Q And you never collected any of his clothing for
25 testing?

1 A I didn't collect any clothing.

2 Q Well, you didn't collect his at all, right?

3 A I did not, no.

4 Q And you were -- you participated in interviewing him,
5 right?

6 A Yes, I did.

7 MS. EHRLICH: Court's indulgence.

8 (Pause.)

9 MS. EHRLICH: I don't have any other questions.

10 THE COURT: Anything else? Any further
11 questions?

12 MR. DURANT: Nothing further, Your Honor.

13 THE COURT: No redirect?

14 MR. DURANT: No, sir.

15 THE COURT: You may step down. Thank you very
16 much.

17 Call your next witness.

18 MR. DURANT: The State would call Ira Parnell.

19 IRA PARNELL, after being duly sworn, testified
20 as follows:

21 THE CLERK: Thank you, sir. If you'll take your
22 seat.

23 Sir, if you could please state your first and
24 last name, spelling your last for the record, please.

25 THE WITNESS: My name is Ira Byrd Parnell, Jr.

1 P-A-R-N-E-L-L.

2 DIRECT EXAMINATION

3 BY MR. DURANT:

4 Q Good morning.

5 A Good morning, sir.

6 Q Could you tell our jury what you do?

7 A I am a forensic firearms examiner and I work at the
8 forensic laboratory at SLED headquarters in Columbia,
9 South Carolina.

10 Q And how long have you been with SLED?

11 A Thirty-nine years.

12 Q A long, long time?

13 A Yes, sir.

14 Q I think you've probably retired two or three times;
15 is that right?

16 A At least.

17 Q And they keep bringing you back?

18 A Yes, sir.

19 Q And you have been involved in firearms identification
20 for how long, sir?

21 A Thirty-eight years.

22 Q Pretty much the whole time?

23 A Yes, sir.

24 Q And what is your educational training and specific
25 training in the area of firearms identification?

1 A I graduated from the University of South Carolina
2 with a degree in the area of criminal justice.

3 During the latter part of my college career I
4 was also working at SLED and receiving on-the-job training
5 from three court-qualified firearm and tool mark examiners
6 there.

7 At the time that I was being trained, there was
8 no college or school or really any formal training other
9 than on-the-job from other examiners that I could have
10 attended. So I underwent a three-year internship program,
11 during which time I assisted the examiners who were there
12 by helping them prepare cases, observing them, watching
13 their microscopic work, watching their note taking,
14 watching their various procedures and receiving training
15 like that.

16 And during the latter part of that training,
17 then I was allowed to actually look at the microscope,
18 observe, and come to my own conclusions under their
19 supervision. And, of course, they would sign the reports
20 at that time.

21 But at the end of that internship program, I
22 started taking my own cases, making my own comparisons
23 and, of course, having those checked behind by those
24 qualified examiners for probably six months to a year.

25 Since that time, I've been doing comparisons and

1 testifying in the state courts of South Carolina, the
2 federal district court and North Carolina state court.
3 I've been qualified approximately 614 times as a firearm
4 and tool mark examiner.

5 Q And we've had much experience together, have we not,
6 over the years?

7 A Yes, we have.

8 Q And you're obviously authorized by SLED to conduct
9 firearm identification; is that correct?

10 A That's correct, sir. And I have also attended
11 specialized schools of the FBI National Academy, our state
12 academy, the Association of Firearm and Tool Mark
13 Examiner's seminars that occur yearly for a week where we
14 meet and discuss the latest developments in firearm and
15 tool mark examination. So yes, sir.

16 MR. DURANT: Your Honor, at this time I'd offer
17 Mr. Parnell as an expert in firearm and tool mark
18 identification.

19 THE COURT: Any objection?

20 MS. PROCTOR: No, Your Honor.

21 THE COURT: Okay. The Court so finds.

22 MR. DURANT: Thank you, Your Honor.

23 BY MR. DURANT:

24 Q With regard to this particular case, your Lab No.
25 L-10-01676, did you have the occasion to examine any items

1 submitted by the North Charleston Police Department?

2 A Yes, sir, I did.

3 Q And essentially you only got one item; is that
4 correct?

5 A That's correct.

6 Q And what was that item?

7 A It was one fired bullet.

8 Q And I hand you what's previously been marked as
9 State's Exhibit No. 34 and ask you to take a look at that
10 and tell me if that's the bullet you examined.

11 A Yes, sir. The item contained in State's Exhibit 34
12 is a fired .38 or .357 magnum caliber projectile or
13 bullet. It bears my case number, specimen number, and
14 initial on the bullet and all the packaging, so I have
15 examined this item.

16 MR. DURANT: Your Honor, at this time we'd offer
17 State's No. 34 into evidence if there is no objection.

18 MS. PROCTOR: No objection.

19 THE COURT: Okay. No. 34. Is that it, 34?

20 MR. DURANT: I believe so.

21 Is that correct, sir?

22 THE WITNESS: That's correct.

23 THE COURT: State's 34 is admitted without
24 objection.

25

1 (WHEREUPON, STATE'S Exhibit No. 34 was admitted
2 into evidence.)

3 BY MR. DURANT:

4 Q And I believe you said that it appeared to be --
5 based upon your analysis, it appeared to be a .38 caliber
6 or .357 caliber projectile; is that correct?

7 A That's correct.

8 Q And how did you arrive at that conclusion?

9 A By physical measurement of State's Exhibit 34 and
10 from prior experience.

11 Q Okay. Pretty much a .38 caliber and .357 bullet are
12 pretty much the same diameter; is that correct?

13 A Yes, sir. Both calibers are .357 thousandths of an
14 inch.

15 Q Okay.

16 A And the .38 special can be fired in a .357 magnum
17 firearm, but a .357 cannot be fired in a .38 special
18 because of the difference in the chamber length.

19 Q Right. And it's not necessarily -- and also it's a
20 more powerful load obviously on a .357; is that correct?

21 A Correct.

22 Q It could blow your regular .38 special apart maybe?

23 A It could, yes, sir.

24 Q Now, as part of your examination, did you have an
25 occasion to conduct microscopic examination of the lands

1 and grooves on the projectile, State's Exhibit 34?

2 A I did.

3 Q And based upon your examination, were you able to
4 come up with a list of pistols which could have fired
5 State's Exhibit 34?

6 A Yes, sir. We furnished what is termed a general
7 rifling characteristic list or possible weapons list when
8 we have only a projectile to examine and that is furnished
9 to the investigators for investigative aid. The list may
10 or may not be all exclusive, but what we have is a
11 database that's furnished by the FBI and updated yearly of
12 the most commonly encountered firearms into their
13 laboratory and certain other laboratories around the
14 nation.

15 These measurements are put in the database and
16 when we receive an item such as State's Exhibit 34, and we
17 will microscopically examine and measure the impressions
18 of the rifling on the outside of the bullet and enter that
19 data into our computer in the database and it gives us a
20 list of possible weapons.

21 In this case, there were approximately 18
22 firearms that could have fired State's Exhibit 34. There
23 may be others.

24 Q Okay. And with regard to the list of the firearms
25 that could have fired State's Exhibit 34, were all of

1 those revolvers?

2 A All except for one.

3 Q Okay.

4 A And that is a -- the one exception is a C-O-P or a
5 Cop, Incorporated, and it has actually four barrels.

6 Q Four barrels?

7 A Four barrels. Four individual barrels, four
8 individual firing pins, one trigger with a rotating
9 striker mechanism.

10 I only had one bullet to compare so I couldn't
11 tell you that it was not one of those.

12 Q I assume that's not a very common weapon?

13 A I've only examined, I think, two.

14 Q Okay. In 39 years?

15 A Yes, sir.

16 Q Okay. And just for the jury's purpose, what's the
17 difference obviously between a revolver and a
18 semi-automatic?

19 A The revolver is called a revolver because it has a
20 cylinder, a round cylinder in the middle of the firearm
21 which revolves or rotates.

22 Some firearms rotate to the left
23 counterclockwise, some rotate to the right clockwise.

24 Well, it makes no difference, but they do revolve.

25 The barrel is stationary and each pull of the

1 trigger or cock of the hammer and pull of the trigger
2 causes a fresh round to be rotated up and in line with the
3 bore of the barrel.

4 When the firing pin strikes the back end of that
5 cartridge, that cartridge fires the bullet out of the
6 barrel. The next cock of the hammer or pull of the
7 trigger rotates another one up until the firearm is empty.

8 A semi-automatic has a magazine or a clip that's
9 inserted normally into the grip or the magazine well of
10 the firearm. It requires no motion other than the
11 recoiling of the slide to make the firearm function.

12 When you pull the trigger, it's loaded, charged,
13 the trigger's pulled, that cartridge is fired, the slide
14 comes back, the fired cartridge case is expelled from the
15 firearm and on the forward stroke the slide picks up an
16 unfired cartridge out of the top of the magazine and loads
17 it into the chamber going to the battery position. This
18 happens, assuming the gun functions properly, each time
19 the trigger is pulled for one pull of the trigger, one
20 firing.

21 A fully automatic operates the same except when
22 you pull the trigger back and hold it, it just -- the
23 slide operates by itself.

24 A revolver, the cartridge cases stay in the
25 cylinder and must be manually removed by somebody.

1 Q And I believe we already stated you only had the
2 projectile submitted in that case; is that correct?

3 A One fired bullet, yes, sir.

4 Q No firearm was submitted for comparison; is that
5 correct?

6 A That's correct.

7 Q And you can't, as a firearm examiner, of course,
8 determine in a lot of occasions whether or not a
9 projectile was fired by a particular firearm; is that
10 correct?

11 A Yes, very, very frequently.

12 Q Okay. But couldn't in this case because we didn't
13 have a firearm to compare it to; is that correct?

14 A That's correct, yes, sir.

15 MR. DURANT: Could you please answer any
16 questions defense counsel may have for you.

17 MS. PROCTOR: Cross-examination.

18 CROSS-EXAMINATION

19 BY MS. PROCTOR:

20 Q Would you say that a .38's a pretty common gun?

21 A Yes, ma'am.

22 MS. PROCTOR: I have no further questions.

23 THE COURT: Any recross -- I mean redirect?

24 MR. DURANT: No, sir, Your Honor. I'd ask that
25 Agent Parnell be excused.

1 how you look at somebody wrong, but I didn't see anything
2 to equating mugging with physical violence from the
3 testimony I heard. So based on that, your motion is
4 denied.

5 MS. PROCTOR: Thank you, Your Honor.

6 THE COURT: Anything else before we bring the
7 jury in?

8 MR. DURANT: Not from us, Your Honor.

9 THE COURT: Bring us the jury, please.

10 (The jury came into open court at approximately
11 11:53 a.m.)

12 THE BAILIFF: The jury's all seated, Your Honor.

13 THE COURT: Thank you very much.

14 You may call your next witness, please.

15 MR. DURANT: Thank you, Your Honor.

16 The State would call Dr. Erin Presnell.

17 DR. ERIN PRESNELL, after being duly sworn,
18 testified as follows:

19 THE CLERK: Thank you. Doctor, if you'd take
20 your seat.

21 And if you would, state your first and last
22 name, spelling your last for the record, please.

23 THE WITNESS: My name is Susan Erin Presnell,
24 P-R-E-S-N-E-L-L.

25

DIRECT EXAMINATION

1 BY MR. DURANT:

2 Q Good afternoon, Dr. Presnell. How are you?

3 A Good. Thank you.

4 Q Could you please tell our jury what you?

5 A I'm a forensic pathologist. I work down the road at
6 the Medical University of South Carolina.

7 Q And how long have you been with the Medical
8 University of South Carolina and a medical examiner?

9 A Well, we actually are a coroner state, not a medical
10 examiner state, which is a different issue, but I've been
11 on the faculty as a forensic pathologist since 1999.

12 Q Okay.

13 A So 10, 11, 12 years.

14 Q You are a licensed physician in the state of South
15 Carolina?

16 A Yes.

17 Q And how long have you been practicing medicine?

18 A I received my M.D. in 1993.

19 Well, the way that it kind of rolls out is you
20 go to medical school, you get your M.D. I received that
21 in 1993. I did my pathology residency where I'm in
22 training and finished that after the five-year training
23 program in 1998, then did my sub-specialty, not just
24 general pathology but forensic pathology from 1998 to '99
25 and then was hired as faculty.

1 MS. PROCTOR: Your Honor, we will stipulate she
2 is an expert in forensic pathology.

3 THE COURT: The Court so finds. But you may
4 introduce her to the jury however you feel is appropriate,
5 okay?

6 MR. DURANT: Thank you, Your Honor.

7 BY MR. DURANT:

8 Q You are the one that performed the autopsy in this
9 case; is that correct?

10 A On Larry Maybank, yes.

11 Q And when was that autopsy performed?

12 A February 6th, 2010.

13 Q And where was it performed?

14 A MUSC.

15 Q And could you tell our jury what was Mr. Maybank's
16 age?

17 A He came to us as a 17-year-old teenager.

18 Q And his height?

19 A He was 71 inches, which is almost six feet.
20 Seventy-two inches is six feet. And he's 160 pounds.

21 Q Okay.

22 MR. DURANT: Your Honor, at this point we would
23 offer State's Exhibits 15, 16, 17, 18, 19, 21, 22, 23, 24,
24 25, 26, I believe without objection.

25 MS. PROCTOR: Right, Your Honor.

1 THE COURT: All right. So it's 15, 16, 17, 18,
2 19, 21, 22, 23, 24, 25, 26, and it would be without
3 objection; is that correct?

4 MS. PROCTOR: Yes, Your Honor.

5 THE COURT: Okay.

6 (WHEREUPON, STATE'S Exhibits Nos. 15, 16, 17,
7 18, 19, 21, 22, 23, 24, 25, 26 were admitted into
8 evidence.)

9 BY MR. DURANT:

10 Q Now, as far as your autopsy, obviously did you
11 perform an external examination of the body?

12 A Yes. All of our forensic autopsies are full external
13 and full internal and diagram documentation and then
14 photographic documentation.

15 Q And as a result of your external examination of the
16 body, were you able to determine any of evidence of recent
17 injury?

18 A Yes.

19 Q And what --

20 A Well, Larry Maybank had a number of superficial
21 injuries, abrasions. He had some abrasions across the
22 bony prominences of his right face, on the back of his
23 right hand and on both knees, probably kind of a terminal
24 fall type, sustained during the terminal fall and collapse
25 to the ground.

1 And then he had two other more major injuries.
2 One actually was not life threatening, it was a gunshot
3 wound to the right hip area. It just went through a --
4 real short. It went in through the skin just underneath
5 the soft tissue and right back out again. Again, that's
6 over the right hip.

7 And then he had a -- his fatal injury was a
8 gunshot wound to his right back right by the armpit area,
9 kind of in that general vicinity, that went through his
10 body. It went through the rib in the back on the right,
11 went through the right lung and went through a number of
12 great vessels leaving the heart as well as the trachea or
13 the windpipe, and it went between the collar bone and the
14 first rib and came to rest in the pectoralis muscle, or
15 the muscle in the front of the chest, where the bullet
16 stayed and where the bullet was recovered.

17 Q Okay. And I didn't mean you to go through all that
18 right now, but we're going to make you come down and we'll
19 go through some pictures and go through this a little more
20 detailed, if we could.

