

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BARNWELL COUNTY
Court of General Sessions

The Honorable Edgar Dickson, Circuit Court Judge

Appellate Case No.: 2011-202947

THE STATE,

RESPONDENT,

Vs.

Dexter Bernard Brown, II

APPELLANT.

RECORD ON APPEAL

Alan Wilson
Attorney General

Christina J. Catoe, Esq.
Attorney for Respondent
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-3737

Tommy A. Thomas
SC Bar No.: 005536
Attorney for Appellant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

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1 STATE OF SOUTH CAROLINA
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CIRCUIT COURT
2011-GS-06-00010, 00011 & 00120

3 STATE OF SOUTH CAROLINA,

4 -vs-

TRANSCRIPT OF RECORD

5 DEXTER BERNARD BROWN II,
6 Defendant.

7
8 HEARD ON MONDAY, MAY 11, 2011

9 & TUESDAY, MAY 12, 2011

10
11 BEFORE:

12 THE HONORABLE EDGAR W. DICKSON

13 AND A JURY

14
15 APPEARANCES:

16 Counsel on behalf of the State:
17 Lauren Maurice, Esq.

18 Counsel on behalf of the Defendant:
19 Nicholas R. McCarley, Esq.
20 De Grant Gibbons, Esq.

21
22 Cheri L. Young, RPR
23 Official Court Reporter
24 P O Box 1154
25 Aiken, SC 29802-1154

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SELECTION OF THE JURY

1 ON MONDAY, MAY 11, 2011 AT 10:52 A.M.:

2 THE COURT: Ladies and gentlemen, the case that we're
3 going to try beginning today is the case of the State of
4 South Carolina versus Dexter Brown.

5 Mr. Brown, if you'd stand and face -- the jury panel
6 is on that side of the courtroom. If you'd stand and face
7 the jury panel, I'd appreciate it.

8 THE DEFENDANT: (Complies.)

9 THE COURT: Thank you, sir. You can sit down. All
10 right.

11 Now, ladies and gentlemen, is any member of the jury
12 panel related by blood or marriage or a close personal
13 friend of Mr. Dexter Brown? If you'd please stand at this
14 time. Hold on one second.

15 Your name, please, ma'am?

16 THE JUROR: Sara Simmons.

17 THE COURT: Sara Simmons?

18 THE JUROR: Sara Simmons.

19 THE COURT: Okay.

20 THE CLERK: Juror Number 140.

21 THE COURT: Bear with me one second. One-forty?

22 THE CLERK: Yes, sir.

23 THE COURT: Ms. Simmons, you said you are -- are you
24 related to --

25 THE JUROR: Close friends.

SELECTION OF THE JURY

1 THE COURT: You're close friends with Mr. Brown?

2 THE JUROR: Uh-huh.

3 THE COURT: The fact that you are a close friend of
4 Mr. Dexter Brown, would that influence your ability to
5 listen to the evidence in this case and render a fair and
6 impartial verdict?

7 THE JUROR: Yes.

8 THE COURT: It would?

9 THE JUROR: (Nods head.)

10 THE COURT: Okay. Ms. Simmons, you are excused. I
11 don't know if -- are we going to have another trial this
12 week?

13 THE CLERK: It's very possible.

14 THE COURT: It's possible.

15 MS. MAURICE: Call back after six.

16 THE COURT: Yes, ma'am. You'll need to call back
17 after six today just to find out if we got another trial
18 going on as well. But you're excused today for this
19 trial.

20 Yes, ma'am, your name, please?

21 THE JUROR: Sharon Woods.

22 THE COURT: Ms. Woods, is that what you said?

23 THE JUROR: Yes, sir.

24 THE COURT: Okay. Ms. Sharon Woods, Juror Number
25 172. Ms. Woods, are you related to Mr. Brown?

SELECTION OF THE JURY

1 THE JUROR: Close friend.

2 THE COURT: Close friend of Mr. Brown. Ms. Woods, the
3 fact that you are a close friend of Mr. Brown, would that
4 influence your ability to listen to the evidence in this
5 case and render a fair and impartial verdict?

6 THE JUROR: Yes, sir.

7 THE COURT: Okay. Again, Ms. Woods, I will excuse you
8 for this trial but you'll need to call back at the number
9 the clerk has provided to see whether or not we're going
10 to have another trial later on this week as well. Okay.
11 But you're excused for the day. One seventy-two.

12 Ladies and gentlemen, the reason I'm standing, I have
13 to sit most of this -- just like anybody that gets on the
14 jury, and so every now and then I like to stand just
15 because I get tired of sitting.

16 And I also like to make sure that Ms. McElveen's doing
17 everything appropriately. She's doing a great job.

18 All right. Now, Mr. Brown is represented by
19 Mr. McCarley. Mr. McCarley, if you'd introduce yourself
20 and anybody who will be helping you, please, sir.

21 MR. MCCARLEY: I'm Nick McCarley. I work with the
22 public defender's office here in Barnwell. This is Grant
23 Gibbons. He works out of Aiken.

24 THE COURT: Thank you, sir.

25 Is any member of the jury panel related by blood or

SELECTION OF THE JURY

1 marriage or close friends of Mr. McCarley? Mr. Gibbons?
2 Or has been represented by the public defender's office?
3 Or been on the other side of a case in which the public
4 defender's office has been involved? If so, would you
5 please stand at this time?

6 All right. No one is standing.

7 The State is represented by Ms. Maurice. Ms. Maurice,
8 if you'd introduce yourself and introduce anybody else
9 who's going to be helping you on this.

10 MS. MAURICE: Thank you.

11 I'm Lauren Maurice. I'm one of the assistant
12 solicitors in Barnwell County. Today assisting me will be
13 Jeff Croft. He's the investigator with the Barnwell
14 County Sheriff's Office, and Mr. Kenny Bamberg who is an
15 investigator with our office, the solicitor's office.

16 THE COURT: Okay. Is any member of the jury panel
17 related by blood or marriage or a close personal friend of
18 Ms. Maurice, Investigator Croft, or Investigator Bamberg?
19 If so, please stand. All right.

20 Has any member of the jury panel been on the other
21 side of any cases that the solicitor's office has been
22 involved in? If so, please stand.

23 Yes, ma'am?

24 THE JUROR: You said been on the other side?

25 THE COURT: Yes, ma'am. You've been a defendant in a

SELECTION OF THE JURY

1 case?

2 THE JUROR: Uh-huh.

3 THE COURT: All right. Ms -- hold on. You're
4 Ms. Epps. Is that correct?

5 THE JUROR: Yes, sir.

6 THE COURT: Ms. Epps, the fact that you've been on the
7 other side of a case involving the solicitor's office,
8 would that affect your ability to listen to the evidence
9 in this case and render a fair and impartial verdict?

10 THE JUROR: No, sir.

11 THE COURT: If you'd stay with us, please, ma'am.

12 Now, there are a number of people who may be called as
13 witnesses in this case. If any of these possible
14 witnesses are here, I'm going to ask them to stand as I
15 call their name:

16 First of all, Sheriff Ed Carroll. Is Sheriff Carroll
17 here? If he's not --

18 UNIDENTIFIED SPEAKER: He's out in the hall.

19 (Pause.)

20 THE COURT: He's left the courthouse? Okay. Why
21 don't we do him later.

22 Investigator Jeff Croft. Mr. Croft. I just want to
23 make sure. Is anybody related by blood or marriage or
24 close personal friend of Investigator Croft? If so,
25 please stand.

SELECTION OF THE JURY

1 All right. No one is standing.

2 Investigator Andy Chavis. Is he here?

3 THE OFFICER: He's here.

4 THE COURT: Anybody related by blood or marriage or a
5 close personal friend of Andy Chavis of the Barnwell
6 County Sheriff's Office? If so, please stand.

7 No one is standing.

8 First Sergeant Brian Johnson. Any member of the jury
9 panel related by blood or marriage or a close personal
10 friend of First Sergeant Brian Johnson of the Barnwell
11 County Sheriff's Office? Please, stand.

12 No one is standing.

13 Investigator John Trottie. Any member of the jury
14 panel related by blood or marriage or a close personal
15 friend of Investigator John Trottie of the Barnwell County
16 Sheriff's Office?

17 Oh. Yes, ma'am? Your name, please, ma'am?

18 THE JUROR: I'm related to John Trottie's wife.

19 THE COURT: Hold on one second. Your name again?

20 THE JUROR: Caterina Rudolph.

21 THE COURT: Ms. Rudolph. Hold on.

22 THE JUROR: W. Rudolph.

23 THE COURT: What's your number?

24 THE JUROR: Sixty-something.

25 THE COURT: One sixty-three? I think that's right.

SELECTION OF THE JURY

1 THE CLERK: Yes, 163.

2 THE COURT: Ms. Rudolph?

3 THE CLERK: One sixty-three.

4 THE COURT: One sixty-three. Ms. Rudolph, you said you
5 are related to Investigator John Trottie?

6 THE JUROR: His wife.

7 THE COURT: To his wife?

8 THE JUROR: Yes.

9 THE COURT: Okay. The fact that you're related to
10 Investigator Trottie's wife -- he's going to be a witness
11 in this case. The fact that he will be a witness in this
12 case, would that affect your ability to listen to the
13 evidence in this case and render a fair and impartial
14 verdict?

15 THE JUROR: No, sir.

16 THE COURT: Okay. If you'll stay with me, please,
17 ma'am.

18 Your name, please?

19 THE JUROR: Nicole Williams.

20 THE COURT: Last name again?

21 THE JUROR: Williams.

22 THE CLERK: One sixty-eight.

23 THE COURT: Williams. I'm sorry. Okay. Juror number
24 168.

25 Ms. Williams, are you related by blood or marriage to

SELECTION OF THE JURY

1 Mr. Trottie?

2 THE JUROR: A friend.

3 THE COURT: You're a friend of his?

4 THE JUROR: Yeah.

5 THE COURT: Okay. All right. Investigator Trottie's
6 going to be called as a witness in this case. Do you
7 understand that?

8 The fact that he is a witness in this case, would that
9 affect your ability to listen to the evidence in this case
10 and render a fair and impartial verdict?

11 THE JUROR: No.

12 THE COURT: Ma'am?

13 THE JUROR: No.

14 THE COURT: It would not. Okay. If you'd stay with
15 us, please, ma'am.

16 All right. And your name, please, ma'am?

17 THE JUROR: Debra Washington.

18 THE COURT: Okay. Hold on a second, Ms. Washington.

19 THE CLERK: One-sixty.

20 THE COURT: You're number 160. Ms. Washington, are
21 you related by blood or marriage to Investigator Trottie?

22 THE JUROR: No. Close friend.

23 THE COURT: You're a close friend?

24 THE JUROR: Yeah.

25 THE COURT: Okay. The fact that Investigator

SELECTION OF THE JURY

1 Trottie's going to be testifying in this case, would that
2 affect your ability to listen to the evidence in this
3 case --

4 THE JUROR: No.

5 THE COURT: -- and render a fair and impartial
6 verdict?

7 THE JUROR: No.

8 THE COURT: All right. If you'd stay with us, please,
9 ma'am.

10 THE JUROR: All right.

11 THE COURT: All right. First Sergeant Robbie
12 Sanders. Is there any member of the jury panel related by
13 blood or marriage or a close personal friend of First
14 Sergeant Robbie Sanders of the Barnwell County Sheriff's
15 Office? If so, please stand.

16 THE JUROR: Yes. I'm Barbara --

17 THE COURT: Okay. Your name, please?

18 THE JUROR: Barbara Lee.

19 THE COURT: Hold on a second, Ms. Lee.

20 THE CLERK: Ninety-one.

21 THE COURT: All right. Okay. Ms. Lee, are you
22 related by blood or marriage to Sergeant Sanders?

23 THE JUROR: Yes.

24 THE COURT: All right. Ms. Lee, Sergeant Sanders is
25 going to be testifying in this case. The fact that he's

SELECTION OF THE JURY

1 going to be testifying in this case, would that affect
2 your ability to listen to the evidence in this case and
3 render a fair and impartial verdict?

4 THE JUROR: No, sir.

5 THE COURT: If you'd stay with us, please, ma'am.

6 Anyone else? Okay.

7 All right. Ila Simmons, a SLED forensic scientist,
8 will be testifying in this case. Is any member of the
9 jury panel related by blood or marriage or a close
10 personal friend of Ila Simmons? If so, please stand.

11 All right. No one is standing.

12 Glenda Williams, is she in court? Ms. Williams, would
13 you face the jury?

14 MS. WILLIAMS: (Complying.)

15 THE COURT: Thank you, ma'am. You may be seated.

16 Is any member of the jury panel related by blood or
17 marriage or a close personal friend of Glenda Williams?

18 If so, please stand.

19 Your name, please, ma'am?

20 THE JUROR: My name is Staricia Matthews.

21 THE COURT: Hold on a second, Ms. Matthews.

22 THE CLERK: Number 96.

23 THE COURT: Ms. Matthews, are you related by blood or
24 marriage to Ms. Williams?

25 THE JUROR: No.

SELECTION OF THE JURY

1 THE COURT: Is she a friend of yours?

2 THE JUROR: She's engaged to my cousin.

3 THE COURT: She's engaged to your cousin?

4 THE JUROR: (Nods head.)

5 THE COURT: Ms. Williams is going to be testifying in
6 this case. The fact that she's testifying in this case,
7 would that affect your ability to listen to the evidence
8 in this case and render a fair and impartial verdict?

9 THE JUROR: No, it won't.

10 THE COURT: It will not.

11 THE JUROR: (Shakes head.)

12 THE COURT: Okay. If you'd stay with us, please,
13 ma'am.

14 Anyone else? All right.

15 Miguel McClain. Miguel McClain may be called as a
16 witness in this case. Is there any member of the jury
17 panel related by blood or marriage or a close personal
18 friend of Miguel McClain? If so, please stand.

19 All right. Okay. Ms. Matthews.

20 THE JUROR: Close personal friend.

21 THE COURT: You're a close personal friend of
22 Mr. McClain?

23 THE JUROR: (Nods head.)

24 THE COURT: The fact that you're a close personal
25 friend of Mr. McClain, would that affect your ability to

SELECTION OF THE JURY

1 listen to the evidence in this case and render a fair and
2 impartial verdict?

3 THE JUROR: No, sir.

4 THE COURT: If you'd stay with us, please, ma'am.
5 Anyone else? Okay. No one else.

6 Adrienne Ingram may be called. Ms. Ingram, if you'd
7 face the jury.

8 MS. INGRAM: (Complies.)

9 THE COURT: Thank you, ma'am. You may be seated.
10 Adrienne Ingram may be called as a witness in this case.

11 Any member of the jury panel related by blood or
12 marriage or a close personal friend of Adrienne Ingram?
13 If so, please stand.

14 All right. No one is standing.

15 Leslie Morrisey.

16 MS. MORRISEY: (Stands.)

17 THE COURT: Thank you, Ms. Morrisey.

18 Any member of the jury panel related by blood or
19 marriage or a close personal friend of Leslie Morrisey?
20 If so, please stand.

21 No one is standing.

22 Alice Thompson.

23 MS. THOMPSON: (Stands.)

24 THE COURT: Thank you, Ms. Thompson.

25 Any member of the jury panel related by blood or

SELECTION OF THE JURY

1 marriage or a close personal friend of Alice Thompson?

2 All right. No one is standing.

3 Roger Benjamin the Second.

4 MR. BENJAMIN: (Stands.)

5 THE COURT: Thank you, Mr. Benjamin. Okay.

6 Anybody -- any member of the jury panel related by
7 blood or marriage or a close personal friend of Mr. Roger
8 Benjamin the Second? All right.

9 No one is standing.

10 And since the sheriff hasn't gotten out here yet, I'll
11 just go through that.

12 Sheriff Ed Carroll may be a witness in this case. Any
13 member of the jury panel related by blood or marriage or a
14 close personal friend of Sheriff Ed Carroll? If so,
15 please stand.

16 Yes, ma'am, your name?

17 THE JUROR: Lynn Hair.

18 THE CLERK: Fifty-eight.

19 THE COURT: Fifty-eight. Okay. Ms. Hair, you're
20 related --

21 THE JUROR: I'm his niece.

22 THE COURT: You're his niece. The fact that you're
23 the niece of Sheriff Carroll and he may be called as a
24 witness in this case, would that affect your ability to
25 listen to the evidence in this case and render a fair and

SELECTION OF THE JURY

1 impartial verdict?

2 THE JUROR: No, sir.

3 THE COURT: Okay. I'll let you stay with me. Thank
4 you, ma'am.

5 Anyone else? All right.

6 Has any member of the jury panel, a member of your
7 immediate family or a close personal friend ever been the
8 victim of a gun-related crime, the victim of a gun-related
9 crime? If so, please stand.

10 Your name, please, ma'am?

11 THE JUROR: Georgia Hammond.

12 THE COURT: Hold on a second, Ms. Hammond. You're
13 Number 60?

14 THE JUROR: Yes, sir.

15 THE COURT: Ms. Hammond, were you the victim of a
16 crime?

17 THE JUROR: No, sir.

18 THE COURT: A member of your family?

19 THE JUROR: Yes, sir.

20 THE COURT: Okay. And, Ms. Hammond, the fact that a
21 member of your family was a victim of a violent crime,
22 would that affect your ability to listen to the evidence
23 in this case and render a fair and impartial verdict?

24 THE JUROR: No, sir.

25 THE COURT: If you'd please stay with me, please,

SELECTION OF THE JURY

1 ma'am.

2 Okay. And Ms. Epps. And, Ms. Epps, you know, that's
3 a bad sign. Okay. Ms. Epps, bear with me one second,
4 please, ma'am.

5 THE CLERK: Number 40.

6 THE COURT: Ms. Epps is number 40. Ms. Epps, were you
7 the victim of a violent crime?

8 THE JUROR: Yes, sir.

9 THE COURT: Now, Ms. Epps, the fact that you were the
10 victim of a violent crime, would that affect your ability
11 to listen to the evidence in this case and render a fair
12 and impartial verdict?

13 THE JUROR: No, sir.

14 THE COURT: If you'd stay with me, please, ma'am, I'd
15 appreciate it.

16 All right. And Ms. Matthews. Ms. Matthews, bear with
17 me.

18 THE CLERK: Juror number 96.

19 THE COURT: Okay. Ms. Matthews, were you the victim
20 of a violent crime?

21 THE JUROR: (Shakes head.)

22 THE COURT: No? A member of your family?

23 THE JUROR: Yes, sir.

24 THE COURT: Ms. Matthews, the fact that a member of
25 your family was a victim of a violent crime, would that

SELECTION OF THE JURY

1 affect your ability to listen to the evidence in this case
2 and render a fair and impartial verdict?

3 THE JUROR: (Shakes head.)

4 THE COURT: It won't affect you?

5 THE JUROR: (Shakes head.)

6 THE COURT: Thank you, ma'am. If you'll stay with us,
7 please, ma'am.

8 Yes, ma'am, your name?

9 THE JUROR: Casandra Mays.

10 THE COURT: Ms. Mays, you're Number 97. Ms. Mays,
11 were you the victim of a violent crime?

12 THE JUROR: No, sir.

13 THE COURT: A member of your family?

14 THE JUROR: Yes.

15 THE COURT: Ms. Mays, the fact that a member of your
16 family was a victim of a violent crime, would that affect
17 your ability to listen to the evidence in this case and
18 render a fair and impartial verdict?

19 THE JUROR: No, sir.

20 THE COURT: Okay. If you'd stay with us, please,
21 ma'am.

22 Anyone else? Yes, ma'am?

23 MS. MAURICE: May we approach for just a moment?

24 THE COURT: Sure. Y'all bear with me one second.

25 I'll let you stand back up in just a second.

SELECTION OF THE JURY

1 (Off-the-record discussion.)

2 THE COURT: And there's a lady in the back who was
3 going to stand up. Yes, ma'am?

4 THE JUROR: Were you referring to just gun related or
5 by all violent crimes?

6 THE COURT: Well, I said violent. So, were you the
7 victim of a violent crime?

8 THE JUROR: A home invasion; yes.

9 THE COURT: You don't need to go into the details.
10 Your name, please, ma'am?

11 THE JUROR: Jeanne Johnson.

12 THE COURT: Hold on a second, Ms. Johnson.

13 THE CLERK: Eighty-two.

14 THE COURT: Ms. Johnson, the fact that you were the
15 victim of a violent crime, would that affect your ability
16 to listen to the evidence in this case and render a fair
17 and impartial verdict?

18 THE JUROR: No.

19 THE COURT: Okay. If you'd stay with us, please,
20 ma'am.

21 Anyone else? All right. No one else.

22 Does any member of the jury panel have a relative that
23 is employed by a law enforcement agency in any capacity?

24 Now, I know Ms -- your name again?

25 THE JUROR: Lynn Hair.

SELECTION OF THE JURY

1 THE COURT: Ms. Hair, is the niece of the sheriff. Is
2 that correct?

3 THE JUROR: Correct.

4 THE COURT: And, Ms. Hair, you've already told me that
5 the fact that you're the niece of sheriff will not affect
6 your ability to listen to the evidence in this case --

7 THE JUROR: Right.

8 THE COURT: -- and render a fair and impartial
9 verdict. Is that correct?

10 THE JUROR: That's correct.

11 THE COURT: Okay. Thank you, ma'am. Your name,
12 please, ma'am?

13 THE JUROR: Shannon Doak.

14 THE CLERK: One twenty-seven.

15 THE COURT: Hold on one second. Shannon Doak. Okay.
16 Ms. Doak, do you have a relative that works for a law
17 enforcement agency?

18 THE JUROR: I do. My uncle. He's a SLED agent.

19 THE COURT: Ms. Doak, the fact that your uncle is a
20 SLED agent, would that affect your ability to listen to
21 the evidence in this case and render a fair and impartial
22 verdict?

23 THE JUROR: No, sir.

24 THE COURT: Thank you, ma'am. If you'll stay with us,
25 please, ma'am.

SELECTION OF THE JURY

1 I'm going to go, ladies first. And then I'll come
2 back to you. Your name again?

3 THE JUROR: Jeanne Johnson.

4 THE COURT: Okay.

5 THE CLERK: Eighty-two.

6 THE JUROR: I think it's 80-something.

7 THE COURT: Okay. Ms. Johnson, you have a relative
8 who works in law enforcement?

9 THE JUROR: A brother.

10 THE COURT: The fact that your brother works in law
11 enforcement, would that affect your ability to listen to
12 the evidence in this case and render a fair and impartial
13 verdict?

14 THE JUROR: No.

15 THE COURT: Thank you, ma'am. Your name, please,
16 sir?

17 THE JUROR: Philip Stanley, Juror 142.

18 THE COURT: Thank you, Mr. Stanley. And Mr. Stanley,
19 you have a relative that works in law enforcement?

20 THE JUROR: Yes, sir.

21 THE COURT: The fact that you have a relative that
22 works in law enforcement, would that affect your ability
23 to listen to the evidence in this case and render a fair
24 and impartial verdict?

25 THE JUROR: No, sir.

SELECTION OF THE JURY

1 THE COURT: If you'd stay with us, please.

2 And your name, please, sir?

3 THE JUROR: Michael Hutto.

4 THE COURT: Okay. Mr. Hutto, bear with me. Juror
5 Number 75.

6 Mr. Hutto, you have a relative that works in law
7 enforcement?

8 THE JUROR: Yes, sir.

9 THE COURT: The fact that you have a relative that
10 works in law enforcement, would that affect your ability
11 to listen to the evidence in this case and render a fair
12 and impartial verdict?

13 THE JUROR: No, sir.

14 THE COURT: If you'd stay with us, please, sir.
15 Anyone else? All right.

16 Now, ladies and gentlemen, Mr. Brown has been charged
17 with two counts of attempted murder and one count of
18 possession of a weapon in a violent crime.

19 Is there any member of the jury panel that does not
20 believe that they could give Mr. Brown a fair and
21 impartial decision as a juror? Okay.

22 No one is standing.

23 Any other questions from the defense?

24 MR. MCCARLEY: No, Your Honor.

25 THE COURT: Any other questions from the State?

SELECTION OF THE JURY

1 MS. MAURICE: No, Your Honor.

2 THE COURT: Okay. All right. Ladies and gentlemen,
3 we're going to get ready to start picking a jury for the
4 trial now.

5 Now, do we spin out a little computer list?

6 THE CLERK: Yeah.

7 THE COURT: Now, what that means is your names are now
8 going to be re-randomized, I guess is the best way, back
9 into the computer and will give a list of y'all in a
10 different order.

11 So -- and then we'll ask y'all to come forward. And
12 what I'd ask you to do, see the gate's right over there on
13 the side? When your name is called, if you will come
14 forward, if you got a pocketbook or anything with you or a
15 coat or something like that, bring all of it with you when
16 you come forward.

17 If you will come up here, turn and face the attorneys
18 and then we'll decide whether or not you're going to sit
19 or not. Okay.

20 Now y'all are going to need a few minutes to look over
21 this? Is the State ready?

22 MS. MAURICE: State's ready, Your Honor.

23 THE COURT: And the defense is ready?

24 MR. McCARLEY: Yes, sir.

25 THE COURT: As soon as the computer kicks out the

SELECTION OF THE JURY

1 names, we'll be ready to go.

2 The good news, ladies and gentlemen, is you got a
3 better chance of winning this than you do the lottery. So
4 I want y'all to get the feel of what it's like to win.
5 That's what we're doing here today.

6 THE CLERK: Juror Number 58, Lynn Hair (White
7 female).

8 THE JUROR: (Comes forward.)

9 THE CLERK: What says the State?

10 MS. MAURICE: Please present Ms. Hair.

11 THE CLERK: What says the defense?

12 MR. MCCARLEY: Please strike Ms. Hair.

13 THE CLERK: Juror Number 119, Betty Ray (Black
14 female).

15 THE JUROR: (Comes forward.)

16 THE CLERK: What says the State?

17 MS. MAURICE: Please present Ms. Ray.

18 THE CLERK: What says the defense?

19 MR. MCCARLEY: Please seat Ms. Ray.

20 THE BAILIFF: Right here, ma'am.

21 THE CLERK: Juror Number Seven, Sharon Bechtold.
22 (White female).

23 THE JUROR: (Comes forward.)

24 THE CLERK: What says the State?

25 MS. MAURICE: Please present Ms. Bechtold.

SELECTION OF THE JURY

1 THE CLERK: What says the defense?

2 MR. MCCARLEY: Please seat.

3 THE CLERK: Juror Number 60, Georgia Hammond (Black
4 female).

5 THE JUROR: (Comes forward.)

6 THE CLERK: What says the State?

7 MS. MAURICE: Please present Ms. Hammond.

8 THE CLERK: What says the defense?

9 MR. MCCARLEY: Please seat Ms. Hammond.

10 THE CLERK: Juror Number 159, Dianne Warren (White
11 female).

12 THE JUROR: (Comes forward.)

13 THE COURT: What says the State?

14 MS. MAURICE: Please present Ms. Warren.

15 THE CLERK: What says the defense?

16 MR. MCCARLEY: Please excuse Ms. Warren.

17 THE CLERK: Juror Number 82, Jeanne Johnson (White
18 female).

19 THE JUROR: (Comes forward.)

20 THE CLERK: What says the State?

21 MS. MAURICE: Please present Ms. Johnson.

22 THE CLERK: What says the defense?

23 MR. MCCARLEY: Please seat Ms. Johnson.

24 THE BAILIFF: Right here, ma'am.

25 THE CLERK: Juror Number 14, Marguerite Brown (Black

SELECTION OF THE JURY

1 female).

2 THE JUROR: (Comes forward.)

3 THE CLERK: What says the State?

4 MS. MAURICE: Please present Ms. Brown.

5 THE CLERK: What says the defense?

6 MR. MCCARLEY: Please seat Ms. Brown.

7 THE CLERK: Juror Number 142, Philip Stanley, Jr.

8 (White male).

9 THE JUROR: (Comes forward.)

10 THE CLERK: What says the State?

11 MS. MAURICE: Please present Mr. Stanley.

12 THE CLERK: What says the defense?

13 MR. MCCARLEY: Please excuse Mr. Stanley.

14 THE CLERK: Juror Number 126, April Sanders (White

15 female).

16 THE JUROR: (Comes forward.)

17 THE CLERK: What says the State?

18 MS. MAURICE: Please present Ms. Sanders.

19 THE CLERK: What says the defense?

20 MR. MCCARLEY: Please seat Ms. Sanders.

21 THE CLERK: Juror Number 125, Ruth Rutland (White

22 female).

23 THE JUROR: (Comes forward.)

24 THE CLERK: What says the State?

25 MS. MAURICE: Please present Ms. Rutland.

SELECTION OF THE JURY

1 THE CLERK: What says the defense?

2 MR. MCCARLEY: Please seat Ms. Rutland.

3 THE CLERK: Juror Number 91, Barbara Lee (Black
4 female).

5 THE JUROR: (Comes forward.)

6 THE CLERK: What says the State?

7 MS. MAURICE: Please present Ms. Lee.

8 THE CLERK: What says the defense?

9 MR. MCCARLEY: Please seat Ms. Lee.

10 THE CLERK: Juror Number 98, Ernest Mays (Black
11 male).

12 THE JUROR: (Comes forward.)

13 THE CLERK: What says the State?

14 MS. MAURICE: Please excuse Mr. Mays from this case.

15 THE CLERK: Juror Number 54, Linda Glover (Black
16 female).

17 THE JUROR: (Comes forward.)

18 THE CLERK: What says the State?

19 MS. MAURICE: Please excuse Ms. Glover from this case.

20 THE CLERK: Juror Number 43, James Fickling the Third
21 (Black male).

22 THE JUROR: (Comes forward.)

23 THE CLERK: What says the State?

24 MS. MAURICE: Please present Mr. Fickling.

25 THE CLERK: What says the defense?

SELECTION OF THE JURY

1 MR. MCCARLEY: Please seat Mr. Fickling.

2 THE CLERK: Juror Number 116, Shalana Perry (Black
3 female).

4 THE JUROR: (Comes forward.)

5 THE CLERK: What says the State?

6 MS. MAURICE: Please present Ms. Perry.

7 THE CLERK: What says the defense?

8 MR. MCCARLEY: Please seat Ms. Perry.

9 THE CLERK: Juror Number 124, Wesley Robinson (White
10 male).

11 THE JUROR: (Comes forward.)

12 THE CLERK: What says the State?

13 MS. MAURICE: Please excuse Mr. Robinson from this
14 case.

15 THE CLERK: Juror Number 103, Derrick Mixon (Black
16 male).

17 THE JUROR: (Comes forward.)

18 THE CLERK: What says the State?

19 MS. MAURICE: Please present Mr. Mixon.

20 THE CLERK: What says the defense?

21 MR. MCCARLEY: Please seat Mr. Mixon.

22 THE CLERK: Juror Number 87, Brittany Kinard (White
23 female).

24 THE JUROR: (Comes forward.)

25 THE CLERK: What says the State?

SELECTION OF THE JURY

1 MS. MAURICE: Please present Ms. Kinard.

2 THE CLERK: What says the defense?

3 MR. MCCARLEY: Please seat Ms. Kinard.

4 THE COURT: Madam Clerk, according to my record that's
5 the jury. Is that correct?

6 THE CLERK: Yes, sir.

7 THE COURT: We're going to pick two alternates.
8 Okay?

9 MR. GIBBONS: Yes, sir.

10 THE COURT: First alternate.

11 THE CLERK: Juror Number 89, Benjamin Kirkland (White
12 male).

13 THE JUROR: (Comes forward.)

14 MS. MAURICE: Please present Mr. Kirkland.

15 THE CLERK: What says the defense?

16 MR. MCCARLEY: Please seat Mr. Kirkland.

17 THE COURT: All right. He will be our first
18 alternate. And we'll pick our second alternate.

19 THE CLERK: Juror Number Two, Ryan Anderson (White
20 male).

21 THE JUROR: (Comes forward.)

22 THE CLERK: What says the State?

23 MS. MAURICE: Please excuse Mr. Anderson.

24 THE CLERK: Juror Number 95, Lakeyta Mack (Black
25 female).

SELECTION OF THE JURY

1 THE JUROR: (Comes forward.)

2 MS. MAURICE: Number what?

3 MR. McCARLEY: Ninety-five.

4 THE CLERK: What says the State?

5 MS. MAURICE: Please present Ms. Mack.

6 THE CLERK: What says the defense?

7 MR. McCARLEY: Please seat Ms. Mack.

8 THE COURT: She'll be our second alternate. All
9 right.

10 Ms. Maurice, anything from the State regarding jury
11 selection?

12 MS. MAURICE: No, Your Honor.

13 THE COURT: Mr. McCarley, anything from the defense
14 regarding jury selection?

15 MR. McCARLEY: No, Your Honor.

16 THE COURT: All right. Ladies and gentlemen,
17 congratulations. Thank y'all. Y'all are going to be
18 serving as the jury panel.

19 The rest of who you were not chosen today, I need for
20 y'all to call back after six -- is that correct -- on the
21 phone number that you were given to see if we're going to
22 be picking another jury tomorrow or later on this week.

23 So you are now excused but you have got to call back
24 at six o'clock to find out whether or not you all need to
25 come back either tomorrow morning, tomorrow afternoon or

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 Friday morning.

2 Thank you all for your willingness to serve. Y'all
3 are now excused.

4 If you need to see me, come up here. Come on up here
5 and talk to the clerk.

6 (Jury panel excused at 11:30 a.m.)

7 THE COURT: Can I see the attorneys up here?

8 (Off-the-record discussion).

9 THE COURT: Ladies and gentlemen, we're going to get
10 ready to begin the trial of this case. And I don't know
11 whether this seat's high or low or something like that,
12 but y'all are going to have to get used to me sitting like
13 this.

14 Before we get started on this, like with everything
15 else that we do in a trial, the first thing we've got to
16 do is swear y'all in as jurors. So I'll get y'all to
17 stand up and raise your right hand and the clerk's going
18 to administer the oath, please.

19 (Jury impaneled.)

20 THE COURT: If you said "I do", you can sit down.
21 Okay. Thank you. Thank you very much.

22 What I'm going to do is give you some indication about
23 -- an introduction into the trial of this case. This is
24 not a charge on the law. At the end of the case, I will
25 charge you on the applicable law.

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 This is mainly to give you a little explanation as to
2 the procedure of the trial so that you'll have a better
3 understanding of what's happening and what to expect.

4 Now the Defendant in this case, Mr. Brown, as I told
5 you earlier, has been charged with the crimes of
6 possession of a weapon during a violent crime and two
7 indictments for attempted murder. The elements of these
8 crimes I will explain to you later.

9 But what you need to know now is the indictments are
10 simply the charge by which these cases or this case is
11 brought to court. It is not evidence of any of the
12 allegations it contains.

13 The Defendant has pled not guilty to these
14 indictments. The State has the burden of proving the
15 elements of each of the indictments beyond a reasonable
16 doubt.

17 And it will be your duty, ladies and gentlemen, to
18 decide whether the State has met their burden. Your job,
19 your duty as jurors is to find and determine the facts.
20 You are the sole judges of the facts in this case.

21 If at any time during this trial I make a comment on
22 the facts of this case, I'm asking you now to disregard
23 it. You are to determine the facts from the evidence that
24 you hear and any other evidence that is introduced in
25 court. It is up to you to determine the inferences which

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 you feel may properly be drawn from the evidence.

2 It is especially important that you perform your duty
3 of determining the facts diligently and conscientiously
4 because ordinarily there's no way to correct an erroneous
5 determination of facts by a jury.

6 The same law that makes you the judge of the facts
7 makes me the judge of the law. The law as given by the
8 Court is the only law that you may consider. You must
9 accept and follow it even if you may disagree with it. I
10 cannot tell you what the facts are, and you cannot
11 disagree with me about what the law is or should be.

12 Your job is to take the law as I give it to you and
13 apply it to the facts as you find from the testimony of
14 the witnesses and any other evidence that is introduced.
15 After doing that, you will render your verdict, a true and
16 just verdict under the solemn oath that you just took as
17 jurors.

18 Now, before you can begin your deliberations in this
19 case and before I tell you you can begin your
20 deliberations, you cannot discuss this case with anyone,
21 including your fellow jurors, but especially not to
22 family, friends or anybody who is involved in this case.

23 After the case is submitted to you, you must discuss
24 it only in the jury room with your fellow jurors. The
25 attorneys in this case -- I know Barnwell's a small county

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 like Orangeburg. If you -- if we take breaks and you see
2 the attorneys or some of the people that are involved, and
3 witnesses in this case, if they don't speak to you they're
4 not being rude.

5 But while you're sitting as jurors they are not
6 allowed to talk with you. They're not being rude. It's
7 just that now y'all are in a special place and you cannot
8 talk to anyone about this case.

9 Now, I don't know -- I don't know that there will be
10 anything in the paper about this case. If there is, you
11 cannot read it. I don't think there will be anything on
12 the radio or TV or Internet about it but, again, you do
13 not read it, you do not watch anything about it, read
14 anything about it and, more importantly, you don't
15 investigate anything about this case.

16 Now everybody can Google things and like that. I'm
17 not quite as good at it as my children are, but you're not
18 to do any investigation about this case. You will
19 probably hear some testimony about the scene where the
20 events happened or anything like that. You don't need to
21 ride by the scene and look at it.

22 All the evidence that you need to decide this case
23 you're going to get from this witness stand. That's all
24 you are to consider. It is important that you keep an
25 open mind and not decide any issue in this case until all

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 of the evidence has been presented. That's also the
2 reason we ask you -- when we take breaks, you may have
3 heard part of one witness's testimony. When we will take
4 a break, I will remind you at that time you cannot talk
5 about what you have heard on the witness stand until I
6 tell you that you can begin your deliberations, because
7 you've only heard part of the story.

8 And that's the reason you can't talk about this case
9 until the very end of it.

10 At the end of the case, after all the evidence has
11 been presented, after you've heard the closing arguments
12 of the attorneys, after I have instructed you on the law
13 of the case, that's when I will tell you you can begin
14 your deliberations.

15 It is your solemn responsibility to determine the
16 guilt or innocence of this Defendant. And your verdict
17 must be based solely on the evidence that is presented to
18 you in this trial and on the law as I instruct it, as I
19 instruct you during and at the close of the trial.