21 A I'm sorry.

22 Q You can just stand there so you have somewhere to put
23 your notes.

24 Okay. Let's start with State's Exhibit 15.
25 What does this depict?

1 A This is Larry Maybank. He's laying on the table, so
2 his head is up here and here's his belly button and his
3 feet would be down here. There's his buttocks. And this
4 is his right hip area that actually had an abrasion or
5 a -- and when I say "abrasion," I mean like a scratch
6 where somebody fell down and scraped the skin, right on
7 that bony part of the hip right there. And then this
8 right here is one gunshot wound, and we labeled it A and B
9 for -- just so these two connect. So, again, real
10 superficial, just under -- the bullet going through the
11 soft tissue right under the skin and back out again.

12 Q And let me switch to State's Exhibit No. 16.

13 A This is up closer. You can see -- again, it's the
14 same picture, just up closer -- well, a different picture
15 but up closer.

16 Again, the abrasions and these two gunshot
17 wounds that connect -- when I say two gunshot wounds, it's
18 actually one gunshot wound, the entrance and the exit.

19 Q Okay. Is this wound here, is this associated with
20 the gunshot at all? What caused that one?

21 A No. That's an abrasion or scraping of the skin.
22 Again, it's probably part of that whole complex he had on
23 his face, his knees, and the back of his hand from his
24 terminal fall, his final fall.

25 Q Okay. And, of course, when we're talking about

1 gunshot wounds, a medical examiner usually uses a term of
2 distant or contact or contact wound, whatever. What do
3 you categorize this wound?

4 A Well, just from way of explanation, as a forensic
5 pathologist we can put a gunshot wound in three general
6 categories: Either a contact gunshot wound, a close range
7 gunshot wound, or a distant gunshot wound.

8 And the way we do that is to appreciate that not
9 only does the bullet come out the end of the barrel but
10 also soot and little tiny gunpowder particles as well.

11 So in a contact gunshot wound, if you have the
12 muzzle of the barrel up against the skin, you'll get a
13 deposit, a rim of soot, and you can even sometimes see
14 your skin around the entrance wound.

15 As you pull the gun away from the target or the
16 victim's skin, the soot, which is a lot lighter than
17 little tiny pieces of gunpowder particle, may or may not
18 reach the skin, but the little small gunpowder particles
19 still will. They hit the skin, they deposit there and
20 they can also just scratch it, and so you get a bunch of
21 little pinpoint scratches around the entrance wound. This
22 signifies a close range gunshot wound.

23 As the gun gets further away, the soot doesn't
24 make it, the gunpowder particles don't make it, and so
25 we've just got a gunshot wound with no soot around it,

1 none of that stippling marks or scratches around it. You
2 would call that a distant gunshot wound.

3 To kind of narrow down the range, when does that
4 occur for a particular gun, you would actually have to
5 test fire that weapon. But in general, to kind of include
6 most of all handguns, most all handguns by the time
7 they're back to three feet or so, then that's when they
8 become distant gunshot wounds. So three feet and beyond
9 we would expect to see a hole with no soot, no stippling,
10 and we'd call that a distant gunshot wound.

11 In Mr. Maybank's case, his does not have any
12 soot, does not have any stippling, so it could be
13 consistent with a gunshot wound. However, he was -- we
14 believe that he was wearing up to four layers of clothing
15 and the clothing, of course, would shield his skin from
16 that type of -- those type of deposits. So we didn't
17 actually specify it is consistent with a gunshot wound
18 because it has no soot or stippling scratches around it.

19 Q Could you examine -- you had his outer jacket at the
20 autopsy, did you not?

21 A Yes.

22 Q Was that examined by you for any evidence of a close
23 gunshot wound?

24 A Yes. We looked at it, we looked at all his clothing
25 and found the defects corresponding to his gunshot wound.

1 Unfortunately, the clothing was very dark, it was very
2 bloody, and can obscure whether there is anything present
3 or not that we could see visually. We didn't see
4 anything, but that doesn't mean that something may not
5 have been there.

6 Q Okay. So there was no physical evidence of stippling
7 or anything like that on the clothing itself?

8 A Correct.

9 Q Okay. Now in your autopsy report you describe this
10 particular wound A/B as essentially one shot through and
11 through; is that correct?

12 A Yes.

13 Q You've described it as a superficial wound. Would
14 that gunshot wound have been fatal in and of itself?

15 A No.

16 Q Okay. Let's move on to gunshot C and State's Exhibit
17 No. 17. Is this what you have designated as gunshot C in
18 this autopsy?

19 A Yes, sir. This is -- I can show you closer up, but
20 right here, this little pink round area --

21 Q Okay. If I could, I'll go to 18 which is closer up.

22 A Yes. And this is a closer photograph of the gunshot
23 wound that goes to the -- into the back.

24 Q Okay. And if you would, could you describe once
25 again the path of the bullet and the injuries inflicted by

1 that particular gunshot.

2 A Again, and I'm sorry for doing it earlier, but this
3 gunshot wound goes --

4 Q And we will switch if it will be of assistance to you
5 to State's Exhibit No. 19.

6 A Yes. I wrote this diagram, I found it and tried to
7 label it to kind of appreciate all the names of the
8 vessels and all.

9 This is kind of a cartoon diagram looking at
10 somebody from the front. So this person would be standing
11 in front of us and facing us.

12 Here is like a section of the right lung. This
13 is the neck area, with that blue thing back there is the
14 trachea or the windpipe. And then the head, of course,
15 would be up here. And this right here is the top half of
16 the heart.

17 So this is his right side. So we have the
18 bullets coming in. It comes in through one of the back
19 ribs back on the right. It goes through this middle lobe
20 of the right lung, the upper lobe of the right lung. It
21 hits the superior vena cava, which is what's illustrated
22 here. The vessels in blue are veins. They're bringing
23 deoxygenated blood back to the heart to get oxygen again
24 in the lungs. So all this is coming back to the heart.
25 The red is oxygenated blood and all this is leaving the

1 heart through the aorta here.

2 So the bullet begins coming through the right
3 lung and hits this main superior vena cava, which is
4 bringing all the blood from the top half of the body back
5 to the heart, as well as these two main contributing
6 vessels here.

7 It hits what is called the brachiocephalic
8 artery, which is the main artery taking blood to the
9 common carotid and to the arm on the right side as well as
10 the left carotid artery here. And, in addition to that,
11 it strikes the trachea as well.

12 And, remember, it's coming from the back
13 forward. So that's kind of a little hard to appreciate on
14 the two-dimensional diagram, but in general, this is the
15 pathway.

16 So through the lungs, through the superior vena
17 cava and these vessels, this artery, this artery and the
18 windpipe in the back.

19 Q Okay. And this, of course, was the fatal wound?

20 A Yes.

21 Q And you also indicated that you found several
22 abrasions and I just want to go through some of these
23 additional pictures with you, starting with State's
24 Exhibit 21.

25 A I did observe abrasions on the back of the right

1 hand.

2 Q And State's Exhibit 22?

3 A On the left knee an abrasion. You can see a little
4 bit on the right knee as well.

5 Q This is State's 23.

6 A You can see more on the right knee.

7 Q And what do you ascribe those injuries to?

8 A They're consistent with a fall. They're hitting the
9 bony prominence. Again, he's got some on his face, too,
10 that are around the cheek bone and all, so falling down
11 and hitting bony prominences.

12 Q Okay. And that's what you mean by a terminal fall?

13 A Right. Right. I mean he could have fallen before,
14 too, and got back up and what not, but yes, ultimately a
15 fall to the ground.

16 Q And would the injuries caused by gunshot wound C as
17 you have designated cause his demise rather rapidly?

18 A Yes.

19 Q And why is that?

20 A Well, you're basically cutting off all the blood
21 supply to your brain, the right carotid and the left
22 carotid as well and all the blood coming back to your
23 heart from the upper part of your body.

24 Q Was there a good -- did you find a good bit of
25 internal bleeding?

1 A Oh, yes. He had a lot of blood in his chest
2 cavities.

3 Q And there's been some description of blood coming out
4 of his mouth. Do you know what would have caused that?

5 A Well, he didn't die immediately. And we describe
6 kind of a frothy, like a blood-tinged frothy fluid --
7 well, froth, blood-tinged froth in the airways. And,
8 remember, he's shot through the windpipe, the trachea as
9 well. So as he's breathing, you know, it's bleeding,
10 blood's going in there and you kind of get a foamy type
11 creation secondary to that effort of breathing, of
12 bringing that oxygen in, you know, breathing air in,
13 breathing it back out.

14 Q Okay. And where did the bullet eventually end up?

15 A In the left chest muscle, the left pectoralis.

16 Q And that's depicted on State's Exhibit 24?

17 A Yes. This is an x-ray that we did at the time of
18 autopsy and you can see the bullet right there, which this
19 is again like we'd be looking at the person, they're
20 standing in front of us looking at them back.

21 Q Okay. And State's Exhibit 25 is what?

22 A This is the recovered bullet.

23 Q And what was done with that projectile?

24 A We transferred all of the evidence that we recovered
25 over to North Charleston law enforcement.

1 Q Okay. And in this case I believe it was J.T. Thomas
2 with North Charleston that it was turned over to; is that
3 correct?

4 A Yes.

5 Q And finally State's Exhibit No. 26.

6 A This is -- when we received Mr. Maybank he was
7 unclothed because of emergency intervention, but these
8 clothes accompanied him, and this is one of the jackets --
9 this is the jacket that he was wearing that accompanied
10 his body.

11 Q And is that one of the items of clothing that you
12 examined to determine if there was any evidence of a close
13 gunshot wound?

14 A Yes.

15 Q And you were unable to find any evidence of a close
16 gunshot wound; is that correct?

17 A Yes.

18 Q Okay. Thank you, Doctor. You can resume your seat.
19 I just have a couple more questions and I'll be done.

20 Was toxicology done on the victim?

21 A Yes, toxicology was done on his blood and he had
22 caffeine; cotinine, which is a metabolite of nicotine; and
23 marijuana and marijuana metabolite.

24 Q Okay. And it was negative for ethanol; is that
25 correct?

1 A Correct.

2 Q And based upon the history you obtained in this case
3 and your autopsy, were you able to reach an opinion based
4 upon a reasonable degree of medical certainty as to the
5 cause of death in this case?

6 A Yes. He died from the gunshot wound to his back.

7 Q And essentially bled out; is that correct?

8 A Yes.

9 Q And it was primarily from gunshot wound C that we
10 have seen on the diagram there?

11 A Yes, the one to his back.

12 MR. DURANT: Thank you very much. Would you
13 please answer any questions defense counsel may have.

14 MS. PROCTOR: No questions, Your Honor.

15 THE COURT: Okay. You may step down. Thank you
16 very much.

17 MR. DURANT: We'd ask that Dr. Presnell be
18 excused.

19 THE COURT: Dr. Presnell, you may be excused.
20 Thank you very much.

21 Call your next witness.

22 MR. DURANT: Your Honor, I believe at this
23 point -- Madame Court Reporter, do I have 15, 16, 17, 18,
24 19, 21 through 26 in evidence?

25 THE COURT REPORTER: Yes, sir.

1 MR. DURANT: And in that case, Your Honor, I
2 believe the State will rest.

3 THE COURT: Okay. May I see the attorneys up
4 here just a second.

5 (A bench conference was held with the judge and
6 attorneys in the presence of the jury but out of the
7 hearing of the jury.)

8 THE COURT: All right. Ladies and gentlemen of
9 the jury, the State has rested. At this time I have to
10 take up certain motions required by law and do another
11 hearing that I'm required to do. So we're going to take a
12 lunch break at this time, and if you'd be back in the jury
13 room at 2:15, we'll finish up the trial at that time.

14 I hope you have a good lunch. And don't discuss
15 the case amongst yourselves or with anyone else.

16 (The jury left open court at approximately 12:16
17 p.m.)

18 THE COURT: Any motions from the State?

19 MR. DURANT: Not that I know of.

20 THE COURT: I didn't think you would, but I
21 thought I'd just offer if somebody might have one.

22 MR. DURANT: I appreciate you asking, though.

23 THE COURT: Any motions from the defense?

24 MS. PROCTOR: Yes, sir, Your Honor. At this
25 time we'd renew all the motions we made during the trial

1 MS. EHRLICH: Judge, the defense rests.

2 THE COURT: Okay. The defense rests is simply,
3 in other words, the defense is not going to offer any
4 testimony, so we'll just go into closing arguments, okay?

5 Solicitor.

6 MR. DURANT: Thank you, Your Honor.

7 In opening statement, Ms. Erhlich, Mr. Green's
8 attorney, referred to Derell Green as a child. Derell
9 Green is not a child. Derell Green was 14 years old, 16
10 years old now. He was a teenager. He was old enough to
11 know better. A fourteen-year-old should know that murder
12 is morally and legally wrong. You don't get a free pass
13 because you're 14 years old when you kill somebody.

14 This case is not about Derell Green's age. This
15 case is about what Derell Green did. And if you decide
16 this case on the basis of Derell Green's age as opposed to
17 what the evidence shows you Derell Green did, then you
18 will have violated the oath you took in here on Tuesday
19 morning when you agreed to be on the jury in this case.
20 Because the evidence in this case establishes beyond any
21 reasonable doubt that Derell Green planned and carried out
22 the murder of Larry Taron Maybank. This was nothing but
23 an execution.

24 And what evidence have you heard in here this
25 last couple of days to establish that fact? I'm going to

1 try to walk you through it at this time.

2 You first have the testimony of Jacquintus
3 Washington. If you recall, Jacquintus knew Taron from the
4 Summit program at Daniel Jenkins Academy. They had been
5 in the program about a month and were friends with each
6 other. They weren't the best of friends, but they were
7 friendly with each other.

8 Jacquintus Washington did not know Derell. He
9 didn't know his name, but he'd seen him, and he'd seen him
10 a bunch of times. He had seen him at the bus stop because
11 where Jacquintus got on and off the bus at Dorchester Road
12 was right where Derell Green's -- the road Derell Green
13 lived on intersected with Dorchester Road. He had seen
14 him on several occasions. It's not like that day was the
15 first day that he had ever laid eyes on Derell Green. He
16 knew what he looked like and he knew where he lived.

17 When he and Taron left school that day and they
18 walked by Derell Green and his group of friends, he
19 recognized Derell Green then. He recognized the people
20 Derell Green was with. He didn't know their names, but he
21 recognized Daqone Lance, he'd seen him on the bus before.
22 He recognized Antonio Smalls-Heyward and Rashawn Bradley,
23 having seen them as students at Daniel Jenkins Academy.
24 So he knew what all four of those people looked like. Not
25 personal friends with them, but he knew who they were.

1 So as he and Taron walked by them on the school
2 yard, he and Taron continue on down Bonds Avenue. And as
3 they get down Bonds Avenue, Jacquintus looks behind him
4 and he sees Derell Green right behind them. Derell Green,
5 the Derell Green that he knows and has seen before. Not
6 Daqone Lance, not Antonio Smalls-Heyward, not Rashawn
7 Bradley. He sees them, too, but he sees them back up at
8 the school just as is shown on that video that you've
9 seen.

10 And so he turns around and he continues to walk
11 with Taron and he hears a gunshot. And he turns around
12 and he sees Derell Green, gun in hand, shooting at Taron.
13 He sees Taron stagger and collapse in the driveway of 2630
14 Bonds Avenue. He sees Derell Green in his camo jacket run
15 across Bonds Avenue and through the house.

16 And I guess the defense theory of the case
17 regarding Jacquintus Washington is that for some reason he
18 has decided that he is going to frame Derell Green,
19 somebody that he doesn't know on a personal level,
20 somebody that he's never had a beef with, somebody that he
21 is unaware has ever been in a beef with Taron.

22 What possible motive could he have to name
23 Derell Green as the shooter in this case? Why would he
24 frame Derell Green? Why would he name Derell Green as the
25 person who killed Taron Maybank?

1 Because, ladies and gentlemen, Derell Green was
2 the person that killed Taron Maybank. It's the only thing
3 that makes sense. And you, as a jury, would be completely
4 within your rights to find Derell Green guilty of murder
5 based solely upon the testimony of Jacquintus Washington.

6 But you have more than that. You have much more
7 than that.

8 You have the testimony of Rashawn Bradley and
9 Antonio Smalls-Heyward. These people are Derell Green's
10 friends. They have no reason whatsoever to falsely accuse
11 their friend of murder.

12 And what did both of them tell you? Pretty much
13 what is borne out on that videotape. They get together,
14 Taron and Jacquintus walk by them, they fall right in
15 behind them. Rashawn says he isn't aware of any bad
16 blood. Antonio admits that he is aware that there's a bad
17 blood between Derell Green and Taron, and he thinks that
18 they're going to gang him.

19 So they're walking down Bonds, the victim and
20 his friend, and Derell and his four friends are behind
21 them, and it's at this point that Rashawn Bradley says
22 he's sees Daqone Lance pass something to Derell. And
23 Antonio, although saying he didn't see him pass it, he
24 figured it came from Daqone because there was no other way
25 for Derell to get the gun because they had just come out

1 of school, they couldn't take that gun into school with
2 them, and the only -- and he didn't go to any house to get
3 it at an abandoned house, so the only way he got that gun
4 was from Daqone Lance.

5 And I guess their theory with regard to Rashawn
6 Bradley and Antonio Smalls-Heyward is they're lying about
7 their friend Derell because they must like their other
8 friend Daqone Lance better and it was really Daqone Lance
9 that killed them and they're just lying about Derell to
10 save Daqone Lance.

11 But the only problem with that theory, ladies
12 and gentlemen, is that video shows beyond any doubt that
13 Daqone Lance was not down there in front of 2630 Bonds
14 Avenue when the victim was killed. He was up there by the
15 school with Rashawn Bradley and with Antonio
16 Smalls-Heyward. And despite Daqone Lance's involvement in
17 this case -- and it was considerable -- he was not the
18 shooter. The man in black was not the shooter.

19 And it's true that both of them when picked up a
20 week later and taken to the police station did their
21 statements independent of one another: Oh, yeah, I was
22 out there, I heard gunshots, I was there. I don't know if
23 that's because they were scared, I don't know if that's
24 because they didn't want to be snitches, I don't know if
25 that's because they didn't want to name their friend

1 Derell Green, but the stories they've initially told the
2 police were not true.

3 But the police knew they weren't true. Because
4 the police had other evidence that they didn't know about.
5 And when they were confronted with the fact that they
6 weren't telling the truth, that the police knew they
7 weren't telling the truth, and the police had evidence
8 that they weren't telling the truth, then they finally
9 gave up the ghost and told them what happened.

10 And Antonio Smalls-Heyward probably said it best
11 when he was being cross-examined by Ms. Ehrlich and she
12 was asking him as to why he changed his story. And he
13 said -- and I wrote it down at the time. He said because
14 they already knew the truth. Not because that's what they
15 made me say, not because that's what they told me to say,
16 but because they already knew the truth.

17 And the truth, ladies and gentlemen, is that
18 Derell Green murdered Taron Maybank.

19 You would be well within your rights to find him
20 guilty of murder based upon the testimony of Jacquintus
21 and Antonio and Rashawn. But you have more than that.
22 You have the testimony of Vadrein Simmons. She is the
23 lady that came to pick up her son from school and found
24 out that he'd already left on foot, turned around, was
25 heading back down Bonds Avenue towards Dorchester Road.

1 Vadrein Simmons has no dog in this fight. She
2 doesn't know him, she doesn't know the guy that got
3 killed, but as she's driving down Bonds Avenue she sees
4 Taron Maybank stagger out into the road. And the next
5 thing she sees, a young black male with a camo jacket on
6 running in front of her car, gun in hand, from her side
7 left to her right across Bonds Avenue and jump over the
8 fence. And she stops her car and she calls 911, and you
9 heard how upset she was. And anyone that had seen that
10 would have been upset just like she was.

11 But if you noticed on that 911 tape -- and I
12 don't know how well you could hear -- when she was asked
13 by the dispatcher what did he look like, the only thing
14 that in her upset mind that she could remember, "He's
15 wearing an army jacket. A camouflage jacket? Yes,
16 ma'am."

17 And it is true that in the description she gave
18 to the police later on, somehow the shooter had grown
19 dreads and had black pants on. And when she said that,
20 she was not lying. Ms. Simmons believed to her core that
21 that person had dreads and black pants on in addition to
22 the camo jacket. She told them about the camo jacket in
23 her statement, too. And she believed that to her core all
24 the way up to the point where she saw that video. Then
25 she realize that she had been mistaken.

1 And I don't know if it was because she had
2 imprinted the victim's dreads on the defendant. I don't
3 know if she mistook the hoodie on the back of his jacket
4 as dreads, or I don't know if it was just due to the fact
5 that she was so completely distraught, but the fact of the
6 matter is that she was wrong about that. But she was
7 constantly through this whole thing has been sure of one
8 thing: That the person running in front of her car with
9 the gun in hand was wearing a camo jacket and it was the
10 same camo jacket that she saw Derell Green wearing when he
11 left Daniel Jenkins Academy on that video.

12 And then you have the testimony of Kaylyn
13 Heyward. Likewise, Ms. Heyward has no dog in this fight,
14 doesn't know either side. If you recall, Ms. Heyward was
15 the lady that had gone there with her husband to drop off
16 the car with her momma who was a teacher at Daniel
17 Jenkins. And after dropping off the car and she and
18 husband were leaving in their Kia, she notices a commotion
19 and her attention is drawn to a person she identified on
20 the video as Rashawn Bradley that was running and he
21 appeared to be scared. And as she's watching him
22 wondering what is going on, her husband says, "Look out,"
23 grabs her, she turns around because she's driving and what
24 does she see? She sees a young black male, camo jacket,
25 running in front of her car from left to right across

1 Bonds Avenue and jumping the fence and running away.

2 And what does the camo jacket look like that she
3 saw? Well, lo and behold, it looks just like that one
4 Derell Green was wearing on that video when he walked out
5 of Daniel Jenkins Academy.

6 And next we come to our reluctant witness,
7 Shalaine Jenkins. Shalaine Jenkins was the girl who
8 testified yesterday.

9 She's at the North Charleston Police Department
10 within two hours of this shooting. She gives a statement,
11 the detective writes it down, she signs the statement.

12 What's contained in the statement is that she
13 was with Daqone and Derell that morning with another guy
14 named Jacquan before school. They were walking. Derell
15 pulls up his shirt, shows her a gun. Later on Derell and
16 Daqone Lance walk off in one direction and she and Jacquan
17 walk off in another.

18 From her statement we learn that Derell Green
19 had a gun that morning. We also know that from the
20 statement Derell Green gave later. And we know that he
21 was with Daqone Lance that morning.

22 And then she takes that stand yesterday and she
23 admits, oh, yes, that's my signature on that statement.
24 And she admits, no, I didn't sign a blank paper, the
25 statement was already there when I signed it, but I didn't

1 tell them anything.

2 Well, ladies and gentlemen, if you believe that,
3 I've got some real estate you might be interested in in
4 Florida.

5 The judge will tell you later on in this case
6 that you as the jury are the judges of the facts. That
7 you are to judge the credibility of the witnesses that
8 appear on that witness stand, to tell who is telling the
9 truth and who is not telling the truth.

10 With that in mind, ladies and gentlemen, after
11 having seen her performance on that stand, after
12 witnessing her demeanor on that stand, is there any
13 question in your mind where her loyalties lie? Right over
14 there at that table.

15 And now I want to talk about the videotape. And
16 I know I have shown you that videotape to the point that
17 you are sick of seeing it. That being said, I'm going to
18 show it to you again. Because now I have the opportunity
19 to comment on it.

20 And that surveillance video from Daniel Jenkins
21 Academy is very important in this case for two reasons.

22 Number one, it corroborates the testimony of the
23 witnesses you have heard in this courtroom regarding the
24 shooting: Jacquintus Washington, Rashawn Bradley, Antonio
25 Smalls-Heyward, Vadrein Simmons, and Kaylyn Heyward.

1 Secondly, it pretty conclusively establishes
2 that Daqone Lance and Rashawn Bradley and Antonio
3 Smalls-Heyward were not the shooters, because they were
4 not down there at the time that the shooting occurred.

5 Sam, could we put that up?

6 THE CLERK: Yes, sir.

7 MR. DURANT: And I'm going to need you to dim
8 the lights pretty much all the way, if you can.

9 And we're going to start this video at 12:34:57.
10 This whole incident from beginning to end is about five
11 minutes. And when we start this video, I want you to look
12 right up here. There's a tree here. And right now you
13 see somebody who has been hiding behind that tree come out
14 and start walking. And that person has been identified as
15 Daqone Lance, black top, black pants, the man in black.
16 And he starts walking toward the school grounds as soon as
17 dismissal occurs.

18 Right here at 12:35:36, you have Jacquintus -- I
19 mean, excuse me, Rashawn Bradley coming out of the
20 schoolhouse, khaki pants, white shirt, got a hat on. We
21 know that's him and that's what he's wearing because he
22 says that's him, that's what he's wearing. He walks off
23 screen. And I'm going to speed it up until there you see
24 right there, right by the arch, him walking out with
25 Daqone Lance, the person he has identified as Daqone

1 Lance, the person with the black top and the black pants.
2 They stand over there and they talk.

3 Right at this point up through that, 12:36:44,
4 we have Derell Green come out of the schoolhouse wearing a
5 camo jacket, got a hoodie -- I don't know if that's part
6 of the jacket or something underneath. He's got his
7 school shirt hanging out underneath and wearing khaki
8 pants. And he goes over and he joins his friend Dagon
9 Lance, who he had left that morning and who is waiting for
10 him as school let's out. They get together and they start
11 moving toward Bonds Avenue.

12 And then right there by the arch you'll see
13 Antonio Smalls-Heyward wearing khaki pants, a dark top,
14 but unlike Derell, he's got a darker top and he doesn't
15 have his shirt hanging out from underneath his coat. He
16 heads on over and he joins up with the other group. And
17 then they don't walk off, they stand there and they're
18 waiting.

19 And what are they waiting for? This is what
20 they're waiting for right here: Taron Maybank and his
21 friend Jacquintus Washington. Although they're not
22 waiting for Jacquintus, they're waiting for Taron.

23 And just as soon as those two pass by, they're
24 not waiting anymore, are they? They drop in right behind
25 them. And you can see Jacquintus and Taron together.

1 They continue walking down Bonds, 12:38:14.

2 Then about 20 seconds behind them now there are
3 four folks. And I know that this is hard to see. It's a
4 better image on the actual computer itself. I apologize
5 for our multimedia system in this courthouse, it was
6 obsolete when we got it, but you got Jacquintus, you've
7 got Derell right there, Daqone, and Antonio
8 Smalls-Heyward. And we know that also because of Antonio
9 and Rashawn's testimony.

10 So they are walking down Bonds behind the victim
11 and his friend. And there's a little jump of about 15
12 seconds because this is a motion-activated camera.

13 And now you see them walking back the other way.
14 You've got Rashawn Bradley there in his white shirt.
15 Right behind him you've got Antonio Smalls-Heyward in his
16 dark top and khaki pants. No white ring around the
17 midriff like Derell Green.

18 And if you recall when Rashawn testified, he
19 said that they were following along behind them. He sees
20 Daqone pass something to Derell. He asked him what it
21 was, he wouldn't tell him, he says, "Back off." And,
22 ladies and gentlemen, this is where they're backing off.

23 Then just a couple of seconds later they're
24 sitting there watching what is going on down that way and
25 then you see a third person come in. That person, all

1 black, black top, black bottom, Daqone Lance. They
2 continue walking and they get -- it looks like maybe
3 they've gone across Bonds Avenue. At this point this car
4 right here, that is the car belonging to Vadrein Simmons.

5 You notice this person here. I'm going to back
6 it up a little bit. Don't know who this person is, but
7 see that person turn -- they're walking straight ahead and
8 then that person turns around and is looking back towards
9 Bonds Avenue, and that's because that person has heard the
10 shots.

11 And then I know you can't see it from that
12 chair -- that's why I got you up and had you stand in
13 front -- at 12:39:55, you see the fellow -- this is
14 Ms. Kaylyn Heyward's car right there -- you can see the
15 fellow jumping over the fence. You don't -- you get a
16 fleeting glimpse of him, but one thing that you can tell
17 from this video, ladies and gentlemen, is that person is
18 not wearing all black. That person has at least
19 light-colored pants on.

20 And by this time, ladies and gentlemen, Larry
21 Taron Maybank is in the throes of death.

22 You can kill that.

23 And who is that person jumping over that fence?
24 That person is Derell Green. You know that from the
25 testimony of Jacquintus Washington. You know that from

1 the testimony of Ms. Simmons. You heard that from the
2 testimony of Ms. Heyward. You also know that because
3 Derell said it in his own statement, that after he shot
4 the boy, he ran and jumped over a couple of fences.

5 And finally we come to the defendant's
6 confession. I know that you would have liked to have seen
7 that interview video. I would have liked to have seen
8 that interview videotape. But the fact of the matter is
9 it wasn't. And the fact that it wasn't does not mean that
10 you can't consider it. The judge will charge you that if
11 you find beyond a reasonable doubt that Derell Green was
12 read and understood his rights and that the statements he
13 gave were not the product of police duress or threats or
14 coercion or promises of leniency or reward, then you can
15 consider those statements along with all the other
16 evidence in this case.

17 I would submit that even without the confession
18 you have ample evidence to convict this defendant of
19 murder.

20 But the evidence you have heard in this case
21 indicates that he was read and understood his rights. The
22 evidence that you have heard in this case does not
23 indicate that the police forced him or threatened him or
24 coerced him or promised him to get him to talk. They use
25 tactics, sure, they do. It's done in every case, I don't

1 care if you're 14 or 18 or 29 or 40 or 75. Ladies and
2 gentlemen, most defendants do not walk in off the street,
3 people say hey, write, write, write, write. Okay, now
4 give me your confession. It just doesn't happen like
5 that. It's a process. The process usually takes place as
6 it did with Derell Green in this case and it did with just
7 about every witness in this case. Cops bring them in,
8 talk to them, they lie to the cops. Cops confront them
9 with the evidence, that they're lying, that they know
10 they're lying, you can tell the truth, and most of them
11 come around and tell the truth. And tactics are okay. If
12 you couldn't use tactics you'd never get anybody to
13 confess to anything.

14 In this case, when they interviewed Derell,
15 followed that same pattern. Oh, yeah, after school I was
16 walking down Bonds Avenue alone, I heard gunshots, I ran.