20 In a moment the solicitor's going to make an opening
21 statement in which she will explain to you what she
22 believes the issues are in this case. The attorney for
23 the Defendant may also make an opening statement, though
24 he's not required to do so.

25 What the attorneys tell you during their opening

JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 statements is not evidence in this case. It is only their
2 contention as to what the issues are. The evidence in
3 this case will be presented to you by sworn testimony from
4 the witness stand or by any exhibits that are introduced
5 into evidence.

6 Now, from time to time during the trial you may see
7 where attorneys have questions of law or matters that I
8 have to discuss at the bench. At that time I may excuse
9 you from the room when we're having, when I'm having
10 discussions with the attorneys.

11 The reason for that is, during my discussions with the
12 attorneys I may make some comment about the facts. And
13 since you are the sole judges of the facts, I don't want
14 you to be influenced by anything that I say about the
15 facts as to what the determination of the facts are in
16 this case.

17 So, you may be excused at certain times in those
18 situations.

19 And, again, I want to remind you that nothing that I
20 say or do during this trial should influence your
21 determination of the facts.

22 In determining what the true facts are in this case,
23 you must decide whether or not the testimony of a witness
24 is believable. It will be my responsibility to rule as a
25 matter of law as to whether certain testimony is

OPENING STATEMENTS BY THE STATE

1 admissible, but once the testimony is admitted whether or
2 not you believe it is solely for you to determine.

3 In deciding whether to believe a witness, you have the
4 right to consider the interest of any witness, the bias of
5 any witness, the prejudice of any witness, the opportunity
6 for the witness to have seen the matters and things about
7 which the witness's testifying and the way the witness
8 acts on the witness stand.

9 You have a right to consider anything that is in the
10 record that will help you to evaluate the testimony of the
11 witnesses. That means that it is your duty to pay close
12 attention to these witnesses, to observe them, to listen
13 to them, and to pay close attention to the attorneys and
14 to the Court.

15 Please give your strict attention to the testimony in
16 this case so that at the end of all the testimony, after
17 the arguments of counsel and the charge on the law by me,
18 you will then be in a position to determine what the true
19 facts are and to apply those facts to the law and thus
20 render a true and just verdict.

21 All right. Ladies and gentlemen, we are now getting
22 ready to begin the trial. Madam Solicitor?

23 MS. MAURICE: Thank you, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. MAURICE: May it please the Court. Mr. McCarley,

OPENING STATEMENTS BY THE STATE

1 ladies and gentlemen of the jury. And I'm glad I can say
2 gentlemen. We almost didn't have any gentlemen, so that's
3 nice.

4 October 15th, 2010, on Patterson Mill Road, it's in
5 the afternoon, daylight, the victims in this case had
6 driven to the store. On their way back home, they see the
7 Defendant and another individual in a car. They come up
8 behind them. They start shooting.

9 The victims pull in to one of their grandmothers'
10 homes, get out of the car, start running. Grandma's
11 home. The victims spread out.

12 And today the evidence is going to be, I'd like to
13 say, simple. It's not CSI. It's going to be from photos,
14 from testimony of the witnesses. Just like the Judge
15 said, the witnesses will get up here on this stand, swear
16 to tell the truth and describe what happened.

17 We'll have the first responder, as far as the
18 officers, come in and tell you what was going on, tell you
19 about the investigation and what led them to Dexter Brown.

20 You'll probably get a little CSI in, but not much. I
21 expect you to hear from a SLED agent, hopefully this
22 afternoon. And after all the evidence is presented, the
23 defense and I are going to have an opportunity to give
24 closing statements. And when we do that, we'll go back
25 over and argue why we believe the evidence proves our

OPENING STATEMENTS BY THE STATE

1 case.

2 And after I finish that I'm going to ask you to find
3 Mr. Brown guilty of attempted murder and possession of a
4 firearm during a violent crime.

5 As the Judge said earlier, he is the Judge. He is
6 over the law. He will give you instructions on the law
7 after that, and you'll need to listen closely. I'll
8 probably summarize it a little bit, but you're going to
9 have to listen closely to what he's saying because it does
10 get a little bit complicated. Some of the words I expect
11 will be in the instructions are malice and how long it has
12 to be and all of that kind of jargon. And we'll go over
13 it a little bit more at the end of the case, but he'll
14 describe the law or give you the law.

15 And I'm going to present the evidence to show that he
16 committed this crime, that Brown committed this crime.
17 It's not CSI. And I know you make important decisions
18 every day. I mean, it's not -- you use your common sense
19 to make those decisions. Okay.

20 So don't -- when you walk through those doors, just
21 because it's formal in here and it's a little bit
22 different than what you're probably used to, don't think
23 that you're supposed to leave that common sense outside,
24 because you're not. You'll use it to evaluate the
25 evidence that's presented and deliberate and find that we

OPENING STATEMENTS BY THE DEFENSE

1 have presented beyond a reasonable doubt. We have met our
2 burden of beyond a reasonable doubt, which you'll hear a
3 lot about, that Dexter Brown is guilty. He's guilty of
4 attempted murder and he's guilty of possession of a
5 firearm during a violent crime.

6 Thank you.

7 THE COURT: Thank you, ma'am. Mr. McCarley?

8 MR. MCCARLEY: Thank you, Judge.

9 Madam Solicitor, ladies and gentlemen of the jury. How
10 are y'all doing?

11 I'm not going to take too much of your time. I know
12 I'm hungry. I know it's almost lunchtime.

13 And I agree that it's a relatively simple case.

14 You're going to hear about two things. You're going to
15 hear about a shooting and you're going to hear about my
16 client, Dexter Brown.

17 And the solicitor believes that if she continues to
18 say shooting and Dexter Brown, shooting and Dexter Brown,
19 that eventually she can convince you that Dexter Brown was
20 involved somehow in that shooting when he just was not.
21 That's just not the case.

22 You'll hear from this witness stand that there's no
23 physical evidence whatsoever tying Dexter Brown to this
24 crime, to this incident, to the shooting that occurred on
25 Patterson Mill Road. And I'm sorry that that shooting

OPENING STATEMENTS BY THE DEFENSE

1 occurred. I work in this community every day. I'm the
2 public defender here in Barnwell. And I don't want
3 shootings in our community any more than you do, but I
4 also don't want innocent people going to prison, ladies
5 and gentlemen.

6 Now the State is going to try to connect Dexter Brown
7 to this shooting with two people. Okay. Two main
8 people. You're going to hear a parade of law enforcement
9 personnel come up here, but each and every one of them is
10 not going to be able to tell you that Dexter Brown was
11 there. Okay. You're not going to hear anything about
12 Dexter Brown's fingerprints or anything like that being
13 found there in any form or fashion.

14 There's no -- this is attempted murder involving a
15 gun, allegedly. Now, there's no smoking gun. There's no
16 gun at all. Again, that's part of the facts. There's no
17 physical evidence in this case.

18 Again, they're going to try to connect him with two
19 people. Now when those two people come up here, it is
20 your burden here today to examine those people and decide
21 whether or not they're telling you the truth, whether or
22 not you believe them, or do they have a bias, or, is their
23 testimony contradictory? Okay. And not only do you
24 believe them, but do you believe them beyond a reasonable
25 doubt?

OPENING STATEMENTS BY THE DEFENSE

1 Okay. And as Ms. Maurice said, that is a term that we
2 use a lot, we throw around a lot. And I think it's
3 helpful to give a simple explanation that helped me
4 understand it when I was learning it. A reasonable doubt
5 is one that would give an average person, like me or you,
6 hesitation or pause when making a decision. That's a
7 reasonable doubt.

8 So at the end of this trial, if you have pause or
9 hesitation when considering whether or not Dexter Brown
10 was involved in this incident, then Dexter Brown is not
11 guilty. That pause, that hesitation means Dexter Brown is
12 not guilty, ladies and gentlemen.

13 And that's the situation we're in here today.

14 I'd also like you to know that Dexter Brown walks in
15 here today as an innocent man. There's something we like
16 to call the cloak of innocence that each of us wear as
17 American citizens. Okay. And for that cloak to be
18 removed, the State has to prove, again, beyond a
19 reasonable doubt, they have to prove every element of
20 every crime beyond a reasonable doubt.

21 Okay. That cloak is very heavy and that burden is
22 very heavy. And the State's case here today is not strong
23 enough to lift that burden, to lift that heavy cloak off
24 of Dexter Brown.

25 And this is also known -- it's very, very important

JOHN TROTTIE - DIRECT

1 that Dexter and I really need to get across to you. The
2 law says Dexter Brown does not need to prove anything to
3 anybody here today, ladies and gentlemen. The absolute
4 and complete total burden is on the State to prove Dexter
5 Brown's involvement, to prove each and every element, as I
6 said, beyond a reasonable doubt. Dexter Brown need say
7 nothing here today. The State has the absolute and
8 complete burden.

9 And, again, the State thinks that just because a
10 shooting occurred on Patterson Mill Road on October 15th,
11 2010, okay, because that shooting occurred and you're
12 going to see lots of evidence that a shooting occurred,
13 okay, and that they brought Dexter Brown in here today,
14 that they can convince you that he was somehow involved,
15 when that's just not the case, ladies and gentlemen.

16 Thank you.

17 THE COURT: Thank you, Mr. McCarley. Is the State
18 ready to call its first witness?

19 MS. MAURICE: Yes, Your Honor.

20 THE COURT: Okay.

21 MS. MAURICE: John Trottie.

22 JOHN TROTTIE, having been duly sworn, was examined and
23 testified as follows:

24 THE CLERK: Please be seated and state your name for
25 the record.

JOHN TROTTIE - DIRECT

1 THE WITNESS: John Trottie.

2 DIRECT EXAMINATION

3 BY MS. MAURICE:

4 Q. Where are you employed, Mr. Trottie?

5 A. I'm employed with the Barnwell County Sheriff Office.

6 Q. How long have you been with them?

7 A. Approximately 20 years, plus --

8 Q. I'm sorry?

9 A. Approximately 15 years with them.

10 Q. Were you with anybody before them?

11 A. Yes. I was with the Department of Correction and
12 Williston Police Department.

13 Q. So you've been around about how many years total?

14 A. About 20, twelve-plus years.

15 Q. Describe how you got involved in this incident.

16 A. I was actually working the road, worked serving
17 warrants but I happened to be on Patterson Mill Road at
18 that time.

19 Q. How do you get to Patterson Mill Road from here, for
20 those of us who aren't familiar with that area?

21 A. From this point, you'd be going 64 West just past
22 Wal-Mart, taking the first road to your left. And that's
23 turning into Patterson Mill Road there.

24 Q. And you were working that area?

25 A. Yes, ma'am.

JOHN TROTTIE - DIRECT

1 Q. And, you got a call?

2 A. Yes. Central, which is dispatch, received a call from
3 9-1-1 from someone in that neighborhood saying that there
4 was a shooting at that residence and I happened to be the
5 one closest to it at that time.

6 Q. So what did you do when you got to the scene?

7 A. First thing I did was look for any victims because it
8 was a shooting incident. They say it was multiple bullets
9 being fired. And I didn't see any victims. So I secured
10 the scene and then I try to locate to see if anybody
11 coming forward as suspects or anything like that.

12 Q. Who was there when you secured the scene or when you
13 first -- who did you see there when you were there?

14 A. When I first got there, I didn't see anyone and then I
15 looked around to make sure nobody was injured or
16 anything. When I found victim one, which is Brandon
17 Parker, he was at a business next door called Classy
18 Mae's. Then he came over.

19 He started telling me, somebody tried to kill me,
20 somebody tried to kill me. And then I noticed that the
21 car was pulled in the driveway parallel with Patterson
22 Mill Road headed, facing the house.

23 Q. And what car was that?

24 A. That was a Blazer.

25 Q. What color?

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1 A. Burgundy, I think it was.

2 Q. Let me show you what's been marked as State's
3 Exhibit -- the last one -- State's Exhibit 20.

4 Your Honor, we'd like to publish this and enter it
5 into evidence, I believe, without objection from the
6 defense.

7 MR. McCARLEY: That's correct, Your Honor.

8 THE COURT: Mr. McCarley, did you have an opportunity
9 to see all these pictures?

10 MR. McCARLEY: Yes, Your Honor, I have.

11 THE COURT: Do you have any objection to any of them
12 that I need to be aware of?

13 MR. McCARLEY: No, sir. They're the same ones that I
14 reviewed a couple days ago.

15 MS. MAURICE: They are, Your Honor.

16 THE COURT: All right. Thank you. Appreciate it.

17 BY MS. MAURICE:

18 Q. Do you recognize that?

19 A. Yes, ma'am.

20 Q. And what is that?

21 A. That's the vehicle that I saw when I first got to the
22 scene.

23 Q. Okay. And let me show you another picture and answer
24 this, if you know. As far as -- what did you say, it was
25 at what club or what store?

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1 A. It's actually called, I don't know it's a community
2 store slash night club.

3 Q. Alcoholic beverage-type thing?

4 A. Yes, yes.

5 Q. Could you look at that and could you tell me what that
6 is?

7 A. That's Classy Mae's, the one I'm talking about.

8 Q. Okay. And --

9 THE COURT: What exhibit is that?

10 MS. MAURICE: I'm sorry. That is Exhibit Number Five.

11 THE COURT: Okay.

12 MS. MAURICE: And I'd like to move that into evidence
13 without objection, please.

14 THE COURT: Okay. State's Exhibit 20 and Five are in
15 evidence without objection.

16 MR. MCCARLEY: Yes, Your Honor, without objection.

17 (Thereupon, State's Exhibit No. 5 and 20, photographs,
18 were received into evidence.)

19 BY MS. MAURICE:

20 Q. Who else did you see at the scene?

21 A. Okay. Once Mr. Parker walked from the club, I went
22 over and I started talking with him, then I see
23 Benjamin -- Roger Benjamin, Jr.

24 Q. Okay.

25 A. And then after things got calmed down, then you got

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1 the grandmother, the aunt and the little child came out of
2 the house, I think it was.

3 Q. Okay. So, where was grandmother, aunt and child?
4 Where did they come out of?

5 A. The mobile home that was at 7390, where the vehicle
6 was parked at.

7 Q. What county is that?

8 A. That's in Barnwell County.

9 Q. Okay. Let me show you a picture of that home, let you
10 identify it, in State's Exhibit One.

11 A. Yes, ma'am. That's the home.

12 Q. Okay. And that's the home that grand mom and child --

13 A. And the aunt.

14 Q. -- and the aunt came out of?

15 A. Uh-huh.

16 Q. You said you secured the scene. How do you secure a
17 scene?

18 A. Well, when we first arrive we make sure that -- well,
19 when we come to a shooting not knowing if anybody was
20 injured or anything, we make sure we attend to the needy
21 at first as far as injury. There wasn't any, so what I
22 did was kept everybody way off the area.

23 Being that I was there by myself at first and that's a
24 roadway, I couldn't actually stop traffic by myself to do
25 that but I made sure everybody that was there was taken

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1 care of, they was out of the home and danger. And then I
2 waited on officers to arrive.

3 Q. About how long did it take some other officers to
4 arrive and help you?

5 A. With a shooting, maybe two minutes, three minutes,
6 something like that.

7 Q. So we're talking about a very short time span?

8 A. Very short time span.

9 Q. How long did it take you to get to the scene once you
10 were dispatched?

11 A. I don't actually have that time frame right -- on me
12 right now. I know -- yeah, I do. I have -- we got it
13 16:43. I arrived at 16:48 which is 4:43 and 4:48 in the
14 afternoon.

15 Q. And you said -- what time is it in the afternoon?
16 Regular time.

17 A. Oh, regular time. It's 4:43.

18 Q. Uh-huh.

19 A. And 4:48.

20 Q. Okay. And so, was it light outside?

21 A. Yes, ma'am. It was daytime.

22 Q. All right. Would you answer -- hold on. (Pause.)

23 Would you answer any questions that Mr. McCarley has?

24 THE COURT: Mr. McCarley, your witness.

25 MR. MCCARLEY: Thank you, sir.

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CROSS-EXAMINATION

1

2 BY MR. MCCARLEY:

3 Q. Investigator Trottie, how are you doing, sir?

4 A. I'm fine, sir.

5 Q. Good, good. You were the first on the scene that day;
6 is that correct?

7 A. Yes, sir.

8 Q. When you arrived on the scene, did you see Dexter
9 Brown?

10 A. No, sir.

11 Q. Did you see Dexter Brown with a gun?

12 A. No, sir.

13 Q. Did you see Dexter Brown shooting a gun?

14 A. No, sir.

15 Q. Did you find a gun? When you secured the scene for
16 safety precautions, did you find a gun?

17 A. No, sir.

18 Q. Okay. Did you find any physical evidence whatsoever
19 that -- in regards to Dexter Brown?

20 A. No, sir.

21 Q. Thank you. May I have a moment?

22 THE COURT: Sure.

23 (Pause.)

24 MR. MCCARLEY: No more questions. Thank you.

25 THE COURT: Anything on redirect?

1 MS. MAURICE: No. Thank you. No, sir.

2 THE COURT: Thank you, Investigator. You may step
3 down.

4 THE WITNESS: Thank you.

5 THE COURT: All right. It's noon. We'll take a break
6 for lunch, if that's all right with y'all.

7 MS. MAURICE: Yes, Your Honor.

8 THE BAILIFF: Fine with me.

9 THE COURT: Ladies and gentlemen of the jury, what I'm
10 going to do is ask y'all to come back at 1:30. If you'll
11 follow the bailiff, he will show you how to get to the
12 jury room. And I've got -- yes, ma'am, from the front of
13 the row?

14 THE JUROR: (Shakes head.)

15 THE COURT: Okay. Now, remember, you only heard one
16 witness in this case. Okay. You cannot talk about
17 anything that you -- anything about this case. When y'all
18 get back together, when y'all go back in the jury room,
19 you cannot talk about this case among yourselves or with
20 anybody else. Okay. I don't need y'all riding off to
21 Patterson Mill Road investigating the scene or anything
22 like that.

23 Y'all go and enjoy your lunch, come back, be back in
24 the jury room at 1:30 and we'll get started back on the
25 case.

1 We'll see you at 1:30. Thank you all very much.

2 (Jury exits courtroom at 12:02 p.m.)

3 THE COURT: Anything from the State before we take a
4 break for lunch?

5 MS. MAURICE: No, Your Honor.

6 THE COURT: Anything from the defense before we take a
7 break for lunch?

8 MR. MCCARLEY: No, sir.

9 THE COURT: If y'all be back here at 1:30. Thank you.

10 MS. MAURICE: Thank you, Your Honor.

11 (Thereupon, at 12:03 p.m., the luncheon break was
12 taken. The trial resumed at 1:40 p.m., as follows:)

13 THE COURT. Ms. Maurice, is the State ready?

14 MS. MAURICE: Yes, Your Honor.

15 THE COURT: Mr. McCarley, is the Defendant ready?

16 MR. MCCARLEY: Yes, we are. We got to get Mr. Brown.

17 (Defendant enters courtroom.)