17 Well, the police knew that that was a bunch of
18 hoey. They had talked to Jacquintus Washington.
19 Jacquintus Washington had identified him as the shooter.
20 They had the video from Daniel Jenkins Academy. They knew
21 he was not by himself. They had the statement of Shalaine
22 Jenkins at the time that he had had a gun when he went to
23 school with him that morning. And they go in there and
24 they say, "Derell, you're lying to us. We know you're
25 lying to us and this is why we know you're lying to us."

1 And Detective Sturkie, who does use the fatherly
2 technique -- you know, sometimes you catch flies with
3 honey, sometimes with vinegar -- but that's the tactic he
4 used. "Derell, I know you want to tell me something. I
5 can tell you're not telling me something. You just need
6 to tell the truth. I know -- we know you haven't told the
7 truth and I know you want to tell the truth. You just
8 need to tell the truth. It will make you feel better."
9 Nothing wrong with that. And Derell tells them the truth.
10 "You know, was it girls, was it money, was it drugs? Come
11 on, Derell, just tell the truth. It will make you feel
12 better."

13 And on cross-examination they have made mention
14 of the hours and hours and hours that Derell Green was
15 interrogated. To tell you the truth, Derell Green was
16 interrogated for about 20 to 25 minutes. He got down to
17 the police station -- he was in custody longer than that,
18 don't get me wrong. He was in custody much longer than
19 that, but he wasn't being actively interrogated.

20 They did not go in and interrogate him, talk to
21 him until 3:47 p.m. when he was read his rights. At 3:55,
22 he was giving that first statement that he was lying
23 about.

24 And basically all Kramitz is doing is asking him
25 questions and taking down what he says. He's not

1 threatening him, he's not telling him what to put down.

2 Believe me, if he was telling him what to put
3 down, he wouldn't have got that statement. He would have
4 got a confession right off the bat.

5 So he really wasn't interrogated during that
6 whole process, even though he took like an hour, hour and
7 a half just to write it all down. He asked him a
8 question, he'd answer it, but there was certainly no undue
9 pressure being put on Derell Green at that point.

10 He finishes that probably about 5:30 and then
11 Derell's basically sitting in there by himself from about
12 5:30 to 7, about an hour and a half, when Sturkie and
13 Miller go in there. And at that point he is being
14 interrogated. He's lied, they know he's lied, they've
15 told him they know he's lied, they can see that he wants
16 to tell the truth and they give him a little bit of
17 kindness and he tells the truth.

18 And what he says in his confession is pretty
19 much established by all the other evidence you've heard in
20 this case from the other witnesses, with the exception of
21 him saying that he hid this pistol at an abandoned house
22 and then went and got it when Taron mean mugged him. And
23 he said that for one reason: Because he didn't want to
24 get his buddy Daqone in trouble. Because Daqone was the
25 one who had that gun and Daqone was the one that was with

1 him that morning and Daqone was the one that met him when
2 school was over and Daqone was the one that gave him that
3 gun.

4 Now I'd like to take this opportunity to -- this
5 will be the only opportunity I will have to speak to you
6 and I don't know what the defense may say to you, but I
7 can anticipate some of the things. They have pointed out
8 there is no DNA in this case. Well, that's true, there is
9 no DNA in this case. It's not a DNA case.

10 I know DNA miraculously solves everything on TV.
11 In the real world, it very seldom does.

12 And in this case -- usually in a DNA case you
13 have a crime scene and at a crime scene there will be some
14 type of biological evidence which was left there by the
15 suspect that you can develop a DNA profile from and then
16 you will get blood or saliva from that suspect and you
17 compare the DNA.

18 Well, what are you going to compare it to in
19 this case? There's no evidence in this case that there
20 was any physical contact whatsoever between Taron Maybank
21 and Derell Green. None. No fight, no touching. None.
22 When you walk up behind someone and shoot them in the
23 back, there's not going to be any DNA at the crime scene.

24 Now, it's possible that you can get DNA from a
25 gun. Not very often, but it happens occasionally. But

1 we've got no gun. And we've got no shell casings because
2 it was a revolver. And we've got no camouflage jacket to
3 test. So it's just not a DNA case. But because there is
4 no DNA does not mean that he's not guilty of murder.

5 And the same is true for the gunshot residue.
6 There were three of them sent up there and none of them
7 were positive. And you heard the analyst testify that
8 it's easy to get on you, but it's easy to come off. And
9 you also -- and I played part of a -- there's two videos
10 from Daniel Jenkins. The second one that was introduced
11 has some footage from the inside when Derell Green's
12 leaving school. And it's interesting because you can see
13 as he's leaving school, putting a glove on his right hand.
14 And in his first statement that he gave to Detective
15 Kramitz, the last question, What "did you do when you got
16 home? Washed my hands."

17 The fact that the gun was not found. That's
18 true, the gun was not found. That may be for a number of
19 reasons. Maybe Derell Green did throw it where he said he
20 threw it, but the problem is, he threw it into a public
21 area, in a cut-through in a neighborhood and it wasn't
22 searched until hours after the shooting and hours after he
23 ditched the gun. So he could have very well put the gun
24 or thrown the gun into that field and somebody else comes
25 along later and says, oh, look what I've got, a gun. Or

1 he could have been not telling the truth about it. Maybe
2 he gave the gun to somebody else.

3 Maybe he wasn't telling the truth about the camo
4 jacket, about burning it. The fact that the camo
5 jacket -- when Detective Kramitz was testifying today and
6 he was asked, you know, something about them finding a
7 camo jacket while they were searching his residence. And
8 Detective Kramitz wasn't over there and didn't participate
9 in the search and the detective who did participate in the
10 search told them it was not the same kind of jacket that
11 was on the video. And that may have been true, and is
12 true, but they still should have gotten it. I agree with
13 that. At least could have taken a picture of it so you
14 could have seen. That was just a bone.

15 But, ladies and gentlemen, that does not relieve
16 him of responsibility for what he did.

17 In conclusion, when you put all of this
18 together, the testimony of Jacquintus Washington, Rashawn
19 Bradley, Antonio Smalls-Heyward, all of whom identified
20 Derell Green as the shooter, Vadrein Simmons and Kaylyn
21 Heyward identifying the person wearing the jacket they saw
22 him wearing when he came out of school as the person
23 running from the scene of the shooting with the gun in
24 hand, and the testimony of Shalaine Jenkins together with
25 the videotape from Daniel Jenkins Academy and the

1 statement from the defendant's own mouth, you know that
2 Derell Green had a beef with Taron Maybank.

3 You know that on February the 5th, 2010, he
4 decided he was going to settle the score. You know that
5 he took that pistol with him when he went to school that
6 morning from the statement of Shalaine Jenkins and from
7 his own statement. You know that he gave that pistol to
8 Daqone Lance to hold for him while he was at school. He
9 was with Daqone in the morning, Daqone sitting there
10 waiting for him to get out of school.

11 You know that Derell Green sat there and waited
12 for Taron Maybank to come out of school and then dropped
13 in behind him just as soon as he passed and you know that
14 Derell and his buddies followed Taron and Jacquintus down
15 Bonds Avenue.

16 You know that Daqone passed that gun to Derell.
17 You know from that video that the other three retreated
18 back up to the school and Derell Green walked up behind
19 Taron Maybank, pulled that gun out and without saying a
20 word shot Taron Maybank in the back and killed him and
21 that he died as a result of gunshot wounds inflicted by
22 this defendant.

23 So, ladies and gentlemen, don't judge him
24 because of his age, judge him because of what he did to a
25 human being. Because what he did was nothing more than

1 planning to carry out an execution.

2 Do not give him a free pass. You don't get a
3 free pass for murder. And what he did was commit murder,
4 premeditated murder, and I would ask you to find him
5 guilty for what he did.

6 Thank you.

7 MS. EHRLICH: At the beginning of this trial I
8 asked all of you to imagine what it's like to be 14, and I
9 think we got a little bit of help from that from Antonio
10 when he was on the stand. You saw him in here. He was
11 nervous, mumbles a lot, and kind of has a child-like
12 demeanor.

13 Now I want you to imagine Antonio handcuffed to
14 a chair for hours, isolated from his mother for hours,
15 questioned -- whether or not you call it an interrogation
16 or just questioning -- for hours. He could barely take a
17 few questions from Mr. DuRant in the courtroom. How do
18 you think a kid like Antonio would do in a police station?
19 He's not going to fare that well. And Derell Green didn't
20 do that well when he was at the police station. Not as an
21 eight grader up against the North Charleston Police
22 Department.

23 He's arrested and taken from his home. He is
24 walked down a hallway in the detective division and he's
25 put in a room and he's handcuffed to a chair. And if you

1 look up from your chair into the corner, there's a camera,
2 but it's covered with a styrofoam bowl. And imagine the
3 thoughts that come in your head. Why is that camera
4 covered? What are they going to do to me? Shouldn't that
5 camera be on?

6 There's no clock in the room as if there's no
7 concept of time for you and that's when the police come in
8 and start doing things the way North Charleston likes to
9 do it.

10 So Detective Kramitz comes in and starts
11 questioning him, and Derell tells him the truth. He says,
12 "I was there, I was on Bonds Avenue." He was on Bonds
13 Avenue when a shooting happened and he ran and jumped a
14 fence and he ran through yards. He says he didn't do it
15 because that's the truth.

16 The problem is is that's not the truth that
17 North Charleston wanted. They wanted the truth to be what
18 they wrote in his second statement, that he woke up one
19 morning, decided to shoot a kid that he barely knew over a
20 gold chain that there's been no proof even existed. And
21 he did it in broad daylight right after school let out so
22 that there's plenty of people to see him there to do it.
23 And he does it three minutes after skipping through the
24 courtyard.

25 It doesn't make any sense. The least they could

1 do is come up with a better story. But these aren't
2 Derell Green's words. These are the words of Detective
3 Sturkie.

4 Sturkie was here today. He admits that he never
5 told Derell he could have his mother there, that police
6 policy would cause that interview to stop if Derell asked
7 for his mother. He admitted that it would be to his
8 advantage to not have Derell ask for his mother. And he
9 told us today that he went in there knowing what he wanted
10 the truth to be. That anything less than Derell saying,
11 "I'm the shooter," was not going to be enough for him.

12 So he goes in there. You all saw him walk in,
13 he's a big guy, and he starts telling Derell, "You're
14 lying." He's not looking for anything more than the
15 statement that he wants. And when he's not getting the
16 statement, he starts throwing stuff out there. He starts
17 offering up a story. He starts giving reasons for why
18 Derell wanted to shoot Mr. Maybank.

19 He gives him a story of you were intimidated,
20 right, and then starts giving him options: It's about
21 girls, money, drugs. And you heard him say that he put it
22 all out there for Derell to choose from. He gave him the
23 material, that's what he said today, and then as the tears
24 started coming to Derell's eyes, Derell starts to change
25 his story.

1 All that police department cared about was
2 breaking him down. They wanted to close their case
3 quickly and move on. And to do that they needed that
4 child to say that he did it. And so they pushed him and
5 they isolated him for hours, at least five hours. He's
6 away from his mom, handcuffed to a chair, isolated in that
7 room with this weird bowl covering a camera, and the only
8 people you see are cops coming in and out trying to talk
9 to you. And he said whatever he needed to to get out of
10 there because anything was going to be better than
11 spending one more minute cuffed to that chair.

12 Now there's a theme in this story, and I'm not
13 talking about he's 14 years old. I'm talking about the
14 first statement you give is just never the truth. There's
15 a pattern in this case of people changing one statement to
16 the statement that they want. It started with the police
17 and then it happened in court with the solicitor. They
18 said, okay, tell us your story, but no, you're wrong, we
19 want this story, you start standing over them until you
20 get the answers that you want.

21 Let's talk about Jacquintus Washington. He
22 tells the police that he heard the shots and he ran, that
23 he didn't see the shooter. And he goes to the station, he
24 writes a statement. That's what he tells them.

25 It's funny, though, they don't let him leave,

1 they kept him there. And he doesn't go up to them and
2 say, "Excuse me, I'd like to tell you what really
3 happened." No, they come back to him. And it's Sturkie
4 again, back on him to make sure that he tells the truth.
5 But the truth is what Sturkie decided it was. So they
6 start putting pressure on him, trying to make him feel
7 bad.

8 And Jacquintus knows that he saw this kid he
9 knows from West Surrey on Bonds Avenue. And he might have
10 said that he didn't really know him that well, but we know
11 that he then said, "Yeah, I see him around, I see him five
12 times," and he knew where he lived. He knew him well
13 enough.

14 And the shooting happens quick. This isn't
15 something that happened over a period of minutes, it was a
16 matter of seconds. And he didn't have time to stop, turn
17 around, look and then run again. He wants to think that
18 that's what he did, and I think he probably truly believes
19 that that's what happened, but that's not what happened.

20 You got statement number one from him, I didn't
21 see it, I hear the shots and I ran. Then he gave
22 statement number two: I heard one shot, I turned around,
23 I saw another shot, and then I turned and ran. Then he
24 said in here, Well, I heard one shot, I turned around,
25 then I turned back around and then I heard more shots.

1 And then when questioned more, he went back to statement
2 number two.

3 And I don't think that Mr. Washington was here
4 to lie at all. I think his friend got shot. I think he
5 saw Derell Green on Bonds Avenue and he assumed that
6 Derell was the shooter. And don't think that the police
7 didn't encourage him along with that assumption. But
8 that's all it was was an assumption.

9 Maybe they got that from Shalaine Jenkins. I
10 don't know. She's the girl who came in here and denied
11 everything. She said, "That's not my statement." And I
12 don't know what she said to the police. I don't know if
13 she said that, I don't know if the police just put that
14 down there, nobody really knows. But what we do know is
15 that in her statement she says that she was walking with
16 another boy, not just Dagona Lance, not just Derell Green,
17 but another kid named Jacquan. All right. We don't know
18 what Shalaine's saying, let's talk to Jacquan. Jacquan
19 wasn't here. Maybe that's because what Shalaine said or
20 didn't say in that statement isn't true.

21 Now, after they've gotten those statements
22 together and they've gotten Derell's statement together,
23 they decide that they need to continue to build that.

24 Well, word travels fast in North Charleston,
25 especially when you're in school, and we know that

1 everybody was talking about this case, that everybody knew
2 Derell had been charged. Word was out. We heard it from
3 Rashawn, we heard it from Antonio. I think even Detective
4 Kramitz said people were talking about it. So everybody
5 knew Derell was charged, and everybody knew what the
6 rumors were, and what the police were saying about it.

7 So after a week passes, they get Rashawn out of
8 school and they get Antonio out of school because they're
9 on the video that the police have had now for a week and
10 not bothered to talk to them yet. And I guess at some
11 point they're like, Yeah, let's get statements from them,
12 too. Let's build our case up. So they take them to the
13 station and Rashawn gives a statement. And he says, "I
14 didn't see it, I only heard the shots. I didn't see the
15 shooter."

16 But that wasn't the truth the police wanted to
17 hear. I would not be surprised if they showed him the
18 statement they took from Derell and they questioned him
19 and questioned him and finally Rashawn goes with it; he
20 gives them what they want to hear. They get something
21 about Mook or Daqone Lance passing the gun. He sees one
22 shot, then turns and runs. And for them, it sounds good.
23 He doesn't sign a statement, but he makes sure that he
24 gives a statement later on to the Solicitor's office right
25 before trial.

1 The same thing happens with Antonio. He says,
2 "I heard the shots, but I didn't see anything." So the
3 detectives keep hounding him, making feel bad that the kid
4 he knows as Tee was killed. And I wouldn't be surprised
5 if they showed him the statement they took from Derell
6 Green.

7 We know from Antonio's own mouth that he had
8 already heard stuff about this. He already knew Derell
9 was locked up and he knew him telling the police whatever
10 they wanted to hear wasn't going to put Derell in more
11 trouble. So he does what he's supposed to, he gives them
12 a statement and he tells them that he guesses the gun came
13 from Mook, but he doesn't know because that's not what
14 really happened.

15 You saw Antonio in here. I think he told us he
16 gets easily confused and admits his memories aren't clear
17 and he's confused with all the details of what happened.

18 He says in his statement that there was some
19 type of mean mugging going on between Derell and Larry
20 Maybank, but then here couldn't remember telling that to
21 the police. And maybe he told them, maybe he didn't. I
22 could only imagine what it was like for him at age 12
23 talking to the police.

24 I think that we had a front row of how
25 intimidation was used in this case. When Mr. DuRant

1 wouldn't get what he wanted from a witness, he'd walk
2 right up there and stand in their face, blocked them from
3 anybody else, stand right in front of them, try to stand
4 behind them until his words become their words. And if
5 that can happen in this courtroom, imagine what could
6 happen behind closed doors in a police station when
7 nobody's looking?

8 Now, another interesting thing about Antonio.
9 You notice how Mr. DuRant spoke to him a little nicer than
10 maybe some of the other witnesses, like he was a little
11 bit younger? It's funny how it's okay to talk to him in
12 more simple language, but if you're Derell Green, that's
13 not the way it's supposed to happen. Treat him like an
14 adult, question him just like anybody else.

15 And the intimidation didn't stop with just
16 Antonio. It goes on with Ms. Simmons. She's interviewed
17 by the police right after the shooting and she gives the
18 most detailed description of the shooter and that
19 description includes dreadlocks.

20 But I guess the police didn't like her
21 description because they never went back to talk to her.
22 They never showed her any photographs and they never
23 showed her the video. She didn't see that video until she
24 met with the Solicitor's office to prepare her testimony.
25 And at that point she's shown the video for the first time

1 and I'm sure knows at this point that Derell Green is the
2 one charged and he's got a camo jacket on, according to
3 the video. And, I mean, camo jacket, Ms. Simmons, you've
4 got to be wrong about the hair. Don't you know? Do you
5 see the camo jacket?

6 I mean, I guess she's not allowed to have her
7 own version of what happened if it doesn't fit with the
8 State's theory. And despite never changing her
9 description for a year and a half, a year and a half, and
10 not changing her description a couple of weeks ago when we
11 spoke to her and she told us dreadlocks, all of a sudden
12 she gets on that stand and is told camo jacket, camo
13 jacket, and she changes her story.

14 Ms. Heyward came in here. And I don't think
15 Ms. Heyward has anything to gain from this case either,
16 but you've got to wonder why somebody who says they saw a
17 gun and a person running from a gun right around the
18 school where your mother is a teacher you don't say
19 anything to anybody about it. You don't call the police,
20 you don't give a statement, and it's a year and a half
21 later that you start identifying camo jackets.

22 If these conflicting statements weren't enough,
23 this case is plagued by police who not only rush to judge
24 Derell Green, decided he was a killer, but they clearly
25 don't know how to investigate a case and preserve evidence

1 or keep their own stories straight.

2 You heard from Hallman who was from Crime Scene.
3 He says he did a presumptive test on a black shirt taken
4 from a search at West Surrey Avenue. But he doesn't write
5 a report, which apparently is not that unusual in North
6 Charleston. And Detective Kramitz used information saying
7 that that clothing was Derell Green's and it tested
8 positive in a different court hearing. That's not true.

9 You had Mr. Thomas, the retired forensic case
10 agent. He didn't even know how many evidence placards
11 were out there on the scene. He told us about how he sent
12 blood, fingernail clippings, hair, a phone to SLED for
13 testing. All the stuff came from the victim. But he
14 didn't send any of Larry Maybank's clothing for testing.
15 And I'm not talking about DNA testing. I'm talking about
16 testing for some evidence of where that gun was fired
17 from. They didn't do it. And he said, Well, if I'm not
18 told to by the detective then I'm not going to do it, and
19 responsibility would have fallen on Detective Kramitz.
20 They never sent the clothing. They never sent any
21 clothing to be tested for residue. They never sent the
22 camo jacket, the khaki pants, the black hoodie, nothing.
23 Then you've got Daqone Lance coming into the
24 station at the same time as Derell Green, their number one
25 suspect, and they fail to take his clothing to test it for

1 any sort of residue.

2 You've got this whole story about a gold chain.
3 Nobody knows anything to look for the chain.

4 Now Detective Kramitz is the lead detective in
5 this case and he came in here, told us how careful he was
6 when he read Derell Green his Miranda rights, but he
7 didn't document it in his reports. You notice he kept
8 saying things like, Well, that's just my style, that's how
9 I always do it. I'm sorry. If you're going to charge
10 somebody with murder, you might want to document what you
11 did.

12 He didn't document it because he treated him
13 like any other person. He interrogated him, read him his
14 rights just like he was a much older individual.

15 He said he never asked if Derell wanted his
16 mother. He said he assumed he knew he could ask. He
17 assumed that because he didn't want to have to stop his
18 interview.

19 He also ignored that Derell had told the truth
20 in the first statement, that Mook didn't go to school,
21 that he was on Bonds Avenue, that ran through the fences.
22 He ignored that and instead he sent Sturkie in.

23 He did nothing to videotape the interrogation
24 that lasted from 2:30 until well into the night. We know
25 that Derell wasn't booked in until after one o'clock in

1 the morning. That's a long time to be in a room.

2 And I don't care if they're not required to do
3 the video, it would be really nice to know what happened
4 in that room, but they failed to do that.

5 They took no steps to follow up with Ms. Simmons
6 who gave the conflicting description.

7 They didn't have an officer document the search
8 of the house with photographs, what they found, what they
9 didn't find.

10 They could have gotten the names of those
11 students in the video and talked to them right away. They
12 had it right away. Instead they waited a week, time for
13 ringers to set in, people to get their stories straight
14 and to listen to what other people might be saying in the
15 streets.

16 They didn't document the search of the gun.
17 There are no photographs taken of the area searched. And
18 the explanation was given, well, it was dark and we
19 couldn't find the gun. Okay. Why don't you go back the
20 next morning and look for it? They never did that.

21 There was a camo jacket found in the house. And
22 "camo jacket" has probably been said almost as many times
23 as "video" in this case, and nobody took that jacket,
24 nobody tested it.

25 There's also a lack of documentation about all

1 the details of this investigation. And Detective Kramitz
2 said that he does everything the same way, he doesn't
3 include the details in his report, and we've just got to
4 trust that he did what he said he did even if he didn't
5 document it.

6 Let's talk about the video.

7 I heard some mention of a glove in closing, but
8 nobody said -- none of the witnesses said anything about
9 Derell Green wearing a glove that day. You see something
10 in the video through the school. It's February. Most
11 kids are probably carrying around gloves.

12 Now we've watched that video many, many times,
13 and the video shows Derell Green skipping out of school.
14 And I don't see how a kid skipping out of school three
15 minutes later turns into a cold blooded killer. And they
16 can say what they want about the video and what it proves,
17 but that shooting's not on the video.

18 And for the first time today, there's comments
19 about missing seconds from the video. I'll bet you watch
20 the video again and you'll never see Larry Maybank walk
21 past that treeline, but you will see Derell Green coming
22 from past the treeline and running, if you believe that
23 that's Derell Green based on all these identifications,
24 the camo jacket.

25 And maybe Larry Maybank didn't get down Bonds

1 Avenue quite as far as everybody wants you to believe.

2 You can say what you want about the video, but
3 the video proves nothing about the shooting.

4 What you do see on the video is somebody running
5 scared, because that's what you do when shots are fired:
6 You run because you're scared and you don't want to get
7 killed yourself. And Derell told the police from the very
8 beginning that that's what he did, that he ran down Bonds
9 Avenue because of the shooting. He ran straight home, he
10 doesn't ditch a gun in a field, and within hours the
11 police have him and he doesn't have a chance.

12 You can't really trust what's been presented
13 here today, or all week. You can't ignore that there was
14 intimidation of witnesses, bad police work, lengthy
15 interrogations and isolation, and a lot of conflicting and
16 changing stories. And you can't hide from what you saw
17 from Antonio Smalls, his demeanor, his uncomfot (sic),
18 his childish nature at age 14, the same age that Derell
19 was when he was handcuffed to that chair for hours.

20 If the police and the State really want to be
21 honest, I don't think they believe their own nonsense
22 either. Because if they believe that Daqone Lance --
23 Mook -- gave Derell Green a gun seconds before a shooting
24 and told his friends to back up, you better believe they
25 would have charged that kid with murder under the hand of

1 one is the hand of all. And you know Daqone Lance is not
2 charged with murder. Why? Because they don't believe
3 their own witnesses. If the State doesn't believe it for
4 Daqone, how are you going to believe it for Derell? If
5 that stuff was true, Daqone would have been arrested for
6 murder instead of walking on the streets on probation.

7 I told you this case was about assumptions and
8 changing stories. It's also about mistakes. You heard
9 from Detective Kramitz today, three times that he used
10 information that was not true, twice before a judge and
11 under oath. Once he lied in a prosecutive summary that he
12 prepared saying that Derell Green gave two incriminating
13 statements, two statements implicating himself. We know
14 that's not true. He gave one statement. The other one he
15 denied it. I asked him if that's not true, he said that
16 he made a mistake.

17 He lied under oath about the timing of Derell's
18 statements. He said that they were given one right after
19 the other. We know from his testimony today that there
20 were over three hours between those statements. When he
21 was questioned about that he said not -- you know, "I made
22 a mistake."

23 He lied previously under oath about Derell
24 Green's clothing being positive for gunshot residue. We
25 know that's not true. And his response was, "I made a

1 mistake." That's not good enough. Because if after today
2 he made a mistake, it's going to be too late for Derell
3 Green.

4 Thank you.

5 THE COURT: Madam Forelady, ladies and gentlemen
6 of the jury, the charge on the law will probably take
7 about 20 minutes, so we can take a five or ten-minute
8 break if anybody would like to at this time or we can
9 continue on.

10 Does anybody want to take a break for about ten
11 minutes? If you do, raise your right hand.

12 (No response.)

13 THE COURT: All right. Having no one raise
14 their right hand, I will give you the charge on the law in
15 this case.

16 I'll give you a copy of these instructions in
17 written form. You may refer to the instructions to guide
18 your decision-making. You must consider the instructions
19 as a whole and not follow some and ignore others. Please
20 return the instructions to the Court, Madam Forelady,
21 after you have rendered a verdict.

22 I instruct you and emphasize that the fact that
23 the defendant has not elected to testify on his own behalf
24 is not a factor to be considered by you in any way in your
25 deliberations and in your consideration of the question of

1 guilt or innocence of the defendant. It must not be
2 considered by you in any manner whatsoever. A defendant
3 has the constitutional right to remain silent and the
4 assertion of this right must not be considered by you in
5 your deliberations.

6 I repeat, under your oath, you are to draw no
7 conclusion whatsoever from the fact that the defendant in
8 this case did not testify. The fact that the defendant
9 did not testify should not be even discussed in the jury
10 room. The burden of proof, as I stated to you, is on the
11 State. The defendant's not required to prove his
12 innocence. The burden of proof remains on the State to
13 prove guilt beyond a reasonable doubt.

14 Now, I've permitted you to take notes during the
15 course of the trial. You've not been obligated to take
16 notes, but if you have taken notes, these notes should be
17 used only as memory aids.

18 You should not give your notes precedent over
19 your independent recollection of the evidence. If you've
20 chosen not to make notes, you should rely on your
21 independent recollection of the proceedings and you should
22 not be influenced by the notes of other jurors.

23 I emphasize that notes are not entitled to any
24 greater weight than your recollection or impression of
25 each juror as to what the testimony may be.

1 These are your personal notes. You may destroy
2 them or the Court will destroy them for you if you so
3 request.

4 Now, as to these indictments, the defendant has
5 entered a plea of not guilty which places upon the State
6 the burden of proving the defendant guilty.

7 A person charged with committing a criminal
8 offense in South Carolina is never required to prove
9 himself innocent. I charge you it's a vital important
10 rule of law of evidence that a defendant in a criminal
11 trial, no matter how great or serious may be the offense
12 with which he is charged, must always be presumed innocent
13 until his guilt has been proven beyond a reasonable doubt.

14 This presumption of innocence remains with the
15 defendant at all times, from the moment of his appearance
16 in the court, throughout the trial, until you, the jury,
17 upon the testimony and evidence presented, reach a verdict
18 of guilty beyond a reasonable doubt.

19 It's the solemn duty of the jury, if not firmly
20 convinced of this guilt beyond a reasonable doubt, to
21 acquit the defendant. So the burden of proof is upon the
22 State to establish by evidence to your satisfaction guilt
23 beyond a reasonable doubt.

24 Now, what is reasonable doubt? Reasonable doubt
25 is the kind of doubt that would cause a reasonable person

1 to hesitate to act. If you have such a doubt as to the
2 guilt of the defendant, he'd be entitled to a verdict of
3 not guilty.

4 Reasonable doubt may arise from evidence which
5 is in the case or from the absolute lack of evidence in
6 the case. You alone must make a determination of whether
7 or not reasonable doubt exists as to the guilt of the
8 defendant.

9 The term "reasonable doubt" should be given its
10 everyday plain and ordinary meaning, proof beyond a
11 reasonable doubt is proof that leaves you firmly convinced
12 of the defendant's guilt.

13 There are very few things in this world that we
14 know with absolute certainty, and in criminal cases the
15 law does not require proof that overcomes every possible
16 doubt. If based on the consideration of the verdict (sic)
17 you're firmly convinced that the defendant's guilty of the
18 crime charged, you must find him guilty. On the other
19 hand, if you think there's a real possibility that he's
20 not guilty, you must give him the benefit of the doubt and
21 find him not guilty.

22 The evidence from which you decide the facts
23 consists of the sworn testimony, both on direct and
24 cross-examination, regardless of who called the witness;
25 the exhibits received into evidence; any facts which the

1 lawyers have agreed to stipulate.

2 What is not evidence? Certain things are not
3 evidence. You may consider them -- you may not consider
4 them in deciding what the facts are. I will list them for
5 you. Arguments and statements by lawyers are not
6 evidence. The lawyers are not witnesses. What they have
7 said in the opening statement, closing arguments, and at
8 other times is intended to help you interpret the
9 evidence, but it is not evidence. If the facts as you
10 remember them differ from the way the lawyers have stated
11 them, your memory controls.

12 Questions and objections by lawyers are not
13 evidence. Attorneys have a duty to their clients to
14 object when they believe a question is improper under the
15 Rules of Evidence. You should not be influenced by the
16 objection or the Court's ruling on the objection.
17 Testimony that's been excluded or stricken or that you've
18 been instructed to disregard is not evidence and must not
19 be considered.

20 Anything you may have seen on television or read
21 in the paper or heard from others when court's not in
22 session is not evidence. You decide the evidence solely
23 from the evidence presented in the trial.

24 Under our Constitution and Code of Laws, only
25 you, the jury, can make the findings of facts in this

1 case. I'm not permitted to indicate to you how I may feel
2 about the testimony and evidence which has been presented,
3 and throughout this trial it's been my intention to be
4 fair and impartial towards each of the parties involved.