18 THE COURT: It's my understanding that we've got to
19 break about four.

20 MS. MAURICE: If that's okay with Your Honor.

21 THE COURT: That's fine with me. We'll break about
22 four.

23 MS. MAURICE: And do those pleas and then start back
24 tomorrow morning.

25 THE COURT: And then pick back up in the morning.

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1 MS. MAURICE: Yes, sir. I could be wrong. I've been
2 wrong before.

3 THE COURT: All right. Bring the jury back in.

4 (Jury enters courtroom at 1:40 p.m.)

5 THE COURT: All right. Ladies and gentlemen, I hope
6 y'all had a good lunch. I hope nobody went riding all
7 over the community trying to see what was going on.
8 Okay.

9 Now, we're getting ready to get started back into
10 taking testimony in this case. So if y'all will just bear
11 with us, we will get going.

12 Ms. Maurice, call your next witness.

13 MS. MAURICE: Thank you, Your Honor. Investigator
14 Andy Chavis.

15 ANDY CHAVIS, having been duly sworn, was examined and
16 testified as follows:

17 THE CLERK: Please be seated and state your name for
18 the record.

19 THE WITNESS: Andy Chavis.

20 THE COURT: Your witness.

21 DIRECT EXAMINATION

22 BY MS. MAURICE:

23 Q. Investigator Chavis, who do you work for?

24 A. I work for the Barnwell County Sheriff's Office.

25 Q. How long have you worked for them?

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1 A. For the sheriff's office, about four and a half years.

2 Q. Did you work in law enforcement prior to that?

3 A. Yes, I did. I worked for Williston Police Department
4 prior to that.

5 Q. And how long did you work for them?

6 A. Four and a half years.

7 Q. Okay. On October 15th, did you have an opportunity to
8 get involved in this crime that we're here for today?

9 A. Yes, I did.

10 Q. I'm going to -- let's walk through first what you did
11 when you got there and where it was.

12 Where did you go?

13 A. We had a dispatched call from central dispatch about
14 shots being fired on Patterson Mill Road. Myself, I was
15 at the sheriff's office when the call went out.

16 Q. Uh-huh.

17 A. I left the sheriff's office responding out there code,
18 which means blue lights and siren. When I arrived on the
19 scene Officer -- Sergeant John Trottie was already on the
20 scene, a few other officers.

21 At that time the sheriff was on the scene, and the
22 on-call investigator, we have an on-call schedule seven
23 days a week split up between, amongst four investigators.
24 It was Investigator Croft's week to be on call as the
25 crime scene investigator; however, he was told to go and

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1 do something else and the sheriff asked me to work the
2 crime scene.

3 Q. Okay. I'm going to show you what's been marked as
4 State's Exhibits One through 20. If you would look
5 through these, please, and identify that you recognize all
6 of those.

7 A. (Complying). Yes, I do.

8 MS. MAURICE: Your Honor, at this time the State would
9 like to move One through 20. I think we had already moved
10 in 11 (sic) and Five into evidence, but we would like to
11 move One through 20.

12 THE COURT: With no objection from the defense?

13 MR. MCCARLEY: We do not have an objection.

14 THE COURT: They are all moved. One through 20 is
15 into evidence.

16 (Thereupon, State's Exhibit Nos. 1 through 20,
17 photographs, were received into evidence.)

18 BY MS. MAURICE:

19 Q. Okay. When you got to the scene, what was the first
20 thing you did?

21 A. The first thing I did when I got to the scene is I
22 started looking -- or when I stepped out of my vehicle, I
23 noticed in the road there was lots of shell casings.

24 MS. MAURICE: If it's okay with Your Honor, can he
25 step down and show these photos and describe --

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1 THE COURT: You just need to speak up so that the
2 court reporter can hear you.

3 THE WITNESS: (Nods.)

4 BY MS. MAURICE:

5 Q. Can you explain to the jury what these are and how you
6 do this?

7 THE COURT: And what exhibit are you referring to?

8 MS. MAURICE: I'm sorry.

9 THE WITNESS: This is Exhibit Six.

10 THE COURT: Exhibit Six. Okay.

11 MR. MCCARLEY: May I stand off to the side, Your
12 Honor?

13 THE COURT: You may. Let the defense attorney get
14 over there so he can see what you're talking about.

15 BY MS. MAURICE:

16 Q. On State's Exhibit Six.

17 A. State's Exhibit Six. Whenever I arrived on the scene,
18 I started noticing shell casings in the road and also was
19 told from the sheriff and other deputies that got there
20 before me that there were several shell casings found in
21 the roadway. Shell casings being the cartridges from a
22 weapon that was fired, an automatic weapon.

23 We have -- I have these labeled as letters of the
24 alphabet starting with the first shell casing that I
25 found, I go down the alphabet A., B., C., D., you know,

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1 and so on.

2 So I started. I took out my markers and I started
3 marking each shell casing that I found in front of the
4 residence on Patterson Mill Road.

5 Also there was some that were found in the driveway
6 and up by, closer to the house.

7 BY MS. MAURICE:

8 Q. Okay. And State's Exhibit Number Seven, is that just
9 another shot?

10 A. That's just another shot of -- yeah, of all the shell
11 casings, overall picture of them.

12 Q. Okay. How about State's Exhibit Eight and State's
13 Exhibit Nine?

14 A. Yes. Actually each one of these are individual
15 pictures. And what I do is once I take an overall picture
16 of the -- of the scene, I go back and I photograph each
17 individual one.

18 Q. Each, each individual, what?

19 A. Shell casing.

20 Q. Okay.

21 A. Or whatever type evidence it is I find.

22 Q. Okay. And State's Exhibits 14, 15. I guess I need to
23 -- 13, 12, 10 and 11. We'll start with 10. And 10, what,
24 what did you do with that or what is that?

25 A. This is a projectile. What it is, is this -- actually

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1 the bullet that comes out of a shell casing, this bullet
2 was laying in the driveway where it had went into the dirt
3 and obviously didn't hit anything but the dirt.

4 Q. State's Exhibit 11?

5 A. This is a bullet that I found that had not been
6 fired. It's the whole bullet with the casing and the
7 bullet attached. It has not been fired. It was found on
8 the scene.

9 Q. State's Exhibit 12?

10 A. This would be the same as exhibit -- Exhibit 10.

11 Q. Okay.

12 A. The same projectile that was fired from a bullet --
13 from a shell casing.

14 Q. State's Exhibit 13?

15 A. Again, would be the same bullet.

16 Q. Fourteen?

17 A. That would just be another shell casing that was found
18 in the yard or in front of the residence off of the
19 roadway.

20 Q. Okay. And State's Exhibit 15?

21 A. Another shell casing that was found --

22 Q. Okay.

23 A. -- off the roadway in front of the residence.

24 Q. Okay. And let me hand you what's been marked as

25 State's Exhibits 20 -- 16, 17, and 20. State's Exhibit

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1 20, could you describe what that is?

2 A. This is the vehicle that our victims was being chased
3 in. This is the vehicle they were driving. I
4 photographed the vehicle because it had several bullet
5 holes in it or where a bullet had hit the vehicle. If I
6 recall correctly, it was three.

7 Q. Okay. State's Exhibit 16?

8 A. This is the driver's headrest. This is inside this
9 vehicle right here. This is the right side of the
10 driver's headrest. That is a projectile which is a bullet
11 that came from the shell casing and hit the back of the
12 driver's headrest.

13 I did not pull that bullet out because I was unable
14 and did not have the tools at that time to recover it and
15 pull it out of the headrest. So I photographed it, but if
16 you look at the photograph, you can see the projectile.

17 Q. And State's Exhibit 17?

18 A. It is also another picture of the headrest. If you
19 look at it, you can tell this was the driver's seat,
20 steering wheel, and this is the back of the headrest,
21 right here, where the bullet entered and hit the back --
22 or the projectile hit the back of the headrest, driver's
23 headrest.

24 Q. Okay. Now, after you marked -- you might want to sit
25 back down.

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1 A. (Complying.)

2 Q. After you marked all the cases that you could find,
3 what did you do?

4 A. I'm sorry?

5 Q. After you did your markings and took all the shell
6 casings you were able to see --

7 A. Yes, ma'am.

8 Q. -- and took the photos -- did you take the photos
9 first or did you collect --

10 A. No.

11 Q. -- the casings first?

12 A. Photograph first.

13 Q. I guess so.

14 A. Always photograph before we take anything.

15 Q. All right. State's Exhibits 21, 22, and 23, Your
16 Honor, are being moved into evidence, I believe, without
17 objection.

18 MR. MCCARLEY: Yes, that's correct.

19 (Thereupon, State's Exhibit No. 21, shell casings,
20 State's Exhibit No. 22, bullet, and State's Exhibit No.
21 23, projectile, were received into evidence.)

22 BY MS. MAURICE:

23 Q. Could you describe what these are? Let's do 21
24 first. Do them one by one.

25 A. This is 14 shell casings that was collected from the

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1 crime scene. Some of them being .380 shell casings and
2 some of them being nine millimeter shell casings.

3 Q. And what does that mean?

4 A. That means obviously there was two weapons there that
5 was fired.

6 Q. Okay. Let me show you what's State's Exhibit 22.

7 A. This is a nine millimeter bullet that was found right
8 beside the road in front of the residence.

9 Q. How could it not have been a casing? I mean --

10 A. Because it was not fired.

11 Q. Okay. That one wasn't fired?

12 A. No, ma'am.

13 Q. How -- so that was -- go ahead.

14 A. If I can explain?

15 Q. Yes, please.

16 A. What I -- what my thinking was on my investigation is,
17 when you have a automatic weapon that fired several
18 rounds --

19 MR. MCCARLEY: Objection.

20 MS. MAURICE: Okay. That's okay.

21 Q. That's the unfired --

22 A. Yes.

23 Q. -- bullet?

24 A. Yes, that's the unfired round. I'm sorry.

25 Q. And that's State's Exhibit 22. And how about State's

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1 Exhibit 23?

2 A. This is the projectile that was located in the
3 driveway between the road and the driveway -- between the
4 road and the vehicle. It was in the driveway. And the
5 direction that it was located and photographed is pointed
6 towards the vehicle.

7 Q. Okay. Now, when we're talking about the driveway and
8 the vehicle, on State's Exhibit 20, where is this? Where
9 is the vehicle? Is that the vehicle, the same vehicle?

10 A. Yes, ma'am. This is the vehicle that I'm speaking of
11 that was parked in the driveway at the incident, which is,
12 I think, 7390 Patterson Mill Road. It was parked parallel
13 with the trailer. And if you can see my hand where I'm
14 standing, the roadway is behind me.

15 Q. Okay.

16 A. So the bullet was found between the road and the
17 vehicle in the dirt, pointed in that direction.

18 Q. Okay. And did I hand you earlier the one on the back
19 of the car? I don't think I did; did I?

20 A. No, ma'am.

21 Q. Let me hand you State's Exhibits 18 and 19. If you
22 could step down and explain to the jury what that is, and
23 what you found in the car if you searched it.

24 A. (Complying.)

25 THE COURT: Let Mr. McCarley get over there, please.

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1 (Pause.)

2 THE COURT: Thank you, ma'am.

3 THE WITNESS: Yes, sir. Again, this is the vehicle
4 that was on the scene, on the crime scene, that had been
5 shot up.

6 BY MS. MAURICE:

7 Q. That's State's Exhibit 20.

8 A. Okay. If you notice or if you can see in the picture,
9 you have a bullet hole in the rear passenger side of the
10 vehicle in the window there.

11 Again, you have one that was in the back of the
12 driver's headrest.

13 And then there was a bullet in the bumper, or where a
14 bullet had hit in the back of the bumper of the vehicle
15 when the vehicle was being chased.

16 Q. Okay. And was this car drive able after?

17 A. No, it was not. It had two flat tires if I'm not --
18 you can see them. Front passenger tire and the front --
19 rear passenger side tire were both flat.

20 Q. So, you collected all the evidence?

21 A. Yes, ma'am. You want me to sit back down or?

22 Q. Yeah. I know I'm kind of jumping around for photos.

23 A. (Returns to witness stand.)

24 Q. After you collected all the evidence that you found,
25 and took your photos, what did you do next?

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1 A. After retrieving or picking up all the shell casings
2 and the projectiles and collecting my flags, I went to
3 both of the victims who was Brandon Parker and Roger
4 Benjamin to do GSR kits on both of those.

5 Q. Okay. And could you explain how you do a GSR kit?
6 I'm going to hand you what has been marked as State's
7 Exhibit 25 for demonstrative purposes only. Could you
8 just describe to the jury what you did on that day using
9 that?

10 A. That day during my investigation, I wanted to do a GSR
11 kit on both of the victims that were being shot at, just
12 to make sure that they weren't shooting back in return.

13 After I got through with the vehicle, the victim's
14 vehicle, there was no indication of a weapon inside. I
15 did not find any guns inside that vehicle. I did not find
16 any shell casings inside their vehicle which would have
17 led me to believe they also had weapons.

18 And then I wanted to conduct a GSR kit on both of
19 them.

20 What a GSR kit is is a gun residue collection kit.
21 That's a kit that stays sealed until we get ready to use
22 it. Once we get ready to use it, we open it up in front
23 of that person that we're going to do the GSR kit on.
24 That kit has to be done within six hours of the shooting
25 incident on the person that they're doing it on. I did

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1 not --

2 Q. Open the kit. Do you need scissors to open it?

3 A. I can tear it open.

4 Q. Can you get it?

5 A. This is a new kit. It's never been opened. I did not
6 have any kits with me that day in my vehicle. Most of the
7 times we carry one or two in our vehicles.

8 There was a SLED agent on the scene, Teddy Cone, who
9 is a agent with SLED, who I got two kits from him that he
10 had in his vehicle that were this type, same exact type
11 kit in an envelope like this.

12 Once you open this kit up the first thing we do is we
13 pull out the form which is instructions for the collecting
14 of the gunshot residue. And then it explains to you step-
15 by-step on how to do your collecting, front and back.

16 Also we fill out this form. This is the person that
17 you're doing the kit on, it's his information. It asks
18 for his name, is he living or is he deceased, because
19 sometimes we do them on people that commit suicide, make
20 sure it's a suicide and not a homicide.

21 And then it asks you some questions, like date of
22 birth, and that sort of thing, their occupation, their
23 hobbies and which hand did they use.

24 I opened the first kit up. And I did Brandon Parker
25 first. If you pull other things out of it, you have in

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1 here evidence tape which is to seal it back up. You have
2 a pair of gloves in here which is plastic gloves that we
3 put on.

4 Q. And did you do all of that in this case?

5 A. Yes, ma'am.

6 Q. And I'm going to show you what's been marked as
7 State's Exhibit Number 24. Could you tell me what that
8 is?

9 A. This is the GSR kit that's been sent off to SLED that
10 I conducted that day on Brandon Parker.

11 Q. Okay. And how do you know it's the same kit?

12 A. Because I sent it to SLED, sealed, in the evidence --

13 Q. Okay.

14 A. -- sealed bag along with the chain of custody form.

15 Q. Okay.

16 A. And it has been returned from SLED with the chain of
17 custody form. And it has not been opened since it got
18 back from SLED. It's still sealed by SLED.

19 Q. Whose initials is that? Is that SLED or you don't
20 know?

21 A. I don't know.

22 Q. Okay.

23 A. All right. It's not mine.

24 Q. Okay. Did you talk to anyone else besides -- as far
25 as witnesses besides Brandon and Roger?

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1 A. No.

2 Q. As far as interview?

3 A. No, ma'am. Not interviewing them, no.

4 Q. Okay. So your --

5 A. There was --

6 Q. -- job was to collect the evidence?

7 A. Right.

8 MS. MAURICE: Please answer any questions Mr. McCarley
9 has.

10 THE COURT: Your witness, Mr. McCarley.

11 MR. MCCARLEY: Thank you, sir.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. MCCARLEY:

15 Q. Investigator Chavis, how are you doing?

16 A. I'm doing good.

17 Q. The solicitor just said it's your job to gather all
18 the physical evidence at the scene, to process the scene.
19 Is that correct?

20 A. It was that day, yes.

21 Q. So when you go to the scene, you want to gather as
22 much evidence as possible; is that correct?

23 A. That's correct.

24 Q. At this scene, as we've heard, there were a number of
25 bullet casings and some actual bullets?

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- 1 A. Right.
- 2 Q. Were any of those bullets tested for anything by your
3 agency or SLED?
- 4 A. No, they were not.
- 5 Q. Okay. You had bullets and casings. Were any of those
6 bullets and casings tested by SLED or your agency to see
7 if they matched up?
- 8 A. Matched up to what?
- 9 Q. Matched up meaning the actual bullet, the projectile
10 as you said, came from the casing?
- 11 A. No, they were not.
- 12 Q. Okay. Were any of those bullets or casings
13 fingerprinted?
- 14 A. No, they were not.
- 15 Q. Okay. You mentioned both of the victims. Is that
16 correct?
- 17 A. That's correct.
- 18 Q. Okay. There was two victims?
- 19 A. Correct.
- 20 Q. Okay. And you took a GSR kit on Brandon Parker?
- 21 A. That's correct.
- 22 Q. There's another victim there, Mr. Roger Benjamin?
- 23 A. That's correct.
- 24 Q. And do you have his GSR kit?
- 25 A. No, I do not. I did not do one on him that day.

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1 Q. Okay. So what we've got out of everything we just saw
2 and everything that you testified to evidence-wise, is one
3 GSR kit that says a gentleman did not shoot a gun. He
4 could still have a gun in his hand, but he just has no gun
5 residue on his hand. Is that correct?

6 A. That's correct.

7 MR. MCCARLEY: May I have a moment?

8 THE COURT: Sure.

9 (Pause.)

10 BY MR. MCCARLEY:

11 Q. Is there a reason why no one else on the scene was
12 tested for a GSR kit?

13 A. Yes, it is. I got two GSR kits that day from SLED
14 Agent Teddy Cone. The first kit, like I said, I did on
15 Brandon Parker.

16 Q. Yes, sir.

17 A. The kit was opened. The second kit, when I opened it
18 up, once you use a kit on one person you're through with
19 it, it's sealed back.

20 Q. Understood.

21 A. You cannot use it on multiple people.

22 If I may, and I'll explain exactly why. In this kit
23 you have several tubes of what parts of the hand or what
24 fingers go in what swabs. You also have the little bottle
25 or little valve in here.

ANDY CHAVIS - CROSS

1 This is some type of nitric acid. This is what we put
2 on the Q-tip to -- the directions say you put it on the
3 Q-tip to rub on the person's hand and to put it in the
4 vial. This little bottle inside of the kit of the other
5 GSR kit was empty. These kits after a while, after it was
6 riding along in the agent's car for however long it was,
7 evidently the liquid inside of it had evaporated. The
8 agent was already gone.

9 I was the last one on the scene, me and a deputy. The
10 deputies, regular road deputies do not keep these in their
11 vehicle and I did not have another one.

12 Q. I understand. Does your agency have more than two GSR
13 kits?

14 A. Uh --

15 Q. From what I've heard and from what we're about to see,
16 there's a number of law enforcement folks on the scene and
17 there's only two gunshot kits to go around?