5 To determine the facts in this case, you would
6 have to evaluate the credibility, which means the
7 believability, of each witness. Some of the things you
8 may consider as you decide whether or not to believe a
9 witness's testimony about a particular matter include:
10 What was the manner and appearance of the witness who
11 testified. Was she straightforward or he straightforward
12 or hesitant in answering?

13 Second, was the testimony of the witness
14 consistent or inconsistent? How did the witness come to
15 know the facts that he or she testified to? Was the
16 person present during the incident? Did they happen on
17 the scene after it occurred?

18 Is there some reason a witness wants to give
19 testimony which would help or hurt one side or the other?
20 In other words, was the witness biased or prejudiced?

21 Was the testimony of the witness strengthened or
22 weakened by other testimony and evidence? The duration
23 and length of time from the alleged acts when they were
24 reported, you may also consider whether this would weaken
25 or strengthen the memory. All prior statements made, as

1 to whether they're consistent or inconsistent.

2 You may believe as much or as little of each
3 witness's testimony as you think proper. You may believe
4 the testimony of a single witness against that of many
5 witnesses or just the opposite. You do not determine the
6 truth merely by counting the number of witnesses presented
7 by each side.

8 Throughout this process you have one objective:
9 To seek the truth regardless of its source.

10 As I stated earlier, the defendant is not
11 obligated to offer any testimony. The same constitution
12 and laws which designate and make you finders of the
13 facts, as I just explained, also make me the sole
14 instructor of the law. You should accept statements of
15 the law as I give them to you. The attorneys are not the
16 instructors of the law. Please base your decision-making
17 on what the law is and not what you think the law should
18 be.

19 There are two types of evidence which are
20 generally presented during a trial: Circumstantial
21 evidence and direct evidence.

22 Direct evidence is the testimony of a person who
23 asserts and claims to have actual knowledge of a fact,
24 such as an eye witness.

25 Circumstantial evidence is proof of a chain of

1 facts and circumstances indicating the existence of a
2 fact.

3 The law makes absolutely no distinction between
4 the weight or value to be given to either direct or
5 circumstantial evidence, nor is a greater degree of
6 certainly required of circumstantial evidence than of
7 direct evidence. You should weigh all the evidence in the
8 case, and when you contest a factual issue, you may have
9 some direct and some circumstantial evidence.

10 To determine the facts in the case, you will
11 have to evaluate the credibility, which means the
12 believability, of each witness.

13 The Rules of Evidence ordinarily do not permit
14 witnesses to testify to opinions or conclusions. An
15 exception of this rule exists for witnesses that we call
16 expert witnesses. A witness who, by education and
17 experience, has become expert in some art, science, or
18 profession may have an opinion as to the subject the
19 witness claims to be an expert in, and may also give the
20 reasons for the opinion.

21 In this case, we had a pathologist, trace
22 evidence expert and a ballistics expert.

23 You should consider any expert opinion given by
24 a witness, and like any other evidence, give it the weight
25 you think it deserves. If you decide that an expert

1 witness's opinion is not based on sufficient education and
2 experience, or if you decide that the reasons given in
3 support of that opinion are not sound, or the opinion's
4 outweighed by other evidence, you may disregard the
5 opinion entirely.

6 A statement alleged to have made by the
7 defendant has been admitted into evidence in this case.
8 While the Court has determined that the statement is
9 admissible, I instruct you that you make the ultimate
10 decision as to whether or not the defendant made the
11 statement. If the defendant did make the statement, you
12 must determine whether the statement was made by the
13 defendant voluntarily and of his own free will. This
14 means that the statement was not caused by pressure,
15 force, fear, threats, coercion, or intimidation, or by
16 hope or a promise of leniency or reward of any kind. In
17 determining whether the statement was voluntary, you
18 should consider both the characteristics of the defendant
19 and the details of the questioning. Some of the facts
20 that you must consider are the age of the defendant, the
21 defendant's education or lack of education, the
22 defendant's mental ability or capacity, the defendant's IQ
23 or intelligence, the defendant's background and
24 environment, the place and length of detention, the nature
25 of the questioning, and the advice or lack thereof of his

1 or her constitutional rights, including but limited to the
2 right to remain silent, any statement may be used against
3 him in a court of law, the right to have a lawyer present,
4 if he could not afford a lawyer, a lawyer would be
5 appointed to represent him without cost, that he could
6 stop making the statement at any time. You must carefully
7 consider all the surrounding circumstances before you give
8 any weight to an alleged statement.

9 The State has the burden of proving beyond a
10 reasonable doubt that the alleged statement was voluntary.
11 If you determine it was, you may give the statement any
12 further consideration that you deem proper. You must
13 decide what weight, if any, should be given to the alleged
14 statement. If you determine the alleged statement is not
15 the free and voluntary statement of the defendant, you
16 should not consider the statement at all.

17 An issue in this case is the identification of
18 the defendant as the person who committed the crime
19 charged. The State has the burden of proving identity
20 beyond a reasonable doubt. You must be satisfied beyond a
21 reasonable doubt of the accuracy of the identification of
22 the defendant before you may convict the defendant.

23 Identification testimony is an expression or
24 belief or impression by a witness. You must determine the
25 accuracy of the identification of the defendant. You must

1 consider the believability of each identification witness
2 in the same way as any other witness. You may consider
3 whether a witness had an adequate opportunity to observe
4 the defendant at the time of the offense. This would be
5 affected by things like how long or short a time was
6 available, how far or close the witness was, the lighting
7 conditions, and whether the witness had to see or know the
8 person in the past. One again, I instruct you the burden
9 of proof on the State extends to every element of the
10 crime charged and this specifically includes the burden of
11 proving beyond a reasonable doubt the identity of the
12 defendant as the person who committed the crime. After
13 examining the testimony if you have a reasonable doubt as
14 to the accuracy of the identification, you must find the
15 defendant not guilty.

16 The defendant is charged with murder. The State
17 must prove beyond a reasonable doubt that the defendant
18 killed another person with malice aforethought. Malice is
19 hatred, ill will, or hostility towards another person. It
20 is the intentional doing of a wrongful act without just
21 cause or excuse with the intent to inflict an injury under
22 circumstances that the law will infer an evil intent.
23 Malice aforethought does not require that malice exists at
24 any particular time before the act is committed, but
25 malice must exist in the mind of the defendant just before

1 and at the time the act is committed; therefore, there
2 must be a combination of previous evil intent and the act.

3 Malice aforethought may be express or inferred.
4 These terms "express" and "inferred" do not mean different
5 kinds of malice but merely the manner in which malice may
6 be shown to exist. That is either by direct evidence or
7 by inference from the facts and circumstances which are
8 shown and proven. Express malice is shown when the person
9 speaks words which express hatred or ill will for another
10 or when the person prepared beforehand to do the act which
11 was later accomplished; for example, lying in wait for a
12 person or any other acts in preparation going to show that
13 the deed was within the defendant's mind would be express
14 malice.

15 Malice may be inferred from conduct showing a
16 total disregard for human life. Inferred malice may also
17 arise when the deed is done with a deadly weapon. A
18 deadly weapon is any article, instrument, or substance
19 which is likely to cause death or great bodily harm.
20 Whether an instrument has been used as a deadly weapon
21 depends on the facts and circumstances of each case. The
22 following examples of instruments which may be deadly
23 weapons: A pistol, a shotgun, a rifle, a dirk, a dagger,
24 a knife, a slingshot, metal knuckles, a razor, gasoline, a
25 fire bomb or Molotov cocktail, and lighter fluid. A gun

1 may be a deadly weapon even if it's not operating.

2 Now, you've been selected as fair and impartial
3 jurors sworn to impartially try and determine the facts of
4 the case. And when you've complied with your oath to do
5 so, then no one would have a right to criticize your
6 verdict and you will have fully discharged your duty as
7 jurors. You're to decide this case according to the
8 testimony you've heard of the sworn witnesses along with
9 the other evidence introduced. I charge you as jurors,
10 you must decide the issues in this case without bias or
11 without prejudice to any party. Do not allow yourself to
12 governed by sympathy, by prejudice, by passion, by public
13 opinion, or any other arbitrary factor. Both the State
14 and the defendant have a right to expect each of you will
15 carefully and impartially consider all the evidence in the
16 case and follow the law as I have explained it to you.
17 Nothing I may have said or done over the course of this
18 trial has been in any way intended to express or suggest a
19 view of the case or an opinion as to the facts, the weight
20 of the evidence, the credibility of witnesses. If any of
21 my acts or words so indicate, you're to disregard such and
22 form your own opinion.

23 Now, Madam Forelady, ladies and gentlemen of the
24 jury, I have prepared a verdict form and the verdict form
25 has the State of South Carolina versus Derell Green, the

1 defendant, and has the case number and says, As to the
2 Indictment No. 2010-GS-10-08153, we, the jury, by
3 unanimous consent find the defendant, and I have guilty or
4 not guilty, a place for the forelady to sign and the date.

5 As the verdict form says, your verdict has to be
6 unanimous, all 12 of you have to agree, and I would ask
7 you to respect each other's opinions, listen to each
8 other's opinions. It's a collective reasoning process on
9 all 12 of you's part, and listen to it, review the
10 evidence, consider the evidence, and reach a fair and just
11 verdict.

12 Now, Madam Forelady, ladies and gentlemen of the
13 jury, I'm going to ask you to go to the jury room. You
14 may take your notes. However, Madam Forelady, please do
15 not begin your deliberations until the bailiff brings you
16 the verdict form, the charge book, as well as all of the
17 exhibits that have been presented into evidence. And when
18 he brings that to you, he knocks on the door, and he will
19 tell you to begin your deliberations. I may have to bring
20 you back and charge something I left out or correct some
21 error that I made, so I don't want you to begin your
22 deliberations if I have to do that.

23 If the three alternates would just keep your
24 seats, Madam Forelady, you and the other 11 jurors may
25 follow the bailiff to the jury room.

1 (The jury left open court at approximately 3:55
2 p.m.)

3 THE COURT: Any exceptions to the charge from
4 the State?

5 MR. DURANT: No, sir.

6 THE COURT: Any exceptions to the charge from
7 the defendant other than the failure to charge voluntary
8 manslaughter?

9 MS. PROCTOR: No, Your Honor. I need to
10 check -- I don't think you can charge weapon is malice
11 anymore. I just need to check that on -- the computer
12 went down, but I know under Belcher you can't use weapon
13 as malice under the new law. And I can get it in once my
14 computer comes back on.

15 THE COURT: Get the computer up.

16 I think the old charge refers to malice as a --
17 I'm sorry, what?

18 (Judge confers with the clerk.)

19 THE COURT: They can just sit where they are for
20 just a minute, okay? I'll talk to them when I get through
21 with the charge.

22 THE CLERK: Yes, sir.

23 THE COURT: I think the old charge referred to
24 the use of a deadly weapon as implied malice and I think
25 the new charge says to disregard that inferred malice may

1 (The jury came into open court at approximately
2 6:40 p.m.)

3 THE CLERK: Jurors are all present, Your Honor.

4 THE COURT: Thank you very much.

5 Madame Forelady, I understand you've reached a
6 verdict; is that correct?

7 THE JURY FORELADY: Yes, sir.

8 THE COURT: Would you hand the verdict form to
9 the bailiff, please?

10 Thank you very much.

11 All right. Madame Forelady, I have written on
12 the indictment form your verdict and I'm going to ask you
13 to sign and date it today, August 25th, 2011. The bailiff
14 will ask you if you'll please sign your name to it,
15 please.

16 (The forelady of the jury complies.)

17 THE COURT: Thank you very much.

18 The Clerk will publish the verdict.

19 THE CLERK: State of South Carolina, County of
20 Charleston, the Court of General Sessions of the Ninth
21 Judicial Circuit, Indictment No. 2010-GS-10-08153, the
22 State of South Carolina versus Derell Green. As to the
23 indictment of -- I'm sorry -- as to Indictment No.
24 2010-GS-10-8153, we, the jury, by unanimous consent find
25 the defendant guilty of murder.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) COURT OF GENERAL SESSIONS
2010-GS-10-8153

STATE OF SOUTH CAROLINA)
PLAINTIFF)
vs.) TRANSCRIPT OF RECORD
DERELL GREEN)
DEFENDANT)

September 1, 2011
CHARLESTON, SC

B E F O R E:

THE HONORABLE J.C. BUDDY NICHOLSON, JR, JUDGE

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

BRUCE DURANT, Esq.
Attorney for the State

MEGAN EHRLICH, Esq.
LORI PROCTOR, Esq.
Attorneys for the Defendant

Transcribed by:
PATRICIA A. DANNER

For

VIVAN CROSS
Official Court Reporter

1 *MS. EHRLICH:* Nobody else, Your Honor.

2 *THE COURT:* Okay. I'll be glad to hear from you.
3 I would be glad to hear anything Mr. Green would like to
4 tell me.

5 *MS. EHRLICH:* Thank you, Judge. I am going to
6 advise him not to speak today because it's an Appellate
7 issue.

8 *THE COURT:* I'm sorry, what?

9 *MS. EHRLICH:* I'm going to advise him not to speak
10 or address the Court because of Appellate issues. But, I
11 -- just for housekeeping in imposing a sentence, we would
12 ask that you give him credit back to his original arrest
13 date when he was charged in Family Court would have been
14 February 5th, the warrant wasn't served on him in adult
15 court until after we went through the waiver process and I
16 don't want---

17 *THE COURT:* February the 5th of when?

18 *MS. EHRLICH:* 2010.

19 *THE COURT:* Okay.

20 *MS. EHRLICH:* And, Judge, I don't want to belabor
21 everything that you've already read in the sentencing
22 memorandum, but I do want to highlight some things that I
23 think are important. I get, I guess, the position that,
24 you know, he was just fourteen (14) and that doesn't
25 excuse the crime and certainly I don't think that anybody

1 here is asking that he be excused for any type of
2 consequences.

3 He could have been charged only in Family Court. He
4 could have been sent to the Department of Juvenile Justice
5 for a period not to exceed his twenty-first (21) birthday,
6 that didn't happen. He is in General Sessions Court and
7 is now facing thirty (30) to life and I certainly don't
8 think that that is a light sentence. Given everything
9 that I know about Derell, he is sixteen (16) years old
10 now, was only in the eighth grade when he was arrested.
11 He had some difficulty, I think, untreated mental health
12 problems---

13 *THE COURT:* Well, tell me a little bit about your
14 personal experience with him. You probably know him about
15 as well as anybody in this courtroom?

16 *MS. EHRLICH:* I think I know him probably better
17 than---

18 *THE COURT:* You probably know him as well as about
19 anybody in this courtroom.

20 *MS. EHRLICH:* I do.

21 *THE COURT:* So tell me your experiences with him?
22 That is what I would like to hear, please?

23 *MS. EHRLICH:* My experiences with him are that he
24 is scared. That every decision he has made since getting
25 here has been to try to protect his family. He is still

1 scared that something will happen to them. My opinion is
2 that he is scared of whoever else is involved with this
3 because I don't think that Derell Green woke up one
4 morning and decided to plan on killing Larry Maybank. I
5 don't think that's what happened. He did---

6 *THE COURT:* You think he was put up to it by
7 someone else?

8 *MS. EHRLICH:* I think that there is a lot more to
9 this story that we'll probably never know the answer to
10 because I think people are scared. I think that the
11 fifteen (15) year old who was charged only as an accessory
12 had a lot more to do with the situation and I can't for
13 the life of me understand why he wasn't also held
14 accountable for his actions.

15 *THE COURT:* I understand, but that's not the issue.

16 *MS. EHRLICH:* But, I do think that there are other
17 individuals who are likely involved. I think there is a
18 mentality in these neighborhoods that the older
19 individuals have some issue. He is from one neighborhood.
20 Mr. Maybank was from another neighborhood. Issues between
21 those neighborhoods never started -- did not start with
22 Derell Green and they didn't start with Larry Maybank,
23 they started long before they were probably even born.

24 But, I do think that there are older individuals
25 who have more involvement with this, people that will

1 never be held accountable. I think there is a mentality
2 that let's get these young kids to do things, they won't
3 get into trouble---

4 *THE COURT:* You know, unless the community gets
5 involved and assist the police, it's going to always be
6 that way.

7 *MS. EHRLICH:* I---

8 *THE COURT:* It was very obvious from the witness
9 that testified in the courtroom, I don't know how hostile
10 she was towards the system in general. I don't remember
11 her name.

12 *MS. EHRLICH:* I don't think it's just a hostility
13 towards one individual, I think there is lot of fear. I
14 think -- when I have other people coming into my office
15 about other cases, saying things about somehow applies to
16 this case that I can't possibly prove because nobody is
17 ever going to come forward and say, I think that is a
18 problem. I strongly believe that there are older
19 individuals involved who put these kids up to doing things
20 thinking I won't get caught and if they get caught, they
21 are juveniles, nothing is really going to happen to them.

22 That's clearly not the case of Derell. He is soft
23 spoken. I have seen him at the Detention Center multiple,
24 multiple times over the past year and a half. He has had
25 minimal problems there. The guards fuss over him and ask

1 me constantly when is Mr. Green going to Court? I hope
2 things work out for him. I think that he has impressed
3 upon them a different character than what was presented
4 during the trial.

5 I think there is way more to him than, you know,
6 testimony that was heard in Court. I think that he
7 deserves an opportunity at some point to get out of
8 prison. He is quiet. I don't think he is a leader in
9 anyway. He will follow whoever is probably the loudest.
10 And, I think in this case he probably followed somebody
11 who led him down the path that cost him to be here today.

12 But, I certainly would ask the Court to consider
13 his age. To consider the fact that at fourteen (14),
14 thirty (30) years is a very long time. It is twice as
15 long as he has been alive. And, I think that that type of
16 sentence properly takes into account everything related to
17 him, everything related to the case, and some of the
18 inequities I think of how individuals are prosecuted. The
19 fact that there is probably somebody out there that nobody
20 will ever arrest in this case.

21 And I just think at some point, they got to him. I
22 mean, he is charged as an adult and thirty (30) years is a
23 very long time. And, I ask that you take that into
24 consideration.

25 *THE COURT:* Okay. I understand and considering

1 everything in the defense sentencing memorandum as well as
2 the statements on behalf of the victim's family and their
3 concerns which are legitimate concerns, also. I mark this
4 Defense sentencing memorandum as Court's Exhibit No. 1 and
5 the statements from the victim's family as Court's Exhibit
6 No. 2.

7 (WHEREUPON, Court's Exhibit No. 1 was marked for
8 identification and received into evidence.)

9 (WHEREUPON, Court's Exhibit No. 2 was marked for
10 identification and received into evidence.)

11 *THE COURT:* Anything else, Ms. Ehrlich?

12 *MS. EHRLICH:* No, Your Honor.

13 *THE COURT:* And, I'll again tell you I will be
14 happy for Mr. Green to say anything. I am not going to
15 allow him to talk about the case. Anything he would like
16 to say to the Court concerning sentencing and sentencing
17 alone, I will be glad to hear from him? I don't want him
18 not to say what he wants to say because of Appellate
19 purposes will not go into the crime.

20 *MS. EHRLICH:* Judge, I don't think that he is
21 necessarily comfortable speaking in Court.

22 *THE COURT:* That's fine.

23 *MS. EHRLICH:* I know what he feels. I know that he
24 is---

25 *THE COURT:* I mean, that's fine. I just want to

1 afford him the opportunity.

2 *MS. EHRLICH:* If he could and if you have -- I
3 think more confidence in himself, I think if you'd ask
4 him---

5 *THE COURT:* Okay. Thank you very much. State
6 versus Derell Green indictment number 2010-GS-10-08153
7 convicted of murder by a jury that you -- I am sorry, was
8 there anything else the State wanted to say? I didn't
9 give you an opportunity to reply to anything the Defense
10 may have---

11 *MR. DURANT:* I think you have already written it
12 down now---

13 *THE COURT:* Pardon?

14 *MR. DURANT:* I said, I think you have already
15 written it down now, so I will be quiet.

16 *THE COURT:* Okay. All right. On the charge of
17 murder, the Defendant is sentenced to a term of forty (40)
18 years and I will give him credit for jail time since
19 February 5, 2010. Thank you very much.

20 *MR. DURANT:* Thank you, Your Honor.

21 *****End of transcript of record.*****

22

23

24

25

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE FAMILY COURT OF THE
NINTH JUDICIAL CIRCUIT

ANNE B. SEYMOUR,

PETITIONER,

FILED
2010 FEB -8 PM 3:54

A JUVENILE

JULIE STRONG
CLERK OF COURT

JUVENILE PETITION

DERELL GREEN

Address:



MURDER

Date of Birth:



A Child under Seventeen (17) Years of Age.

DOCKET NO.: 2010-JU-10-

180

Anne B. Seymour, the petitioner, having sufficient knowledge to believe that a case has arisen which invokes the juvenile jurisdiction of the court alleges:

1. That the above named juvenile resides in or was found in Charleston County.
2. That the names and addresses of the child's parents/guardians/custodians are as follows:

Name	Relationship	Address
Tamica Nelson	Mother	Same as Juvenile

3. The above named juvenile was a delinquent child, in that on or about February 5, 2010, in Charleston County, South Carolina he did commit the offense of Murder in that he did, feloniously, willfully and with malice aforethought, kill one Larry Taron Maybank, in violation of Section 16-3-10 of the South Carolina Code of Laws, (1976, as amended).
3. That the above named juvenile was less than seventeen (17) years of age when the above mentioned acts occurred.

WHEREFORE, the petitioner prays that the court determine whether these allegations are true and whether the juvenile is in need of the care, protection or discipline of the State.

February 8, 2010
Charleston, South Carolina

Anne B. Seymour
Petitioner

VERIFICATION MUST BE ATTACHED

STATE OF SOUTH CAROLINA

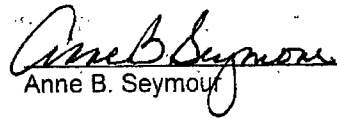
2010 FEB -8 PM 3:54

VERIFICATION

COUNTY OF CHARLESTON

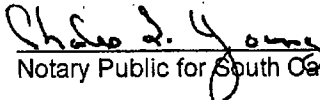
JULIE ARMSTRONG
CLERK OF COURT

BY
Anne B. Seymour, being ^{BY} duty sworn, says that she is the Petitioner herein; that she has read the foregoing petition and knows the contents thereof; that the same is true of her own knowledge or belief, except as to those matters therein stated to be on information and belief, and as to those matters she believes them to be true.


Anne B. Seymour

SWORN TO AND SUBSCRIBED BEFORE ME

This 8 day of February, 2010


Notary Public for South Carolina

My Commission Expires: 10/27/2010

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE FAMILY COURT OF THE
NINTH JUDICIAL CIRCUIT

ANNE B. SEYMOUR,

PETITIONER,

2010 FEB -8 PM 3:54

A JUVENILE

JULIA J. ARMSTRONG
CLERK OF COURT

JUVENILE PETITION

DERELL GREEN

Address:



UNLAWFUL POSSESSION OF A FIREARM

Date of Birth:



A Child under Seventeen (17) Years of Age.

DOCKET NO.: 2010-JU-10-181

Anne B. Seymour, the petitioner, having sufficient knowledge to believe that a case has arisen which invokes the juvenile jurisdiction of the court alleges:

1. That the above named juvenile resides in or was found in Charleston County.
2. That the names and addresses of the child's parents/guardians/custodians are as follows:

<u>Name</u>	<u>Relationship</u>	<u>Address</u>
Tamica Nelson	Mother	Same as Juvenile

3. The above named juvenile was a delinquent child, in that on or about February 5, 2010, in Charleston County, South Carolina he did commit the offense of Unlawful Possession of a Firearm in that he did knowingly possess a revolver, in violation of Section 16-23-20 of the South Carolina Code of Laws (1976, as amended).
4. That the above named juvenile was less than seventeen (17) years of age when the above mentioned acts occurred.

WHEREFORE, the petitioner prays that the court determine whether these allegations are true and whether the juvenile is in need of the care, protection or discipline of the State.

February 8, 2010
Charleston, South Carolina

Anne B. Seymour
Petitioner

VERIFICATION MUST BE ATTACHED

FILED

STATE OF SOUTH CAROLINA

2010 FEB -8 PM 3: 54

COUNTY OF CHARLESTON

JULIE B. STRONG
CLERK OF COURT

VERIFICATION

BY
Anne B. Seymour, being duly sworn, says that she is the Petitioner herein; that she has read the foregoing Petition and knows the contents thereof; that the same is true of her own knowledge or belief, except as to those matters therein stated to be on information and belief, and as to those matters she believes them to be true.

Anne B. Seymour
Anne B. Seymour

SWORN TO AND SUBSCRIBED BEFORE ME

This 8 day of February, 2010

Charles J. Young
Notary Public for South Carolina

My Commission Expires: 10/27/2019

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
ANNE B. SEYMOUR,

IN THE FAMILY COURT OF THE
NINTH JUDICIAL CIRCUIT

FILED

PETITIONER, 2010 FEB -8 PM 3:54

A JUVENILE

JULIE D. ANSTRONG
CLERK OF COURT

JUVENILE PETITION

DERELL GREEN

Address:

[REDACTED]

POSSESSION OF WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

Date of Birth:

[REDACTED]

A Child under Seventeen (17) Years of Age.

DOCKET NO.: 2010-JU-10-182

Anne B. Seymour, the petitioner, having sufficient knowledge to believe that a case has arisen which invokes the juvenile jurisdiction of the court alleges:

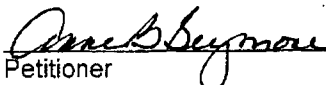
1. That the above named juvenile resides in or was found in Charleston County.
2. That the names and addresses of the child's parents/guardians/custodians are as follows:

<u>Name</u>	<u>Relationship</u>	<u>Address</u>
Tamica Nelson	Mother	Same as Juvenile

3. The above named juvenile was a delinquent child, in that on or about February 5, 2010, in Charleston County, South Carolina he did commit the offense of Possession of Weapon During the Commission of a Violent Crime in that he was in possession of a firearm or visibly displayed what appears to be a firearm during the commission of a violent crime or attempting to commit a violent crime, in violation of Section 16-23-490 of the South Carolina Code of Laws (1976, as amended).
4. That the above named juvenile was less than seventeen (17) years of age when the above mentioned acts occurred.

WHEREFORE, the petitioner prays that the court determine whether these allegations are true and whether the juvenile is in need of the care, protection or discipline of the State.

February 8, 2010
Charleston, South Carolina


Petitioner

VERIFICATION MUST BE ATTACHED

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

FILED

VERIFICATION

2010 FEB -8 PM 3:54

Anne B. Seymour, being duly sworn, says that she is the Petitioner herein; that she has read the foregoing petition and knows the contents thereof; that the same is true of her own knowledge or belief, except as to those matters therein stated to be on information and belief, and to those matters she believes them to be true.

JULIE W. STRONG
CLERK OF COURT

Anne B. Seymour

Anne B. Seymour

SWORN TO AND SUBSCRIBED BEFORE ME

This 8 day of February, 2010

Charles J. Young

Notary Public for South Carolina

My Commission Expires: 10/27/2019

NORTH CHARLESTON POLICE DEPARTMENT

DEFENDANT STATEMENT

STATE'S EXHIBIT
36

STATEMENT OF DERRELL ANSEN

HOME ADDRESS [REDACTED] HOME PHONE [REDACTED]

EMPLOYER Murray Hill BUSINESS ADDRESS _____

BUS. PHONE _____ OCCUPATION STUDENT

THIS STATEMENT IS GIVEN 2/5/2010 (DATE) AT 3:55pm (TIME)

North Charleston Police Department (LOCATION)

This statement is being written by Detective Kaganer. It will be in a question and answer format.

Question: What time did you go to school this morning?

Answer: About seven something, eight something.

Question: Is that the time you left your house?

Answer: Yes, about seven something closer to eight.

Question: Did you go straight to school?

Answer: No, I went to the Wayland and met up with Dagnan I think was by Constitution, I don't know the streets so well.

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: [Signature] 217

WITNESS: [Signature] Starlie 180

SIGNATURE: Derrell Ansen

Question: What did you and Daquan do?

Answer: We walked by the bus stop by the A-1 store. Me and Daquan went into the store and Daquan bought me some chips. When we came out of the store, we met up with Lenzal, Damian, Armani. I knew them from Brentwood. We all walked back to my house. When we got there I put my phone on the table. Daquan was still and me, Lenzal, Damian and Armani walked to school.

Question: What were you wearing?

Answer: Khaki pants, white collared shirt, tennis shoes and a Green Roc wear jacket.

Question: What time did you get to school?

Answer: About 9:25's

Question: Do you have any classes with the other boys you mentioned?

Answer: No. Lenzal is in the 8th grade, Damian is in the 7th grade and Armani is in the 10th or 9th.

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WITNESS:

WITNESS:

SIGNATURE:

x Duell Brown

Question: Did you go to all your classes today?

Answer: Yes.

Question: What time did you leave school today?

Answer: It was about 12:00 - 12:20 - 12:30 something.

Question: Did something happen when you got out of school today?

Answer: There was a shooting today on Bonds Avenue.

Question: Where were you when the school let out and the shooting happened?

Answer: I was on Bonds Avenue, I heard three or four ^{shots} and I ran through the cuts to my house.

Question: Were you with anyone when the shots happened?

Answer: No

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: [Signature]

WITNESS: [Signature]

SIGNATURE: x [Signature]

Question: When the shots happened what did you do?

Answer: I saw somebody come by close yard and to my house.

Question: When you got home what did you do?

Answer: I went into the house by the back door I had my key in the yard I unlocked the back door, and went inside.

Question: Who was inside the house?

Answer: My sister, no body else.

Question: Did "Mouk" call you?

Answer: Yes.

Question: How long after the call from Mouk did he come over your house?

Answer: About fifteen minutes.

Question: Did Mouk go to school today?

Answer: No.

Question: What does Mouk go to school at?

Answer: Garrett, he is in the 11th grade.

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WITNESS:

WITNESS:

SIGNATURE:

x Deval Green

Question: How long have you known "Mook"?

Answer: Since I was in the sixth grade

Question: When the police came to your house what did you do?

Answer: I told my sister to open the door she called my mother, and she said she was on the way.

Question: What is Mook's real name?

Answer: Dagon

Question: Did you have a gun with you at any time today?

Answer: No sir.

Question: Did you fire a gun or shoot a gun today?