18 A. Yeah. Everyone was gone. I was the last one on the
19 scene along with the one deputy.

20 Q. Understood. So of the two victims, only Brandon
21 Parker had a GSR kit done?

22 A. That's correct.

23 Q. Okay. There was not a GSR kit done on anybody else
24 around?

25 A. There was nobody else there but Brandon Parker and

ANDY CHAVIS - REDIRECT

1 Roger Benjamin.

2 MR. McCARLEY: Understood. No more questions, Your
3 Honor.

4 THE COURT: Thank you, sir. Anything on redirect?

5 MS. MAURICE: Yes, Your Honor.

6 THE COURT: Okay.

7 REDIRECT EXAMINATION

8 BY MS. MAURICE:

9 Q. Did you have anything to compare the shell casings or
10 bullets to?

11 A. No, I did not.

12 Q. So you didn't have a gun?

13 A. No, I did not.

14 Q. And was there any indications that a gun was in or was
15 fired in the victim's vehicle?

16 A. No. There was no indication of a gun being fired out
17 of the victim's vehicle.

18 MS. MAURICE: Thank you.

19 THE COURT: Anything on recross?

20 MR. McCARLEY: Yes, Your Honor. May I have a moment?

21 THE COURT: Sure.

22 (Defense attorneys conferring.)

23 RE-CROSS-EXAMINATION

24 BY MR. McCARLEY:

25 Q. Are you able to tell what type of gun was used in

ILA SIMMONS - DIRECT

1 this? Were those bullets tested to see what type of gun
2 they came out of?

3 A. I can tell you what caliber gun, but I cannot tell you
4 what type of gun.

5 Q. Okay. So if it was a revolver, it wouldn't leave a
6 casing?

7 A. That's correct.

8 Q. There would be no casing. The casings would stay in
9 the gun and there have been no guns found?

10 A. Correct.

11 MR. MCCARLEY: Thank you. No further questions.

12 THE COURT: Okay. All right. Thank you, sir.

13 THE WITNESS: Yes, sir.

14 THE COURT: I appreciate it. Call your next witness.

15 MS. MAURICE: Ms. Ila Simmons.

16 ILA SIMMONS, having been duly sworn, was examined and
17 testified as follows:

18 THE CLERK: Please be seated and state your name for
19 the record.

20 THE WITNESS: My name is Ila Simmons.

21 DIRECT EXAMINATION

22 BY MS. MAURICE:

23 Q. Ms. Simmons, who are you employed by?

24 A. I work at the South Carolina Law Enforcement Division,
25 also known as SLED, in the forensics laboratory's trace

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1 evidence department.

2 Q. Okay. And what are your job responsibilities?

3 A. Trace evidence encompasses several areas of
4 forensics. We analyze gunshot residue, gun powder
5 residue, we perform fiber comparisons, glass comparisons.
6 We also analyze explosives and arson debris.

7 Q. And what type of education, formal education have you
8 had to prepare you for this?

9 A. I have a bachelor's of science degree in chemistry.
10 After completing that I came to work at SLED.

11 In my first three years at SLED, I worked with a
12 court-qualified, SLED-certified, trace-evidence examiner
13 who taught me how to collect, preserve and analyze trace
14 evidence.

15 And during that time I had to take and complete
16 practical and written examinations with 100 percent
17 efficiency before SLED would certify me as a trace
18 evidence examiner.

19 Q. Did you already say how many years you've been with
20 SLED?

21 A. No, ma'am. I've been with SLED 11 years.

22 Q. And have you ever been qualified as an expert in the
23 South Carolina Court of General Sessions?

24 A. Yes, ma'am. In General Sessions Court, probably over
25 200 times. Also in federal and civil courts in the State

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1 of South Carolina.

2 MS. MAURICE: Your Honor, I'd like to move that
3 Special Agent, SLED Agent, Ms. Simmons, be determined to
4 be an expert witness in the field of trace evidence
5 analysis, specifically in the field of gunshot residue.

6 THE COURT: Any objection?

7 MR. McCARLEY: No objection, Your Honor.

8 THE COURT: She is so qualified.

9 BY MS. MAURICE:

10 Q. That's difficult. Okay.

11 I'm going to show you what's been marked as State's
12 Exhibit 24.

13 A. Yes, ma'am.

14 Q. Can you identify that for us and walk us through?

15 A. May I open the package?

16 Q. Yes.

17 A. Okay (opening package).

18 Q. How can you identify it? Can you identify the
19 outside?

20 A. I can identify the outside as well, if you would like
21 me to do that.

22 Q. Yes. Let's do that first.

23 A. On the outside, this is marked with a laboratory
24 identification number. Every case that comes into the
25 laboratory has a unique identification number. And each

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1 piece of evidence is given an item number.

2 So this would be our lab number and item one. And it
3 also has my initials on it, and the agency that submitted
4 it.

5 Q. Okay.

6 A. And on the outside, I sealed it to be returned to
7 Barnwell. So I put a piece of evidence tape on it and put
8 my initials and the date, the date that I sealed it.

9 Q. So those are your initials?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. And on the inside, it is the gunshot residue kit that
13 I analyzed. I can tell because it has the identification
14 number as well as the item number, my initials, the date
15 that the kit was opened to be analyzed.

16 And it's also been sealed by myself and my initials
17 and date are there.

18 Q. Okay. Could you tell us what gunshot residue is and
19 how you test for it?

20 A. Uh-huh.

21 Q. Kind of walk us through the testing process --

22 A. Yes, ma'am.

23 Q. -- procedure.

24 A. Gunshot residue is a mixture of microscopic chemicals
25 that come out of the gun when it's fired.

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1 When you pull the trigger of a gun, the hammer falls,
2 the firing pin strikes the primer of a cartridge that's
3 placed in it.

4 The cartridge is made up of three different parts; a
5 primer, a cartridge casing which contains gunpowder, and
6 then the bullet.

7 The primer contains these shot-sensitive chemicals.
8 When the firing pin strikes it, creates a small spark.
9 The spark sets the gun powder on fire, builds up pressure
10 in the gun and pushes the bullet out of the gun and down
11 toward a target.

12 Well, a mixture of all these chemicals also come out
13 of this gun and head down range towards the target and
14 some of them can get on the hands of someone firing the
15 gun or anything that may be in close proximity to the gun
16 when it's discharged.

17 And these are standardized kits that the officer just
18 discussed taking. And they have a portion that is
19 particle lifts, which is just double-sided sticky tape,
20 and then swabs.

21 And they will take these double-sided sticky tape and
22 dab it over the hands of the person from whom they're
23 trying to collect gunshot residue. They'll seal that up
24 and then they'll begin by taking the swabs, put a few
25 drops of the nitric acid he was discussing and take the

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1 swabs from the hands as well.

2 Q. How did you test this? Or, did you test this
3 evidence?

4 A. Yes, ma'am. When they come in we analyze the swabs
5 and these particle lifts to determine the quantities of
6 metals that are found. There are three metals that are
7 primarily found in a cartridge that's placed in a gun to
8 be fired; lead, barium and antimony.

9 And these three elements in certain levels, ratio of
10 levels with one another, can indicate whether or not
11 someone has fired a gun or been near a gun when it was
12 fired.

13 Q. And were you just able to make any conclusions about
14 the items that you tested in this case?

15 A. Yes, ma'am. On the kit that I received from Brandon
16 Walker (sic) --

17 Q. Yes. Your Honor, at this time we'd like to put into
18 evidence State's Exhibit --

19 A. Twenty-four.

20 Q. -- Twenty-four and publish the results.

21 THE COURT: Okay. Any objection?

22 MR. MCCARLEY: No objection, Your Honor.

23 (Thereupon, State's Exhibit No. 24, gunshot residue
24 kit, was received into evidence.)

25 THE WITNESS: I'm sorry. The gunshot residue kit was

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1 from Brandon Parker. I'm sorry. I think I said Walker a
2 moment ago.

3 I found that the quantities of metal that were
4 detected did not indicate the presence of gunshot residue.

5 BY MS. MAURICE:

6 Q. So, it was negative?

7 A. Yes, ma'am.

8 MS. MAURICE: Would you please answer any questions
9 that Mr. McCarley may have?

10 THE COURT: Mr. McCarley, your witness.

11 MR. MCCARLEY: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MCCARLEY:

14 Q. I think this is the CSI part that Ms. Maurice was
15 speaking about earlier. I just want to make sure that
16 we're clear.

17 Ms. Simmons, is it possible -- Agent Simmons. I
18 apologize. Is it possible to fire a gun and have a
19 negative GSR kit?

20 A. It is, because gunshot residue has the consistency of
21 salt. So if you get it on your hands and you were to wipe
22 your hands or wash your hands, it would be removed from
23 your hands.

24 Q. Or even if someone were to sweat?

25 A. Yes, that is possible.

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1 Q. How long after a gunshot is fired can one use a GSR
2 kit effectively?

3 A. Approximately six hours. After six hours, we won't
4 even accept a gunshot residue kit that's collected longer
5 than six hours after an incident. And that's because the
6 human body absorbs things through the skin, you're
7 sweating, you're making contact with things with your
8 hands.

9 It's optimum to take a gunshot residue kit as quickly
10 as possible after the shooting incident.

11 Q. So, but it is good -- there's a six-hour window
12 there --

13 A. Yes, sir.

14 Q. -- where if you -- you could go somewhere and get a
15 GSR kit within six hours?

16 A. Yes, sir. As long as it was within six hours.

17 Q. Understood. Did you or your agency to the best of
18 your knowledge analyze a gunshot residue test for a Roger
19 Benjamin?

20 A. No, sir; we did not receive one.

21 Q. Did you all analyze a gunshot residue for any other
22 parties from this incident?

23 A. Not in this case. No, sir.

24 Q. Okay. Do you know if there were any bullets or
25 casings tested for fingerprints or any other type of

ILA SIMMONS - REDIRECT

1 physical evidence from this case by your agency?

2 A. It wasn't on my log-in form. So, no, sir; I don't
3 believe so.

4 Q. Okay.

5 MR. MCCARLEY: May I have a moment, Your Honor?

6 THE COURT: Sure.

7 (Pause. Attorneys conferring.)

8 MR. MCCARLEY: No further questions. Thank you, Agent
9 Simmons.

10 THE COURT: Anything on redirect?

11 MS. MAURICE: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. MAURICE:

14 Q. From the kit that you have there, can you tell what
15 time the kit was used or the test was taken from the
16 person?

17 A. You heard Officer Chavis a moment ago talk to you
18 about the form that is filled out with the person's name
19 from whom you're taking the GSR kit. Well, it also has a
20 slot there for the date and time of the incident, and the
21 date and time of the collection.

22 And I do have a copy of that in my case jacket, if you
23 would like me to check.

24 Q. Yes, please.

25 A. On the collection time was on October 15th of 2010,

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1 and it was approximately 7:41 (verbatim). The incident
2 was 16:41. So, approximately an hour after the shooting
3 the GSR kit was collected.

4 Q. So, you said 17:41?

5 A. Yes, ma'am.

6 MS. MAURICE: Okay. Thank you. No further
7 questions.

8 THE COURT: Anything on recross?

9 MR. MCCARLEY: No, Your Honor.

10 THE COURT: All right. Thank you, Agent Simmons. I
11 appreciate it.

12 MS. MAURICE: May she be excused, Your Honor?

13 THE COURT: Any objection to her being excused?

14 MR. MCCARLEY: None from the defense, Your Honor.

15 THE COURT: Thank you, ma'am, for coming. Appreciate
16 you being here.

17 All right. Ms. Maurice, your next witness.

18 MS. MAURICE: Your Honor, the State calls Roger
19 Benjamin.

20 ROGER BENJAMIN, having been duly sworn, was examined
21 and testified as follows:

22 THE CLERK: Please be seated and state your name for
23 the record.

24 THE WITNESS: Roger Benjamin.

25 THE COURT: Ms. Maurice, your witness.

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DIRECT EXAMINATION.

1
2 BY MS. MAURICE:

3 Q. Mr. Benjamin, where do you live?

4 A. I was staying at -- where I live now?

5 Q. Where did you live? Where do you live now?

6 A. I stay at 7390 now.

7 Q. Okay. And, where did you live on October the 15th of
8 2010?

9 A. 1070 Patterson Mill Road.

10 Q. And who did you live with at that residence?

11 A. My father.

12 Q. Okay. And do you know whose residence this is where
13 the incident occurred?

14 A. My grandmother.

15 Q. Okay. Do you know what the address is on that?

16 A. 7390 Patterson Mill Road.

17 Q. And that's your grandmother?

18 A. Yes, ma'am.

19 Q. Start and kind of go slow, start -- and look at me.
20 Start and tell me what, what was going on that day. Start
21 from --

22 A. Right in the beginning.

23 Q. -- you were in a car.

24 A. I was in the car. We were coming back from town. We
25 stopped at a store called Harry's. And I seen the blue

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1 Mercury pass by us and it stopped at the club called Two
2 Moon.

3 So my peoples like, do we know, do I know another way
4 toward, to the country.

5 So I was like, yeah, take the four-lane down and go to
6 Snelling. So we went that way and turned on Moores Road
7 to get back on Patterson Mill. The car still was behind
8 us, the blue Mercury.

9 So when we got, we turned off on my grandmother yard,
10 gunshots went off.

11 Q. What did you do?

12 A. I jumped out the truck, ran behind my -- the side of
13 my grandmother house to see who was shooting.

14 Q. Okay. And did you see who was shooting?

15 A. Yes, I saw who was shooting.

16 Q. Who was shooting?

17 A. Kendrick Jacobs and Dexter Brown.

18 Q. Okay. Is Mr. Brown here in the courtroom today?

19 A. He's right there.

20 Q. And can you identify him for us?

21 A. Right there.

22 Q. What is he wearing?

23 A. The white shirt, the yellow tie, brown slacks on.

24 MS. MAURICE: Your Honor, let the record show he's
25 identified Mr. Dexter Brown.

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1 THE COURT: The record so indicates he has identified
2 Mr. Brown, sitting in the courtroom.

3 BY MS. MAURICE:

4 Q. Whose car were you in?

5 A. I was in the burgundy Blazer.

6 Q. Okay. Do you know who owns that car?

7 A. Leslie Morrisey.

8 Q. Okay. And how -- where were you riding in the car?

9 A. I was in the front, the front passenger.

10 Q. Okay. Who was driving?

11 A. Brandon Parker.

12 Q. How did Brandon get the car?

13 A. His mother's -- his mother.

14 Q. So who's his mother?

15 A. Leslie Morrisey.

16 Q. So his mother owned the vehicle?

17 A. Yes, ma'am.

18 Q. Where had you gone before you went to Harry's?

19 A. We went, we went to go over to the barber shop to buy
20 some shoes, went by City Trends to get a outfit, then we
21 turned around and went to Family Dollar to pick up a bag
22 for his mother.

23 Q. Why were you going to Family Dollar?

24 A. We had -- because his mother asked him to ask us to
25 pick up a bag she left there.

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1 Q. So when y'all left his mama's house, where were you
2 headed?

3 A. Where were we headed?

4 Q. Where were you supposed to be heading?

5 A. To Barnwell.

6 Q. Okay. State's Exhibit Number One. Could you tell the
7 jury what this is a photo of? Do you recognize it?

8 A. My grandmother's trailer.

9 Q. Okay. Is this where you pulled in, you said?

10 A. Yeah. We turned in. Yes, ma'am.

11 Q. Okay. I'm going to show you what's been marked as
12 State's Exhibit 20. What is this?

13 A. The Blazer we was in.

14 Q. Okay. Who was in it?

15 A. Me and Brandon Parker.

16 Q. Okay. When you jumped -- when you ran out of the
17 vehicle, did you see anyone else around?

18 A. All I saw was the blue Mercury where Kendrick Jacobs
19 was sitting out the window -- he was sitting out the
20 window shooting across the roof. Dexter was shooting out
21 the driver's side window.

22 And they came and they turned around and they came
23 back. When they were going up the road, the only person
24 shooting was Kendrick.

25 Q. Okay. And you said they went up -- on down the road.

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1 I'm going to show you what --

2 A. They went to the store called Classy Mae's and turned
3 around.

4 Q. Okay. I'm going to show you what's been marked as
5 State's Exhibit Number Five. Can you describe -- what is
6 this?

7 A. That's the store called Classy Mae's.

8 Q. Okay. And if I am facing Classy Mae's, okay, I'm
9 facing it, where is your grandmother's house?

10 A. This. Right up the road there.

11 Q. How far?

12 A. I'm saying, like a house down.

13 Q. Okay. All right. A house down. And what is State's
14 Exhibit Three a photo of?

15 A. My neighbor's yard.

16 Q. Okay. Is that the one house in between the two?

17 A. Yes, ma'am.

18 Q. Okay. And State's Exhibit Two, what is that a photo
19 of?

20 A. My grandmother's driveway.

21 Q. Okay. And if you're facing -- if you're pulling into
22 the driveway, right there, describe which way your
23 grandmother's home is and which way the neighbor's home
24 is.

25 A. The neighbor's home this way, and my grandmother's

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1 house that way.

2 Q. Your neighbors are on the left of it?

3 A. Yeah.

4 Q. And your grandmother's house on the right?

5 A. Yeah.

6 Q. All right. How do you know Dexter Brown?

7 A. Grew up with him. My grandma helped raise him when
8 his father was in prison.

9 Q. How long have you known him?

10 A. Since we was 12, 11.

11 Q. Okay. How old are you now?

12 A. Twenty-one.

13 Q. Okay. How do you know Kendrick Jacobs?

14 A. My cousin.

15 MS. MAURICE: Would you please answer any questions
16 that Mr. McCarley has?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Mr. McCarley, your witness.

19 MR. MCCARLEY: May I borrow your podium, ma'am?

20 MS. MAURICE: Please.

21 CROSS-EXAMINATION

22 BY MR. MCCARLEY:

23 Q. Roger, how are you doing?

24 A. I'm all right.

25 Q. Did you give a statement to the police, to the police

ROGER BENJAMIN - CROSS

1 on the day of the incident?

2 A. Yeah.

3 Q. You did. Do you remember what you wrote down in that
4 statement?

5 A. Yeah.

6 Q. You do?

7 A. (Nods head.)

8 Q. Okay. In the testimony you just gave, there was no
9 mention whatsoever of a gentleman named T. Is that
10 someone that you remember being --

11 A. He was in the back seat behind Brandon Parker.

12 Q. He was in the back seat?

13 A. Yeah.

14 Q. Behind Brandon Parker?

15 A. Yes.

16 Q. There was no mention of him in your testimony with
17 Ms. Maurice a moment ago.

18 A. She didn't ask about him. The only thing she asked
19 about was Brandon Parker.

20 Q. Because there was another person named T. there?

21 A. Yeah.

22 Q. All right. Now, I have a copy here of your statement
23 if you need to be refreshed to it.

24 But here in your statement you made no mention
25 whatsoever of seeing Dexter Brown.

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1 A. I ain't wrote those statements..

2 Q. I do see here where Mrs. Morrisey wrote it for you.

3 But what happens is it has to be attested to by a police
4 officer sitting right there.

5 A. I ain't wrote one so.

6 Q. Okay. Well, it was signed by you and it's, you know,
7 you give this signature, you're telling the truth and
8 what's in this statement.

9 A. I'm telling the truth.

10 Q. Okay. Do you mind if I refresh his memory with this
11 statement, Your Honor?

12 A. You can.

13 THE COURT: Hand it up to him, give him a chance to
14 read it.

15 MR. MCCARLEY: (Document handed to the witness).

16 MS. MAURICE: Nick.

17 (Off-the-record discussion.)

18 THE COURT: Ladies and gentlemen, what we're going to
19 do is take about a 10-minute break right now and I'll let
20 y'all back in.

21 Remember, you've only heard part of the testimony in
22 this case. You cannot talk about anything you heard so
23 far. You can talk about anything else, the weather, the
24 MBA playoffs which I know you ladies are excited about.

25 Anyway, y'all are excused to go back to the jury room

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1 for about 10 minutes and then we'll bring you all back on
2 out. Okay. Thank you all.

3 (Jury exits courtroom at 2:30 p.m.)

4 THE COURT: Mr. Benjamin, were you able to read that
5 document?

6 THE WITNESS: Yes, sir. I read it.

7 THE COURT: You read it?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. And you understood what it said?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. All right. If you have any
12 questions about any of the words that were written down.

13 THE WITNESS: She wrote down some of the wrong stuff,
14 like, but it's all good.

15 THE COURT: Okay. But you've read it and you remember
16 her writing it down?

17 THE WITNESS: Yeah.

18 THE COURT: Okay. We'll take about a 10-minute
19 break. I told the jury we'll take about a 10-minute
20 break. When we come back, you can complete your cross-
21 examination.

22 MR. McCARLEY: Thank you.

23 MS. MAURICE: Your Honor, would you just explain he's
24 not supposed to talk to anybody? I don't want any
25 troubles.

ROGER BENJAMIN - CROSS

1 THE COURT: Mr. Benjamin, while we take a 10-minute
2 break you can't talk to anybody about your testimony or
3 anything like that. If you need to go to the restroom or
4 something like that, somebody can get you to go there, but
5 if you don't mind, sit right up here other than that.
6 They'll get you get back on the witness stand in just a
7 minute. All right?

8 THE WITNESS: All right.

9 THE COURT: Thank you, sir. We'll be in recess for
10 about 10 minutes. Okay.

11 (Thereupon, a break was taken at 2:31 p.m. Another
12 matter was heard by the Court and the hearing of this
13 cause resumed as follows at 2:52 p.m.:)

14 THE COURT: Ready to get started?

15 MR. McCARLEY: Yes, Your Honor we are.

16 (Jury enters courtroom at 2:55 p.m.)

17 THE COURT: All right. Ladies and gentlemen, I hope
18 that little break helped everybody. We will begin, go
19 back to cross-examination. Mr. Benjamin, you know you're
20 still under oath.

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay. Thank you, sir. All right.

23 Mr. McCarley, your witness.

24 CROSS-EXAMINATION

25 BY MR. McCARLEY:

ROGER BENJAMIN - CROSS

1 Q. Mr. Benjamin, we're going to go through this statement
2 bit by bit here so I can know exactly where you stand on
3 it.

4 Do you admit or deny saying: I rode with Brandon to
5 Barnwell. When we came back and stopped at Harry's store
6 and picked up T.

7 A. I admit that.

8 Q. Okay. We came down Patterson Mill Road and a light
9 blue Mercury followed us. When we turned in at 7390
10 Patterson Mill Road, they started shooting.

11 A. We ain't came all the way down Patterson. We came
12 down 64. We came and turned on Moores Road, then got back
13 on Patterson Mill Road.

14 Q. What I'm asking you is whether that's true.

15 A. Some of it, yes. We got -- we was on Patterson Mill
16 Road, so, yeah.

17 Q. Some of this is true?

18 A. Yeah.

19 Q. Okay. It then says: They started shooting. We
20 jumped out and ran. The guy T. yelled out Dexter,
21 Dexter.

22 Is that true or false?

23 A. No, I yelled out. I yelled out, Dexter.

24 Q. Mr. Benjamin, is that true or false, the guy T. yelled
25 out Dexter, Dexter?

ROGER BENJAMIN - CROSS

1 A. That's false.

2 Q. Do you admit or deny that? That's false? His
3 statement is false that you gave to Officer John Trottie
4 on the day of the event?

5 A. Not all of it. I ain't wrote it, you know what I'm
6 saying. I ain't know what she put. I ain't -- I was
7 all -- I was too worried about my life to worry about a
8 statement, you know what I'm saying.

9 Q. I understand what you went through. And I'm not
10 arguing the shooting, what you went through, the stress
11 you were under, sir.

12 I'm just trying to make sure that what's in this
13 statement that you gave to the police officers and that
14 you signed here, what is and is not truth in here. Did
15 you sign? Is that your signature at the bottom?

16 A. Yeah, I signed the bottom.

17 Q. Okay. Now, at the end you say: When we got out and
18 T. ran into the woods, we ran in the house.

19 A. I ran in the house.

20 Q. Okay. So, it was important enough for you to mention
21 where everybody ran, but it was not important enough for
22 you to mention who you thought was shooting at you on this
23 day. Because nowhere in this statement, sir, does it say
24 that you saw Dexter Brown shooting at you.

25 A. Sir, I ain't -- I'll be honest. I ain't even read

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1 this. I ain't even read it.

2 Q. Did you sign it?

3 A. I signed it. That's all I did. I ain't even read it.

4 Q. All right. Now, let's talk a little bit about T.

5 Okay? You picked T. up at Harry's?

6 A. That's all I know is T., picked him up.

7 Q. Okay. Where is T. now?

8 A. You tell me, I'll tell you.

9 Q. I don't know. He was in the car with you. He's never
10 been in my car to the best of my knowledge.

11 A. All he asked for was a ride as far as the Fork.

12 That's the name of a little club down the road from us.

13 Q. Okay.

14 A. So I ain't seen him no more after this incident, so I
15 don't know.

16 Q. Okay. But there was a third gentleman in the car?

17 A. Yes, sir.

18 Q. Named T.?

19 A. Yes, sir.

20 Q. Okay. All right. Did you have a gun on that day,

21 Mr. Benjamin?

22 A. No, sir.

23 Q. You didn't?

24 A. No, sir.

25 Q. Did you have time between this incident -- when this

ROGER BENJAMIN - REDIRECT

1 incident occurred to go back into the house and come back
2 out?

3 A. Yes.

4 Q. Before law enforcement arrived?

5 A. I went in the house. I was standing on the corner and
6 my grandmother and my niece and my great grandmother was
7 in there. I got to protect them.

8 Q. Understood. So, again, just to make sure. This
9 statement that you wrote, that you -- it has your
10 signature on it from the day of the event, parts of this
11 are true and parts of this are false. Is that correct?

12 A... Yes, sir.

13 Q. Okay. May I have a moment, Your Honor?

14 THE COURT: Sure.

15 (Pause.)

16 MR. MCCARLEY: No further questions from the defense.
17 Thank you, Mr. Benjamin.

18 THE COURT: Anything on redirect?

19 MS. MAURICE: Yes, please, Your Honor.

20 THE COURT: Okay.

21 REDIRECT EXAMINATION

22 BY MS. MAURICE:

23 Q. Who wrote this statement for you?

24 A. Leslie Morrisey.

25 Q. Okay. Who -- do you know what officer was there when

ROGER BENJAMIN - REDIRECT

1 it was written?

2 A. John Trottie.

3 Q. Okay. Did you have an opportunity to talk to another
4 officer later on?

5 A. Him right there (pointing). When he got ready to do
6 the hand, the hand thing, see if we had gunpowder on our
7 hand.

8 Q. Okay. How about the following day?

9 A. I talked to him (pointing).

10 Q. Mr. Jeff Croft?

11 A. Yes, ma'am.

12 Q. Okay. When -- okay. Did you tell Mr. Croft
13 everything --

14 A. Yes, ma'am.

15 Q. -- when you met with him? Okay. And explain to us,
16 when did you hear the shooting or when did you see the
17 shooting start?

18 A. When I -- when we turned off in my grandmother yard,
19 gunshots went off.

20 Q. Okay. So was that -- you were still in the vehicle?

21 A. Yes, because we was -- we was on a high-speed chase
22 trying to get away from them. But I tried to make it to
23 my father's house but we ain't had -- they was gaining on
24 us so fast as far as we could make it was to my
25 grandmother's. That's the only reason why we turned in

ROGER BENJAMIN - RECROSS

1 there.

2 Q. Okay. And when you pulled in your grandmother's
3 house, did you see -- you saw the vehicle or you saw the
4 --

5 A. Baby blue Mercury.

6 Q. Okay. Who was in the vehicle?

7 A. Dexter and Kendrick.

8 Q. Okay. And what if anything else did you see?

9 A. What else?

10 Q. Uh-huh.

11 A. I saw Kendrick shooting. He was shooting out the
12 window, shooting a Uzi, a Mack, whatever -- a Mack with
13 two -- I heard it had two 80-round clips.

14 Q. Well, what did you see? What could you see?

15 A. I seen a machine gun hanging out the window. I
16 looked -- when I looked back, I hit another gear because I
17 was getting -- I was getting light.

18 MS. MAURICE: No further questions, Your Honor.

19 THE COURT: Anything on recross?

20 MR. MCCARLEY: Yes, please, sir.

21 THE COURT: Okay. Your witness.

22 RECROSS-EXAMINATION

23 BY MR. MCCARLEY:

24 Q. The solicitor just talked about a conversation, some
25 meetings you had with Investigator Croft, is that

ROGER BENJAMIN - RE CROSS

1 correct? And you told her you were completely honest with
2 Mr. Croft?

3 A. Yes, sir.

4 Q. Okay. And you cooperated with him fully?

5 A. Yes, sir.

6 Q. And he works for the Barnwell County Sheriff's Office?

7 A. Yes, sir.

8 Q. Okay. And, did you cooperate and were you fully
9 honest with him because you have an outstanding charge
10 with them?

11 A. Outstanding charge?

12 Q. Yes. You have an open charge with the Barnwell County
13 Sheriff's Office. I'm wondering if that's the reason why
14 your statement is true and false yet you were completely
15 honest and cooperative --

16 A. What kind of charge?

17 Q. You have a receiving stolen goods charge that's open
18 with the Barnwell County Sheriff's Office. And my
19 question to you is, because earlier it was true and false
20 and now it's completely honest --

21 A. I paid \$500 for that charge.

22 Q. Sir, all I know is the information I have right here.

23 A. It's still -- what I mean on --

24 Q. These charges are open, sir. Now my question is --

25 MS. MAURICE: Objection, Your Honor. May we approach,

1 please?

2 THE COURT: Sure. Y'all come on up.

3 (Off-the-record discussion.)

4 THE COURT: Mr. McCarley.

5 BY MR. MCCARLEY:

6 Q. So are you hoping -- my question to you is: Are you
7 hoping -- because you have an open charge with Barnwell
8 County Sheriff's Office, are you hoping to get any benefit
9 or advantage by testifying here for the State here today?

10 A. I don't get what you're saying about an open charge.

11 Q. You have a charge that does not yet have --

12 MS. MAURICE: Objection, Your Honor.

13 UNIDENTIFIED SPEAKER: Two and a half years ago.

14 THE WITNESS: I pled guilty to that charge. I paid
15 you \$500. What you talking about, an open charge?

16 THE COURT: I understand the objection --

17 MR. MCCARLEY: No further questions.

18 THE COURT: Okay.

19 THE WITNESS: I paid for that.

20 THE COURT: Thank you, Mr. Benjamin. Okay. Any other
21 questions?

22 MR. MCCARLEY: No, Your Honor.

23 THE COURT: All right. Thank you. Yes, ma'am? Do
24 you have --

25 MS. MAURICE: Not for him, no.

LESLIE MORRISEY - DIRECT

1 THE COURT: Okay. You may step down. Thank you, sir.

2 MS. MAURICE: May I recall Officer Chavis just
3 regarding that last issue of, just the charge?

4 THE COURT: Y'all come on up here.

5 (Off-the-record discussion.)

6 THE COURT: Okay. Are you ready to call your next
7 witness?

8 MS. MAURICE: Yes, Your Honor. Ms. Leslie Morrisey.

9 LESLIE MORRISEY, having been duly sworn, was examined
10 and testified as follows:

11 THE CLERK: If you would, please, ma'am, be seated and
12 state your name for the record.

13 THE WITNESS: Leslie Morrisey.

14 DIRECT EXAMINATION

15 BY MS. MAURICE:

16 Q. Ms. Morrisey, where do you live?

17 A. 1120 Patterson Mill.

18 Q. How far, about, is that from this incident location?

19 A. Not quite a mile.

20 Q. Okay. And, I'm going to show you what's been marked
21 as State's Exhibit 18, 19 -- I think there's one more --

22 17, and 16. Do you recognize those?

23 A. Yes.

24 Q. Okay. Do you know whose vehicles that is?

25 A. Mine.

LESLIE MORRISEY - DIRECT

1 Q. Okay. And --

2 THE COURT: Which one are you referring to? Number 18
3 or 20?

4 MS. MAURICE: It's 19. State's Exhibit 19 and State's
5 Exhibit 18, Your Honor.

6 THE COURT: Okay. That's your vehicle?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay.

9 BY MS. MAURICE:

10 Q. And, Your Honor, a better, actually, picture of the
11 whole vehicle is State's Exhibit Number 20. Is that your
12 vehicle?

13 A. Yes.

14 Q. It's -- just another thing. Okay. Were you in that
15 vehicle when this occurred?

16 A. Not when this occurred, no.

17 Q. Okay. Who was driving the vehicle?

18 A. My son.

19 Q. Or who did you let drive it?

20 A. My son, Brandon.

21 Q. And tell us how Brandon ended up getting your car.

22 A. I had come to Barnwell, went to the Dollar Store and I
23 left a bag with bleach and stuff in it. And when I got
24 home I realized I left the bag and I asked him to go back
25 to the store, back to Barnwell to pick the bag up from the

LESLIE MORRISEY - DIRECT

1 store.

2 Q. Okay. Was anybody with him when he left your house in
3 your car?

4 A. When he left, I think, yeah, Roger was with him. And
5 my grandson was about to get in the truck but I told him
6 not to.

7 Q. How old is your grandson?

8 A. Ten.

9 Q. Could you tell us what kind of damage was done to your
10 vehicle?

11 A. The back passenger side, back passenger side glass had
12 a bullet hole in it. It shattered the glass. Both my
13 tires on the right side were flattened. There's a bullet
14 hole in the back bumper which is right here.

15 Q. Okay.

16 A. The headrest had a bullet hole in it.

17 And that was it -- oh. And the front end. Whenever
18 they pulled into the -- I guess they kind of went into the
19 driveway fast or whatever, and they ran up on, I don't
20 know, I don't know if it's like a hill or something that
21 goes in the driveway, and they messed up the front end on
22 my truck.

23 Q. Your car was pretty messed up?

24 A. Yeah. Pretty much.

25 Q. Okay. Ms. Morrisey, and I'm not pronouncing that

LESLIE MORRISEY - CROSS

1 right. I'm sorry.

2 A. Morrisey.

3 Q. Morrisey. Do you know where Brandon is today?

4 A. Yes.

5 Q. Could you tell us?

6 A. He's incarcerated in North Carolina.

7 Q. Okay. Would you please answer any questions that
8 Mr. McCarley has?

9 A. Yes.

10 THE COURT: Mr. McCarley, your witness.

11 MR. MCCARLEY: Thank you, sir.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. MCCARLEY:

15 Q. Ms. Morrisey, first of all, I apologize this happened
16 to your vehicle. Okay.

17 Your son's in prison on a weapons charge. Is that
18 correct?

19 A. Violation of probation and I'm not sure what the other
20 charge is.

21 Q. Possession a firearm by a felon.

22 A. Okay.

23 Q. Is that correct?

24 A. I guess. I'm not sure because he lives in North
25 Carolina. He was here visiting, so, okay. So, he's

GLEND A WILLIAMS - DIRECT

1 grown. I don't know.

2 Q. Okay. On October 15th, the day in question, did you
3 ever see Dexter Brown with a gun?

4 A. No. Huh-uh.

5 Q. Did you ever see Dexter Brown shoot a gun?

6 A. No. Huh-uh.

7 MR. McCARLEY: No further questions, Your Honor.

8 THE COURT: Anything on redirect?

9 MS. MAURICE: No, Your Honor.

10 THE COURT: Thank you, ma'am. I appreciate it. You
11 may step down. You can push that up if you want to.

12 Thank you, ma'am. All right.

13 Do you want to call your next witness?

14 MS. MAURICE: May she be excused? Did you want to
15 leave?

16 THE WITNESS: Yes.

17 THE COURT: Any objection to her being excused?

18 MR. McCARLEY: No, sir.

19 THE COURT: You are excused. Thank you, ma'am. I
20 appreciate you coming.

21 MS. MAURICE: Ms. Glenda Williams.

22 GLEND A WILLIAMS, having been duly sworn, was examined
23 and testified as follows:

24 THE CLERK: If you would, please, ma'am, be seated and
25 state your name for the record. Okay?

GLEND A WILLIAMS - DIRECT

1 THE WITNESS: I'm Glenda Williams.

2 DIRECT EXAMINATION

3 BY MS. MAURICE:

4 Q. Ms. Williams, where do you live?

5 A. 7430 Patterson Mill Road.

6 Q. About how far from the incident scene is that?

7 A. Probably two blocks.

8 Q. Okay. I'm going to show you what's been marked as
9 State's Exhibit Four. Can you identify what that is?

10 A. Yes.

11 Q. And what is it?

12 A. This is my neighbor's house.

13 Q. Okay. And on State's Exhibit Number Five, what is in
14 that photo?

15 A. This is my family store that -- this is where I was
16 working during, during the time that the incident
17 occurred.

18 Q. Okay. And next to the -- show us which one is the --
19 come up here for a moment if that's okay with the Judge.

20 THE COURT: You may step down.

21 THE WITNESS: (Complying.)

22 BY MS. MAURICE:

23 Q. Okay. Where is the family store?

24 A. It's right here.

25 Q. And where is your home?

GLENDA WILLIAMS - CROSS

1 A. It's back here behind the store actually.

2 Q. Okay. All right. Have a seat.

3 A. (Complying.)

4 Q. Were you home on the day of this incident?

5 A. I was working at the store.

6 Q. Okay. And, did you hear or see anything?

7 A. I heard a lot of shots being fired.

8 Q. Okay. And what did you do?

9 A. At the time, you know, when I first heard them I
10 didn't, you know, pay them any attention. But then they
11 start coming more and more so and I took a peek out the
12 door. Then I realized that someone was shooting.

13 So I closed the big door and locked it.

14 Q. Okay. Did you see anything?

15 A. No, I did not.

16 Q. You didn't see the vehicle?

17 A. No.

18 Q. And who else was in the store with you?

19 A. No one at the time.

20 MS. MAURICE: Okay. Ms. Williams, will you answer any
21 questions that Mr. McCarley might have?

22 THE COURT: Mr. McCarley, your witness.

23 MR. MCCARLEY: Thank you, sir.

24 CROSS-EXAMINATION

25 BY MR. MCCARLEY:

JEFF CROFT - DIRECT

1 Q. Ms. Williams, how are you doing?

2 A. Fine.

3 Q. Again, I apologize that this occurred in your
4 neighborhood where you live and where you work.

5 Just a couple short questions. This gentleman, Dexter
6 Brown, okay, did you see him --

7 A. No.

8 Q. -- with a gun on October 15th?

9 A. No, I did not.

10 Q. Did you see him shooting a gun on October 15th?

11 A. No, I did not.

12 MR. McCARLEY: We have no further questions for this
13 witness, Your Honor.

14 THE COURT: Anything on redirect? Wait. I know
15 you're anxious, but let me ask her if she's got any
16 questions on redirect. Okay.