Answer: No sir.

Question: When was the last time you shot a gun? Where?

Answer: Last summer west Ashley when I went to live with my grandmother there.

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WITNESS: [Signature]

WITNESS: _____

SIGNATURE: x [Signature]

Question: What kind of gun was it?

Answer: 22 rifle.

Question: Why were you shooting the rifle?

Answer: Shooting at squirrels.

Question: Do you have any problems with anyone at school?

Answer: No, long time ago his name as Montavious Adams, but that's over with.

Question: I'm going to show you a picture let me know if you know him: name as Larry Tamm May Bank.

Question: I don't know him.

Question: Did you have anything to do with the shooting and murder of Larry Tamm May Bank?

Answer: No sir.

Question: What did you do when you got home?

Answer: Went to the bathroom, washed my hands.

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WITNESS

[Signature]

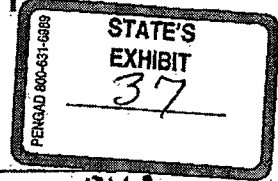
WITNESS:

SIGNATURE:

[Signature]

NORTH CHARLESTON POLICE DEPARTMENT

DEFENDANT STATEMENT



STATEMENT OF DERRICK JAMAR GREEN
HOME ADDRESS [REDACTED] HOME PHONE [REDACTED]
EMPLOYER Murray Hill BUSINESS ADDRESS _____
BUS. PHONE _____ OCCUPATION STUDENT

THIS STATEMENT IS GIVEN 2/15/2010 (DATE) AT 7:45 pm (TIME)
North Charleston Police Dept. (LOCATION)

This statement is being written by Det. Kanner
it will be in a question and answer format.

Question: Was the first statement truthful?
Answer: Not all of it sir.

Question: Explain to me what happened today?
Answer: It all started about a month ago
Little T, that's how I know him it was a bunch
of them I was down on the Macos, I don't
know what the streets, I think it was
successful. They wanted a gold chain I had
on. I told them they couldn't have it. They
all jumped me and "Little T" is the one that
snatched my chain. They was all swinging at me
and stomping on me. After they was finished
they all take off running I was off too.
I just went home, I didn't want to tell

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WITNESS: [Signature]
WITNESS: _____

SIGNATURE: x Derrick Green

anyone about 25. It was a couple Friday's ago I seen little T at the school campus. He was looking at me, looking funny or something. I didn't say anything to him. I saw him last Friday and I didn't say anything to him.

Question: Why did you have a gun with you today?
Answer: I don't know.

Question: Did you see little T today at school?
Answer: No, there's a problem at our school so I didn't see him.

Question: When did you see "little T"?
Answer: After school. He was looking at me funny, "mugging me".

Question: What does "mugging" mean?
Answer: Looking at me, up and down.

Question: Did you have the car before you went to school?
Answer: Yes sir, I had 25 hidden at the abandoned house across the street from my house. Not that far but it's a couple streets from my house. Another abandoned house

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: [Signature]

WITNESS: [Signature] Sturkie 180

SIGNATURE: [Signature]

Page Number 3 (2ND STATEMENT)

OCA# 201505347

Question: Did you have the gun at school?

Answer: No sir.

Question: Where did you get the gun from?

Answer: I was at home across the street from the school at a house.

Question: What kind of gun was it?

Answer: Revolver, 38. It had five (5) bullets in it.

Question: How many times did you shoot?

Answer: I really don't know, maybe four or five times.

Question: Where did you get the gun from where you had to hide it?

Answer: After little T mugged me, he walked off. I went and got it. He walked up Bond Avenue. I came up behind him and started shooting.

Question: What did you do after you shot "Little T"?

Answer: I ran through a yard and jumped some fences, two fences. When I was out

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WITNESS

WITNESS: [Signature] Sturkie 180

SIGNATURE:

[Signature]

across the school street (Bonds Avenue) a car stopped. I kept on running. I saw home.

Question: How long have you had the gun?

Answer: About a year.

Question: Where did you get it from?

Answer: I got it from my cousins house, in the country west of Alleg. I took it from them.

Question: Is there anything you want to add to this statement?

Answer: I want to tell the family I'm sorry, and I'm sorry to my family that I let them down.

Question: Describe the gun to me?

Answer: It's a 38 revolver, 28 black, all black, the handles too.

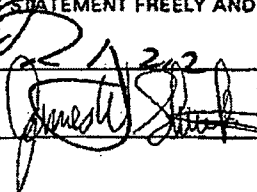
Question: What is the correct spelling of your name?

Answer: DEREK JAMON GREEN.

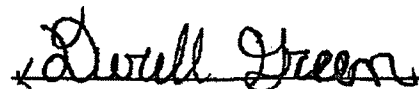
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WITNESS:

WITNESS:

 Sturkie

SIGNATURE:



**NORTH CHARLESTON POLICE DEPARTMENT
WITNESS STATEMENT**



STATEMENT OF Shalaine Jenkins DATE OF BIRTH [REDACTED] AGE [REDACTED]
HOME ADDRESS [REDACTED] HOME PHONE [REDACTED] BUS. PH. [REDACTED]
EMPLOYER student BUS. ADDRESS _____

THIS STATEMENT IS IN REFERENCE TO Shooting

WHICH OCCURS AT Bond's AV, ON OR ABOUT 2-5-10

AT APPROXIMATELY 1242 HOURS, IN NORTH CHARLESTON, SOUTH CAROLINA.

THIS STATEMENT IS GIVEN 2-5-10 (DATE) AT 2:30 pm (TIME), AT _____

NCPD

(LOCATION)

Myself, "Noogie", "Noogie" cousin was walking to Garrett High this morning. We was walking "Noogie" cousin to school. I only know "Noogie" cousin by the name "Mook". "Noogie" name is Darrel Green. "Noogie" and I go to Murray Hill School together. Another guy name Jaquin was walking with us. As we was walking down the street "Noogie" lifted his shirt up and showed us a gun that he had in his pants. The part I saw was a black handle. Before he lifted his shirt up he said to us, "boy vall want to see my gun." We asked him where you going with that, you want be able to get in the school with that. He told us that he was not going to school today. When we got close

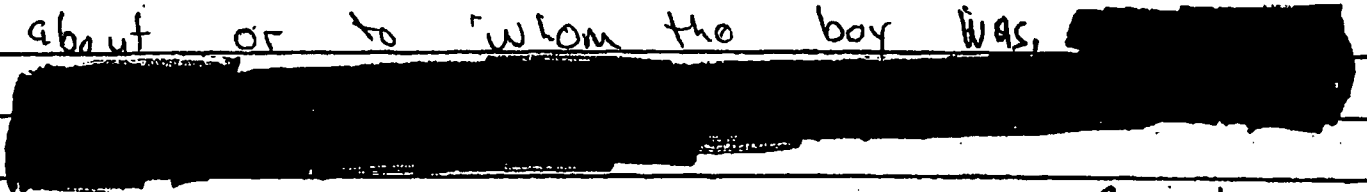
I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: O. Fison

WITNESS: _____

SIGNATURE: Shalaine Jenkins

to Garratt, "Noogie" and his cousin turned off and went towards Garratt. We kept walking and that was the last time I saw him until I got to school. Jaquan told me that "Noogie" had an argument with a boy at our school last Friday. Jaquan never told me what the argument was about or to whom the boy was,



This statement is being written by Det. Faison for Shalaine Jenkins.

I HAVE READ THE FOREGOING STATEMENT OR HAVE HAD IT READ TO ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY AND HAVE BEEN PROVIDED A COPY OF MY STATEMENT.

WITNESS: O. Faison

WITNESS: _____

SIGNATURE: Shalaine Jenkins



"IOPDCSUM"
Institute of Psychiatry
67 President St., MSC 861, Charleston, SC 29426-8610
(843-792-9888)

DISCHARGE SUMMARY

Page 1 of 2

Form Origination Date: 1/00
Version: 3

Version Date: 3/08



P:492909528
GREEN
DERELL
Adm:04/13/09 M:876658

Patient Name Derell Green
MRN 876658
PATIENT IDENTIFICATION LABEL

Clinical Information for Referring and Follow-up Agencies

Patient Name Derell Green
Referred By Brentwood Middle School
Date of Birth
Medical Record Number 876658
Discharged To Home (Mother Tamica Nelson)
Admission Date 4/9/2009
Address
Discharge Date 6/4/2009
SC 29405
Phone

REASON FOR ADMISSION 13 yo AAM referred to STAR due to chronic, escalating disruptive, oppositional, defiant, and aggressive behaviors.

ADMISSION EVALUATION AND LABORATORIES

Mental Status on Admission: Orientation Intact
Speech / Motor Normal/Normal
Thought Content and Process Appropriate/Goal-Directed
Concentration / Memory Grossly Intact
Laboratory Results and Pertinent Physical Findings
Urine Drug Screen on assessment negative; on 5/29/09 positive (>135) for cannabinoids

HOSPITAL COURSE (include rationale for medication changes if applicable)

Derell had some trouble settling in upon admission. He was noted to be impulsive and hyperactive. He had difficulty complying with requests and directions. He became openly defiant and threatening, requiring time-out and security intervention to assure safety. Staff worked with Derell to develop improved frustration tolerance and coping skills, but he continued to have difficulty settling once he became upset. His mother participated in family sessions to develop consistency in consequences and rewards contingent upon behaviors. Derell exhibited behaviors consistent with a diagnosis of ADHD, and medication options were discussed with him and his mother. Vyvanse was started at 50 mg. While he exhibited behavioral improvement, he had difficulty tolerating it due to significant nausea. Medication was switched to Concerta 36 mg, which he tolerated well. It did appear to convey improvement in impulsivity, and he appeared more able to sustain attention to tasks. While Derell exhibited short periods of improvement in oppositional behaviors, he frequently reverted to verbal aggression and threats when he became frustrated. A strict behavioral contract was developed to focus Derell on the behaviors necessary to make progress. While he responded well in the short-term, Derell again reverted to negative behaviors. He exhibited little motivation to make positive strides in the program. Due to his violating his behavior plan and his negative influence on peers' behavior, he was discharged from the program, with plans to transition to outpatient treatment.

Condition on Discharge Somewhat Improved, but requiring ongoing outpatient treatment

Involuntarily Committed To

DISCHARGE DIAGNOSIS: Principal Diagnosis Oppositional Defiant Disorder

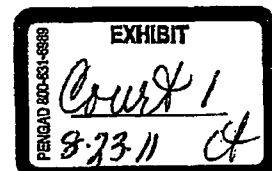
Axis I Oppositional Defiant Disorder
ADHD, Combined Type
Cannabis Abuse
Axis II None
Axis III None Current
Axis IV Moderate (legal, academic, interpersonal)
Axis V GAF 65

Attending Psychiatrist
Page# 14217
Date/Time 6/5/2009

iop_dc_dsum


OTE 700063 Rev. 3/08

dictated 6/5/09
Job # 9073959



SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
Understanding of Family Court Hitopoulus Order for the
General Sessions Court Waiver Evaluation

INSTRUCTIONS: This form is to be completed by the County Case Manager prior to conducting an interview with a juvenile regarding Evaluation for General Sessions Court Waiver when the juvenile's court order includes the protections of State v. Hitopoulus; 359 S.E.2d 747 (1983).

Juvenile Full Name: DERELL JATIAL GREEN Date of Birth: 

Date: July 6, 2010 Time: 9:00 AM

Witness Name: HANNAH HYRNE Title: PROBATION OFFICER II

This evaluation has been ordered by the Court for the purposes of assisting the Court in determining whether your case should be transferred to the Court of General Sessions (Adult Court), and whether for the purposes of criminal prosecution you should be treated as an adult. The Family Court has issued an Order in your case protecting the use of any oral or written communication that you have with the psychologist related to your charges, in conjunction with this evaluation, as evidence against you in any court proceeding other than the Waiver hearing.

I HAVE READ, OR HAD READ TO ME, THIS STATEMENT AND I UNDERSTAND THAT ANY STATEMENT I MAKE TO THE PSYCHOLOGIST CONCERNING MY CHARGES CANNOT BE USED AGAINST ME IN ANY COURT HEARING, OTHER THAN THE WAIVER HEARING.

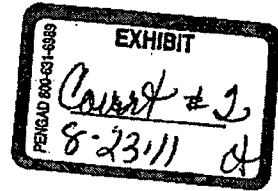
I am willing to participate in this evaluation and answer the questions presented to me. I do not wish to talk to my lawyer at this time. I understand and know what I am doing. No promises, threats, or inducements have been made to me and no pressure or coercion of any kind has been used against me. (except court order)

Juvenile's Signature: Megan Tulch for D. Green (has been reviewed with juvenile)

Parent/Guardian's Signature: [Signature]

Attorney's Signature: [Signature]

Witnesses' Signature: Hannah Hyrne



STATE OF SOUTH CAROLINA

COUNTY OF Charleston VS. STATE

AKA: Derrell Green

Race: BLACK Sex: M Age: DOB: SS#: DL#: SID#

Address: City, State, Zip: N CHARLESTON, SC 29405

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: MURDER

INDICTMENT/CASE#: 2010GS1008153 A/W#: K674491 Date of Offense: 9/23/2010 S.C. Code § : 16-03-0010, 0020 CDR Code #: 0116

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: DuRant, D. Bruce SC Bar# 1801 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 40 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered Total: \$ plus 20% fec: \$ Payment Terms: Set by SCDPPPS

PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk: Caroline Leonard Court Reporter: Vivian Cross

Presiding Judge: [Signature] Judge Code: 2117 Sentence Date: 9/17/11

660

DBD 20100905043

DOCKET NO. 2010GS1008153

WITNESSES

North Charleston Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2010005347

COURT OF GENERAL SESSIONS

DECEMBER 2010 TERM

ARREST WARRANT NUMBER

K674491

DATE OF ARREST

September 23, 2010

THE STATE

vs.

10-5287 (01)

ACTION OF GRAND JURY

⁹⁰⁷
DERRELL GREEN

DOB: [REDACTED]

B/M

TRUE BILL

Indictment for

MURDER

Randall Postell
Foreperson of Grand Jury

Date: 9/23/2010

VERDICT

Guilty

Foreperson of Petit Jury

8/25/11
Date:

Kaine Wright 8/25/2011

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on December 6, 2010, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County on or about February 5, 2010, with malice aforethought, ^{DER}DERRELL GREEN did kill and murder Larry Maybank by means of shooting the victim with a handgun, and that Larry Maybank did die in Charleston County as a proximate result thereof on February 5, 2010; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

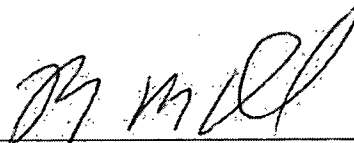
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


D. BRUCE DURANT
CHIEF DEPUTY SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 12th, 2013



Robert M. Dudek
Chief Appellate Defender

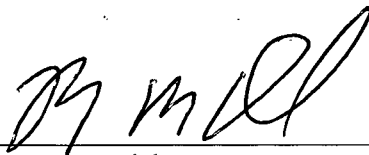
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 12th, 2013



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

ORIGINAL

RECEIVED

DEC 12 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DERELL GREEN,

APPELLANT

APPELLATE CASE NO. 2011-201486

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Alphonso Simon, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 12th day of December, 2013.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12th day of December, 2013.

Buddy Reed (L.S.)
Notary Public for South Carolina

My Commission Expires: October 24, 2021