17 MS. MAURICE: No, Your Honor. May she be excused?

18 THE COURT: Any objection to her being excused?

19 MR. McCARLEY: No, sir.

20 THE COURT: Ms. Williams, you are excused. Thank you,
21 ma'am.

22 THE WITNESS: Uh-huh.

23 MS. MAURICE: Next witness, Your Honor, is Mr. Jeff
24 Croft.

25 JEFF CROFT, having been duly sworn, was examined and

JEFF CROFT - DIRECT

1 testified as follows:

2 THE CLERK: Please state your name for the record.

3 THE WITNESS: Jeff Croft.

4 THE COURT: Your witness, Ms. Maurice.

5 DIRECT EXAMINATION

6 BY MS. MAURICE:

7 Q. Investigator Croft, where do you work?

8 A. I work for the Barnwell County Sheriff's Office.

9 Q. How long have you worked for them?

10 A. Since 2003.

11 Q. Did you work in law enforcement prior to that time?

12 A. No, ma'am.

13 Q. Okay. What did you do prior to that time?

14 A. I owned my own company.

15 Q. I'm being nosey. How did you get involved with the
16 incident on October 15th, 2010?

17 A. The call came out as shots fired in the area of 7390
18 Patterson Mill Road. Several officers were responding to
19 that location. The call was put out as a code three
20 call. I think it was a code three call.

21 Q. What does that mean?

22 A. Which is lights and siren. Emergency call.

23 Q. Okay.

24 A. While en route to the location, I was contacted by
25 some officers who were already on the scene, specifically

JEFF CROFT - DIRECT

1 Sheriff Ed Carroll, and turned around to go back to our
2 office to secure our dog truck.

3 Q. Why? Why would you go to get the dogs?

4 A. Initial information was coming in pretty fast. There
5 was a lot of radio communication. And it was thought that
6 one of the suspects or a suspect may be on foot.

7 And I was turning around to get our dog wagon with our
8 dogs, our tracking dogs to start the track as soon as we
9 got there.

10 Q. Did you ever end up using the dogs?

11 A. Prior to my making it -- well, I made it back to our
12 office. I did secure our dog truck. I secured two
13 bloodhounds in the dog truck.

14 And while en route back to the incident location, I
15 was contacted with the information as to who the suspects
16 were in the incident and the vehicle they possibly were
17 driving in.

18 At that time I staged my -- well, staged the dog truck
19 at the corner of Patterson Mill Road and Highway 64 in
20 order to -- that was the last known direction of travel,
21 was in my direction.

22 Q. So at that time, were you looking for anyone on foot?

23 A. No, we weren't.

24 Q. And what were you looking for? What was the
25 description of the vehicle?

JEFF CROFT - DIRECT

1 A. At that time it was put out as a light blue, baby blue
2 Ford, unknown make or model at that time. We just knew it
3 was an older model, light-blue Ford.

4 Q. Okay. And tell us what happened after that.

5 A. I staged at that location for a period of time which
6 would have allowed -- if the driver of the suspect vehicle
7 would have been coming in my direction, they would have
8 made it to me.

9 The scene was secure. I was notified that the scene
10 was being taken care of by Investigator Chavis as far as
11 the processing of the scene.

12 So I began to patrol in the dog truck in the known
13 areas where the two individuals who I was given their
14 names, where they frequented.

15 Q. So who were you looking for?

16 A. I was looking for Dexter and Kendrick Jacobs.

17 Q. And then what happened? What were you looking for, I
18 mean --

19 A. While patrolling some known locations where the two
20 young men frequent, I was on Clinton Street headed toward
21 Jackson Street. And I met a white-in-color Ford which I
22 do know belongs to Dexter Brown.

23 I could not see who was driving the vehicle. This was
24 a short while after the incident had taken place. I
25 immediately turned around on the white Ford vehicle, was

JEFF CROFT - DIRECT

1 able to get the tag information from the vehicle to verify
2 that it was indeed the vehicle that I thought it was.

3 Called it into central dispatch, advised the other
4 officers that I was behind Dexter Brown's white-in-color
5 vehicle, and would be initiating a traffic stop as soon as
6 I had backup available.

7 I couldn't see into the vehicle as far as who was in
8 the vehicle or who was driving. So I initiated a traffic
9 stop when my backup got closer. It was in the area of the
10 old Shuron Plant on Clinton Street.

11 I activated the blue lights on the dog wagon. The
12 driver immediately pulled over.

13 I approached from the driver's side, clearing the back
14 seat as I approached to make sure that there was no one
15 laying down in the vehicle or trying to hide in the
16 vehicle.

17 When I got to the driver's side, I could see that it
18 was a female driver. I asked for her identification and
19 she did give it to me.

20 Q. Okay. And who was she, according to the
21 identification?

22 A. Ms. Ingram. I apologize. I can't say her first name,
23 but it's Ms. Ingram and it was Dexter Brown's girlfriend.

24 Q. And what if anything happened next?

25 A. I spoke with Ms. Ingram at the traffic stop. I did

JEFF CROFT - DIRECT

1 ask, trying to find, if she had seen or spoken with Dexter
2 or Kendrick. She did.

3 MR. McCARLEY: Objection.

4 BY MS. MAURICE:

5 Q. Were you able to get a phone number?

6 A. From the investigation on the side of the road with
7 Ms. Ingram, I was able to acquire a phone number for
8 Mr. Brown and Mr. Jacobs.

9 Q. Did you call that number?

10 A. I did call the number that she identified as being the
11 one for Mr. Brown.

12 Q. Okay. And when you called it, what happened?

13 A. When I dialed the number Mr. Kendrick Jacobs answered
14 the telephone. I asked for Mr. Brown and he said he
15 wasn't there.

16 MR. McCARLEY: Objection.

17 THE COURT: Okay.

18 MR. McCARLEY: Hearsay. No way to tell who was on the
19 other end of that phone, Your Honor.

20 THE COURT: Okay. I'll sustain the objection. The
21 jury is directed to disregard the testimony about who
22 answered the phone and like that. Okay.

23 Thank you.

24 BY MS. MAURICE:

25 Q. As a part of your investigation, did you learn who

JEFF CROFT - DIRECT

1 owned the vehicle that had been described in the incident?

2 A. Yes, ma'am. As a result of the traffic stop on
3 Mr. Brown's vehicle and speaking with Ms. Ingram, she
4 advised me that she --

5 MR. MCCARLEY: Objection. Hearsay.

6 THE COURT: Sustained.

7 THE WITNESS: Through investigation from the traffic
8 stop, I learned that Mr. Brown was in a light blue Mercury
9 Grand Marquis.

10 BY MS. MAURICE:

11 Q. Whose car was the Grand Marquis?

12 A. Belonging to Mr. John Ingram. I contacted central
13 dispatch, gave them this information and asked them to
14 please scan Mr. Ingram and see if he indeed had a blue
15 Grand Marquis registered to himself.

16 Central dispatch ran Mr. Ingram's information and came
17 back and I think it was a 1992 Ford Grand Marquis which
18 was described, or I learned in the investigation.

19 Q. Okay. As a part of the investigation, did you have an
20 opportunity to interview witnesses?

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

22 Q. And who did you interview?

23 A. I interviewed Mr. Benjamin. I interviewed --

24 Q. And -- okay. You interviewed Mr. Benjamin?

25 A. Mr. Roger Benjamin. I interviewed Ms. Alice Thompson.

JEFF CROFT - DIRECT

1 Q. Now who is Ms. Alice Thompson?

2 A. Ms. Alice Thompson is, she lives at 7390 Patterson
3 Mill Road. And this is the location where the incident
4 took place.

5 Q. Okay. And I'm going to show you what's been marked as
6 State's Exhibit Number One. Is that the home you're
7 referring to?

8 A. Yes, ma'am. This is the residence located at 7390
9 Patterson Mill.

10 Q. And when you went to interview Ms. Thompson, who else
11 lived there?

12 A. I think Ms. Thompson's mother, elderly mother lives
13 there with her. And there's a young child that stays
14 there a good portion of the time.

15 Q. And you interviewed Ms. Thompson?

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

17 Q. And were -- was -- were you able to -- or, what
18 information were you able to learn from that interview?

19 MR. MCCARLEY: Objection. Hearsay.

20 MS. MAURICE: Tell us who else you spoke to.

21 THE COURT: Rephrase the question. Thank you, ma'am.

22 BY MS. MAURICE:

23 Q. Tell us who you spoke with.

24 A. I spoke with Ms. Alice Thompson.

25 Q. Okay. And did she see anything?

JEFF CROFT - DIRECT

1 MR. McCARLEY: Objection. Hearsay.

2 THE COURT: Sustained.

3 BY MS. MAURICE:

4 Q. Who else did you speak with?

5 A. At that time at that residence just Ms. Alice
6 Thompson.

7 Q. Okay. Did you talk to any other witnesses?

8 A. I did.

9 Q. Who else?

10 A. Roger Benjamin.

11 Q. Okay. Did you speak with anyone else?

12 A. Not at that time.

13 Q. As a part of the investigation through those days,
14 that was it?

15 A. Initially. Yes, ma'am.

16 Q. Okay. Were you able to locate Mr. Dexter Brown?

17 A. Not the day of the incident, no, ma'am, but I was able
18 to locate Mr. Brown a couple days later.

19 Q. And how did you locate Mr. Brown?

20 A. I continued my investigation into the incident.

21 Doing investigative work you have a lot of street work
22 that has to be done. I began to get anonymous calls,
23 anonymous tips.

24 I did receive call on Sunday, the 18th, I think it is.

25 Q. Of October?

JEFF CROFT - DIRECT

1 A. Yes, ma'am. October the 18th.

2 Q. And --

3 A. And was given some information.

4 MR. MCCARLEY: Objection. Hearsay.

5 THE COURT: Overrule the objection.

6 MR. MCCARLEY: Yes, sir.

7 THE COURT: Thank you.

8 THE WITNESS: I was given some information which led
9 to further investigation and some follow-up corroboration
10 of information that I was given.

11 The information given, the caller described a truck --

12 MR. MCCARLEY: Objection. Hearsay.

13 THE COURT: We'll sustain that.

14 BY MS. MAURICE:

15 Q. Were you able to get a location that you did a
16 stakeout I guess is what it was called?

17 A. With the information I received I had to corroborate
18 the information --

19 Q. Okay.

20 A. -- that I was given. I did go to the location that
21 was given, and I was looking for certain things.

22 Q. And did you see what you were looking for?

23 A. I did see exactly what I was looking for.

24 Q. And what was that?

25 A. I saw a black-in-color Chevrolet truck pull in to the

JEFF CROFT - DIRECT

1 apartment complex known as Woodmont Apartments. I
2 observed the vehicle pull into the exact location that was
3 described.

4 I did verify that it was being driven by a black
5 male. Once I was able to see which apartment this truck
6 actually went to, I contacted First Sergeant Sanders and
7 advised him of this information and told him that I was
8 going to ride by this location in order to observe for
9 myself from the front of the location.

10 I moved from where I was sitting. I went around the
11 block. And I drive a blue Explorer.

12 I went in front of the apartment located on the corner
13 of Travis and Bomway Street. It's known as the Woodmont
14 Apartment Area. This is the same area that the truck
15 pulled into.

16 When I went by there was several individuals standing
17 on the front porch and one which I believed to be, at that
18 time, Mr. Dexter Brown.

19 Rather than pulling in, for officer safety standpoint,
20 I did go down far enough that I could still see the
21 residence, both doors, and turned my vehicle around while
22 I was on the phone with First Sergeant Sanders and asking
23 him to, you know, come to my location.

24 Q. Okay. And did he come to your location?

25 A. He did.

JEFF CROFT - DIRECT

1 Q. Okay. And what did y'all do then or what did you do?

2 A. Once First Sergeant Sanders was pulling into the yard,
3 I also pulled into the front yard. First Sergeant Sanders
4 pulled in kind of to the side of the apartment to where he
5 could see the back door.

6 I approached the front door and made contact with a
7 black male who said that he lived at that --

8 MR. McCARLEY: Objection. Hearsay.

9 THE COURT: I'm going to overrule that. Go ahead.

10 MR. McCARLEY: Yes, sir.

11 THE COURT: Thank you.

12 THE WITNESS: I made contact with a black male who
13 said that he lived at this location. I asked him if
14 Dexter was there. He said he thought he ran out the back
15 door.

16 I advised him that I did see a person who I thought to
17 be Dexter Brown standing on the porch as I went by and he
18 entered the residence. I could see the back door from
19 where I was parked and no one had exited the back door.

20 There was three individuals at the back door but none
21 was Dexter Brown.

22 I did ask the young man to come out and speak with
23 me. I explained to the young man what was going on. And
24 he said, you're welcome to come in and take a look. When
25 I went through the front door, there was several people in

JEFF CROFT - DIRECT

1 the living room area. And I had only asked the young man
2 about Dexter.

3 The young man was escort -- well, we went through the
4 front door. The young man's mother who owned the place
5 also said, you know, you can look. I entered the front
6 door with the young man escorting me through his
7 residence.

8 When I went to go by the kitchen which is to the
9 right, I looked in the kitchen and I saw a person which I
10 identified as Kendrick Jacobs. I was by myself in the
11 house. There was a lot of people in the house. I backed
12 up one step, pointed to the young man to verify that that
13 was who it was because he was sitting with his back to me
14 and he did have a hat on.

15 The young man said, yes, you didn't ask me about
16 Kendrick. I walked into the kitchen. I asked Kendrick to
17 show me his hands, put them behind his back. I handcuffed
18 him and escorted him as I walked backwards out of the
19 residence.

20 BY MS. MAURICE:

21 Q. What did you do with Kendrick?

22 A. Kendrick was given to First Sergeant Sanders who was
23 standing in the yard to take custody of him or control of
24 him.

25 Q. Is it still just the two officers?

JEFF CROFT - DIRECT

1 A. It is still just the two officers and there is a
2 number of people here.

3 Q. Okay.

4 A. I then re-entered the residence, checked the kitchen
5 again. We went down a small hallway. There's a
6 bathroom.

7 The young man reached in, flipped the bathroom light
8 on. I was able to clear the bathroom without actually
9 going in.

10 We got to a bedroom and the young man did not -- he
11 opened the door but he didn't flip the light on. I
12 requested that he turn the light on. He said, well -- so,
13 we ended up turning the light on. As I pushed the bedroom
14 door further open I could see the closet which was cracked
15 a few inches, enough that -- it was cracked a few inches.

16 I did enter cautiously to the bedroom. When I
17 approached the closet door, I reached my hand up in order
18 to get the door or secure the door should it try to fly
19 open.

20 At that time the door did come forward. I allowed the
21 momentum of the door to come on open. Mr. Brown was
22 located in the closet. I advised him to turn around,
23 place his hands behind his back.

24 I only had one set of cuffs which were on Mr. Jacobs.
25 So I was in this residence by myself with Mr. Brown and

JEFF CROFT - DIRECT

1 everybody else that was in there. For officer safety, I
2 did exit the residence rather rapidly.

3 I had Mr. Brown's hands behind his back in an escort
4 position or a way that I could try to control him. When
5 we made it outside, he was not handcuffed.

6 Q. At that time did he know he was under arrest --

7 A. Yes, he did.

8 Q. -- or was he under arrest?

9 A. Yes, he did. He was advised that he was under arrest.

10 Q. Okay. Keep going.

11 A. When we exited into the front yard there was a number
12 of people out there. Mr. Brown made a motion as to try to
13 break away.

14 At that time I advised him that I was going to carry
15 him to the ground, he was under arrest, you know, please
16 don't resist. He no longer resisted. We were able to
17 handcuff him and we placed him in First Sergeant Sanders'
18 car.

19 Q. Okay. During the whole time of this investigation and
20 up till now, have you ever recovered any guns to your
21 knowledge that were involved in this incident?

22 A. We have not recovered the weapons. No, ma'am.

23 MS. MAURICE: Give me just one moment, please, Your
24 Honor.

25 THE COURT: Take your time.

JEFF CROFT - CROSS

1 (Pause.)

2 MS. MAURICE: Would you please answer any questions
3 that Mr. McCarley has?

4 THE COURT: Mr. McCarley, your witness.

5 MR. MCCARLEY: Thank you, sir.

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. MCCARLEY:

9 Q. Investigator Croft, how are you doing?

10 A. Doing fine, sir.

11 Q. Good, good.

12 Just to clear up sort of a loose end from earlier.

13 Are there gunshot residue kits at Barnwell County
14 Sheriff's Office?

15 A. Yes, we keep gunshot residue kits at the sheriff's
16 office.

17 Q. And about how far is that from the scene of this
18 incident?

19 A. It's 7.3 miles down Patterson Mill Road and from there
20 it's a couple miles to our office.

21 Q. Understood. Understood. I appreciate it.

22 And when, when did you arrive on the scene? There was
23 a lot of back and forth about going to get dogs and
24 whatnot. I just want to make sure.

25 A. I never went to the scene. I was advised --

JEFF CROFT - CROSS

1 Q. So you never saw Dexter Brown at the scene?

2 A. I never made it to the scene. No, sir.

3 Q. Now, there was also a lot of conversation about a car,
4 a light blue Mercury or Ford of some sort. And I
5 understand that your agency did find that car. Is that
6 correct?

7 A. There was -- there was a lot of communication
8 regarding a light blue Ford or Mercury, in the initial.

9 Q. Yes, sir. And did you all find that? Did law
10 enforcement find that car?

11 A. We were contacted -- I think it was on Sunday morning
12 following the incident. The incident occurred on Friday.
13 Early hours of Sunday morning -- and advised that the car
14 was back in the owner's yard, Mr. John Ingram, I think was
15 his name.

16 Q. And did you all go take a look at that car?

17 A. Officers did go take a look at that car, had --

18 Q. Did they search that vehicle?

19 MS. MAURICE: Objection, Your Honor, I'm not sure of
20 what Mr. Croft actually knows --

21 THE COURT: Well --

22 MS. MAURICE: -- about the vehicle.

23 THE COURT: Do you know whether they searched it or
24 not?

25 THE WITNESS: I can answer it, but I can't answer it

JEFF CROFT - CROSS

1 with a yes or a no.

2 BY MR. McCARLEY:

3 Q. Okay. Go ahead. Go. Do you want me ask it again?

4 Did they search the car?

5 A. The officers on the scene contacted me immediately
6 upon them saying that the car had been reported back in
7 Mr. John's yard, Mr. John Ingram's yard on Red Oak Road.

8 The officer called me back and stated on the phone
9 that, Jeff, the car has been cleaned out. There's
10 ~~apparently~~ vacuum marks. You can see where it's --
11 it's -- it appears noticeably been cleaned out. There's
12 absolutely no reason for you to come out here.

13 Q. So when you say the car was clean, there's no evidence
14 whatsoever that anything was shot from that vehicle in any
15 form or fashion?

16 A. The only evidence that they could observe which was
17 relayed to me is that it apparently had vacuum marks on
18 the floor and carpet, seats.

19 Q. Vacuuming your car is evidence of shooting out of it?

20 A. That's the -- I said, that's the only evidence that
21 they could relay to me that they saw; that it had been
22 cleaned up and there was no need for me to come out and
23 process the car.

24 Q. Understood. Moving on. I also understand that a
25 search warrant was executed for the house of Dexter

JEFF CROFT - CROSS

1 Brown's father?

2 A. That is correct.

3 Q. And was there any evidence, any physical evidence
4 whatsoever found in that home that would possibly link
5 Dexter Brown to this shooting in any form or fashion?

6 A. The weapons were not recovered if that's what you're
7 asking.

8 Q. Okay. Was anything found at the home that would link
9 this to Dexter where you searched his father's home where
10 you believed that he spent time and was anything
11 recovered?

12 You mentioned guns. There's never been a gun
13 mentioned by anybody. Nobody's seen a gun in this entire
14 thing. Was there anything there?

15 A. There was evidence that Dexter Brown did indeed live
16 there. His identification was recovered there. There was
17 weapons found there but not the weapons that we were
18 looking for involved in the shooting.

19 Q. Understood.

20 A. And ...

21 Q. Okay. Let's talk a little bit about your
22 investigation into the crime as a whole. There's been
23 some back and forth as to, concerning Mr. Benjamin's
24 testimony as to who was in the vehicle.

25 As an investigator, how many people do you believe

JEFF CROFT - REDIRECT

1 were in the vehicle?

2 A. From my investigation, I can only place two people in
3 the vehicle. I have not been able to identify this person
4 who is named T., and no one else has been able to locate
5 or identify other than -- an individual named T.

6 Through my investigation I can only place two victims
7 in the car. I can't place the third one in there.

8 Q. Understood.

9 May I have a moment, sir?

10 THE COURT: Sure.

11 (Pause.)

12 MR. MCCARLEY: No further questions for Investigator
13 Croft. Thank you, sir.

14 THE COURT: Anything on redirect?

15 MS. MAURICE: Yes, Your Honor. Just a few things.

16 THE COURT: Okay.

17 REDIRECT EXAMINATION.

18 BY MS. MAURICE:

19 Q. How long after the incident was the search warrant?

20 A. It was quite a few months. I would actually have to
21 look at the date to tell you. It was quite awhile.

22 Q. Okay. And where did you say the vehicle, the blue
23 vehicle was found?

24 A. Mr. Ingram's residence. I think it's located on Red
25 Oak Road.

1 Q. Did you ever have an opportunity to speak with
2 Mr. Ingram?

3 A. I never spoke with Mr. Ingram.

4 Q. All right. You just know that that's the owner of the
5 vehicle?

6 A. Through our central dispatch who ran Mr. Ingram's
7 name, was able to give us the 28 information, which is the
8 tag information, compare it to the VIN on the vehicle. It
9 belongs to Mr. Ingram and his daughter drives the car
10 which is Ms. Ingram, Dexter's girlfriend.

11 Q. Mr. McCarley asked this. You testified that it had
12 been -- you didn't process it and it had been vacuumed
13 out.

14 Did they say anything about it, the outside of the
15 vehicle?

16 A. The entire car appeared clean.

17 Q. Okay.

18 A. As it was -- it was cleaned. It was located two days
19 after the incident location or after the incident occurred
20 and it appeared to the officer --

21 Q. No damage?

22 A. -- no damage. It was clean.

23 MS. MAURICE: Okay. No further questions, Your Honor.

24 THE COURT: Anything on recross?

25 MR. MCCARLEY: No, sir.

1 THE COURT: All right. Thank you, Mr. Croft. You may
2 step down.

3 THE WITNESS: Thank you, sir.

4 THE COURT: Yes, sir.

5 MS. MAURICE: May we approach, Your Honor?

6 THE COURT: Sure.

7 (Off-the-record discussion.)

8 THE COURT: Ladies and gentlemen, you remember how at
9 the very first I told you we were going to have these
10 meetings sometimes where we'd talk about things that y'all
11 didn't need to know about because we'd be talking about
12 the facts?

13 The fact I was talking about was we might stop early
14 today. Hope y'all don't mind. We're going to let y'all
15 go home. Be back here at -- what time do you want them to
16 be back?

17 THE CLERK: 9:30 suit you?

18 THE COURT: Y'all be back at 9:30 in the morning.

19 Okay. Now, you haven't heard all the evidence in this
20 case. Okay.

21 What have I been saying over and over? You can't talk
22 about it among yourselves. When you go home tonight you
23 can't talk to your family and friends about, guess what
24 they said today, guess what I heard, all of that kind of
25 stuff.

ALICE THOMPSON - DIRECT

1 ON THURSDAY, MAY 12, 2011 AT 10:10 A.M.:

2 THE COURT: Anything from the State before we get
3 started?

4 MS. MAURICE: No, Your Honor.

5 THE COURT: Okay. Anything from the defense before we
6 get started?

7 MR. McCARLEY: No, sir.

8 THE COURT: Go ahead and bring the jury on in. Thank
9 you.

10 (Jury enters courtroom at 10:10 a.m.)

11 THE COURT: Good morning, ladies and gentlemen. I
12 hope y'all had a good evening and you got some rest and
13 ready to get started this morning.

14 I want to make sure that nobody read anything in
15 newspaper, saw anything on TV, went on the Internet,
16 Googled anything, rode by the scene, had anybody contact
17 you or anything like that. Nothing's happened? All
18 right.

19 Then we're ready to get started again. Thank you.
20 All right.

21 Ms. Maurice, call your next witness.

22 MS. MAURICE: Thank you, Your Honor. The State calls
23 Ms. Alice Thompson.

24 THE COURT: Okay.

25 ALICE THOMPSON, having been duly sworn, was examined

ALICE THOMPSON - DIRECT

1 and testified as follows:

2 THE CLERK: Please be seated. State your name for the
3 record.

4 THE WITNESS: Alice Thompson.

5 DIRECT EXAMINATION

6 BY MS. MAURICE:

7 Q. Good morning.

8 A. Good morning.

9 Q. Could you tell us where you live?

10 A. 7390 Patterson Mill Road, Barnwell.

11 Q. Who lives with you?

12 A. My mother. My --

13 Q. How old is your mama?

14 A. Eighty-seven.

15 Q. Okay.

16 A. My little great-granddaughter, she's seven years old,
17 and my grandson, he's 21.

18 Q. And who's your grandson?

19 A. Roger Benjamin.

20 Q. Okay. And please describe to the jury what happened
21 on October 15th. And start from the beginning and walk us
22 through.

23 A. Me and my little granddaughter was watching TV, she
24 loves to look at cartoons. And I heard something, I
25 thought it was firecrackers, coming down the road. So I

ALICE THOMPSON - DIRECT

1 got up and went to the door and walked out on the porch
2 and the car come by shooting. Kendrick was sitting on, in
3 the window shooting over the top of the car all the way
4 down to Classy Mae's Store, and they turned around and
5 come back and they stopped right in my mother's driveway,
6 the side of the road and they just shot, they just shot.

7 And I come, I come on out on the porch and I said,
8 Dexter, I said, man, what y'all doing? And they just
9 shot.

10 If my little granddaughter -- she love to play right
11 there, if she'd a been out there that day, she wouldn't be
12 here.

13 Q. What did you do then?

14 A. Run back in the house and laid on top of ...

15 Q. How do you know Dexter Brown?

16 A. I used to keep him when his father was in prison.

17 That's how I know Dexter.

18 Q. And how well do you know him?

19 A. I know him good.

20 Q. And how --

21 A. Just like a son or a grandson.

22 Q. How close were you when you walked out on the porch to
23 where Dexter was shooting?

24 A. This is the door, I'd say about three feets --

25 Q. Okay.

ALICE THOMPSON - DIRECT

1 A. -- out on the porch, because my banister is not that
2 far.

3 MS. MAURICE: Is it okay if she steps down from the
4 witness stand?

5 THE COURT: Oh, yeah.

6 MS. MAURICE: This is State's Exhibit One.

7 THE COURT: Wait one second. Let the defense counsel
8 get over there so he can watch, if you don't mind.

9 MS. MAURICE: Okay.

10 THE COURT: Thank you, ma'am.

11 BY MS. MAURICE:

12 Q. Okay. Is this your home?

13 A. Yes, ma'am.

14 THE COURT: And that's exhibit? I'm sorry.

15 MS. MAURICE: One.

16 THE COURT: One. All right.

17 BY MS. MAURICE:

18 Q. Can you see where you were standing?

19 A. I was standing right here.

20 Q. Okay.

21 A. Come right here. On the side right here. When I come
22 out the door, when I came out, like, this is my porch
23 here. I come out just like this. And I'm looking right
24 at them, both of them.

25 Q. Okay. And how about this road?

ALICE THOMPSON - DIRECT

- 1 A. That's the road. That's the highway.
- 2 Q. Uh-huh.
- 3 A. And they stopped, when they turn in the driveway, they
- 4 stopped right in my driveway and shot the van up.
- 5 Q. Let me show you State's Exhibit Two. What is that?
- 6 A. That's the road.
- 7 Q. Yeah. Where is your home when you're facing that?
- 8 A. Right here.
- 9 Q. Okay. All right. And what is this?
- 10 A. That's the driveway.
- 11 Q. Okay. Is that the driveway you were just talking
- 12 about?
- 13 A. Yes, ma'am.
- 14 Q. Okay. All right.
- 15 A. That's it.
- 16 Q. Won't you sit back down, please?
- 17 A. (Complying.)
- 18 Q. Ms. Alice, could you see what they had in their hands?
- 19 A. Yes, ma'am. I saw the guns. They looked like, I'd
- 20 say, machine guns. Both of them had one.
- 21 Dexter was driving and he was shooting. And Kendrick
- 22 was sitting in the window over the roof shooting over the
- 23 top.
- 24 Q. Okay.
- 25 A. Both of them. Just like I'm looking at y'all, I'm

ALICE THOMPSON - DIRECT

1 looking at them.

2 Q. And is Dexter in the courtroom today?

3 A. Yes, ma'am. Right there.

4 Q. Can you identify him?

5 A. Right there, with the blue shirt on.

6 Q. Please let the record show that the witness did
7 identify Mr. Brown.

8 THE COURT: The record will note that Mr. Brown was
9 identified.

10 MS. MAURICE: Thank you.

11 BY MS. MAURICE:

12 Q. Could you describe the car?

13 A. It was light blue. I don't know the model of the car,
14 but it was light blue.

15 Q. Okay. All right. And after all of this happened,
16 what did you do?

17 A. It scared me. I ain't never seen nothing like that
18 before in real life, not like that.

19 Q. Who did you call?

20 A. I called the police, 9-1-1, because there's kids be
21 next door to me, my next-door neighbor. Only, the Lord
22 just put them where they wasn't there that day because
23 they'd be all out in the yard playing.

24 If they did, there'd a been a lot of dead peoples out
25 there. I put it that way.

ALICE THOMPSON - DIRECT

1 Q. Okay. Have you listened to the 9-1-1 tape?

2 A. Yes, ma'am.

3 Q. Did I play it for you?

4 A. Yes, ma'am.

5 Q. And can you say that was you that was on the 9-1-1
6 tape?

7 A. Yes, ma'am. That was me.

8 Q. And was it accurate?

9 A. Yes, ma'am.

10 Q. Okay. Your Honor?

11 THE COURT: Yes, ma'am.

12 MS. MAURICE: This is State's Exhibit Number 26. We
13 would like to introduce this into evidence, the 9-1-1
14 tape, and publish it to the jury.

15 THE COURT: Okay. All right.

16 MR. MCCARLEY: No objection from the defense, Your
17 Honor.

18 MS. MAURICE: All right.

19 THE COURT: Happy to do that. You've made
20 arrangements to do that?

21 MS. MAURICE: Yes, sir. It's -- actually we put it on
22 his hard drive so it wouldn't -- or would you rather have
23 it right from here?

24 MR. MCCARLEY: I've only listened to the CD. I
25 haven't listened to anything off the hard drive. May I

ALICE THOMPSON - DIRECT

1 object? I don't think it's the same one.

2 MR. BAMBERG: I just made a copy.

3 THE COURT: We can play -- you can play the disk.

4 You're capable of playing the disk?

5 MR. BAMBERG: Yes, sir.

6 THE COURT: You can do that?

7 MR. BAMBERG: Yes, sir.

8 MR. McCARLEY: I apologize.

9 THE COURT: Better safe than sorry.

10 MS. MAURICE: That's right.

11 (Thereupon, the CD, State's Exhibit No. 26, was played
12 for the jury.)

13 BY MS. MAURICE:

14 Q. Ms. Alice, on the 9-1-1 tape in your testimony, you
15 say it's a burgundy van in your yard.

16 A. I tell you, I was so upset then I thought it was
17 burgundy or red. It was one of them.

18 Q. I'm going to show you a photo.

19 A. That's it.

20 Q. State's Exhibit 20.

21 A. That's the van.

22 Q. That's what you're calling the van?

23 A. Yes, ma'am.

24 Q. Okay. All right. Who did you see in the vehicle you
25 called the van?

ALICE THOMPSON - CROSS

1 A. All I saw was my grandson and Brandon. I didn't know
2 a third person was in the car. I didn't know that.

3 Q. Okay. And, you said they both came back to your
4 house?

5 A. Yes, ma'am. But Brandon come back a little before the
6 police come. He come and knocked on the door.

7 Q. How long did it take the police to get there?

8 A. Not long. They was there before I knowed it. I was
9 glad of that because I thought they might have come back.
10 I didn't know.

11 MS. MAURICE: Ms. Alice, will you please answer any
12 questions that Mr. McCarley has?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Mr. McCarley, your witness.

15 MR. MCCARLEY: Thank you, sir.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. MCCARLEY:

19 Q. Ms. Alice, how are you doing, ma'am?

20 A. Okay.

21 MR. MCCARLEY: May I borrow this, ma'am?

22 MS. MAURICE: Yes. Uh-huh.

23 BY MR. MCCARLEY:

24 Q. Do you need a moment or anything? Are you okay?

25 A. No, I'm okay.

ALICE THOMPSON - CROSS

1 Q. Ms. Thompson, you said that you helped raise Dexter;
2 is that correct?

3 A. Yes.

4 Q. Okay. Then why at the 30-second mark in the 9-1-1
5 tape did you have to ask what his last name was?

6 A. Because he went in Dexter Brown and it was another
7 name that he was using, so --

8 Q. Okay.

9 A. -- I really didn't, you know.

10 Q. I understand.

11 A. But he was a friend of my grandson and his father went
12 to prison, and he just took up with my grandson so I kept
13 him to my house.

14 Q. Okay. Also you said that you saw the car?

15 A. Uh-huh.

16 Q. It's your testimony with Ms. Maurice that you said
17 that you saw the car. But then at the one-minute mark in
18 the 9-1-1 tape you ask Roger Benjamin in the background
19 what type of car and what color the car was.

20 A. I don't know the make of all cars, you know. So I
21 didn't know so that's why I asked him that.

22 Q. Understood. But you asked the color as well?

23 A. I know what color it was. It was blue.

24 Q. In the 9-1-1 tape though you say that it's gray and
25 then you ask Roger Benjamin in the background.

ALICE THOMPSON - CROSS

1 A. It was blue.

2 Q. Okay. And the gentleman in the background who
3 answered when you asked what Dexter's last name was, was
4 that Roger Benjamin as well?

5 A. Uh-huh. My grandson.

6 Q. Okay. Now, let's talk a little bit about when you saw
7 the car driving by from your porch.

8 A. Uh-huh.

9 Q. If you were standing right there on your porch, it
10 would have been moving from this way towards --

11 A. It was coming from Barnwell way.

12 Q. Right.

13 A. Coming from Barnwell way.

14 Q. Okay.

15 A. And went to the store, did go around to the store and
16 they come back. They started shooting. They never
17 stopped shooting.

18 Q. Okay.

19 A. They was, started shooting and they stopped right
20 there in the driveway right to the highway. Right there
21 at my mama's driveway.

22 You turn in. If a car was coming, you couldn't have
23 turned in because they was there and they was shooting.

24 Q. And you testified that you, naturally, you were very,
25 very scared and very frightened; is that correct?

ALICE THOMPSON - CROSS

1 A. Yeah. I was scared, but wasn't scared enough not to
2 know that was Dexter and Kendrick.

3 Q. But you stayed on the porch the entire time the car
4 drove by, went two blocks --

5 A. To the store --

6 Q. -- U-turned --

7 A. -- and come back. It ain't took them long to go turn
8 around. As fast as they was driving, it ain't took them
9 long to turn around and come back.

10 Q. So they were driving very, very fast?

11 A. And I'm right there looking at them when they stopped
12 right there. And I come out and said, Dexter, what y'all
13 doing? I said, man, what is you doing? I'm standing on
14 the porch.

15 Q. When the car drove by you the very first time, you
16 were on your porch, that's as close you were to the
17 vehicle?

18 A. Yeah.

19 Q. Is that correct?

20 A. That's right.

21 Q. Okay. And if I'm driving a car, I'm on the left-hand
22 side. You're standing right there on the porch and
23 there's a passenger right here in the car?

24 A. Uh-huh. Uh-huh.

25 Q. And your porch, I think, is obviously not --

ALICE THOMPSON - CROSS

1 A. Not too close.

2 Q. So, the passenger in that car was shooting a gun as
3 well?

4 A. Yes.

5 Q. Is that correct?

6 A. Dexter was driving. And Kendrick was sitting up on
7 the, in the door on the glass with his gun over the top of
8 car.

9 Q. The passenger was doing that?

10 A. Yes.

11 Q. The person closest to you?

12 A. Yes.

13 Q. Okay. And you saw --

14 A. And the car turned around and come back, Dexter had
15 the same kind of gun that he had, and he was shooting.
16 They shot all the way.

17 Q. Okay. And you saw through the gentleman that was
18 standing up, sitting on the glass (verbatim)?

19 A. Yes, I saw him.

20 Q. That's what you saw? The gentleman on the passenger
21 side, you saw through that gentleman that was shooting the
22 gun to who was driving the car?

23 A. Yeah. Dexter was shooting, too. Both of them was
24 shooting.

25 Q. From the --

ALICE THOMPSON - CROSS

1 shooting.

2 Q. From the --

3 A. Both of them had the same gun.

4 Q. From the driver's side?

5 A. I'm looking at them. The same gun. I can't change
6 that. That's what I saw.

7 Q. Okay.

8 A. I saw it.

9 Q. All right. And you gave a statement to the police the
10 day after this occurred. Is that correct?

11 A. Uh-huh.

12 Q. You wrote a statement out?

13 A. Yes.

14 Q. Okay. And in that statement you talk about a number
15 of things but one of the things you talk about is how many
16 people were in the car with Roger Benjamin?

17 A. I didn't know but two.

18 Q. The red car?

19 A. That was my grandson and Brandon. Them are the only
20 two that I know was in the car.

21 Q. You didn't see --

22 A. I didn't know no third person. Because when you come
23 out there that day and he said, the third person, that's
24 when I know then about the third person. I didn't know a
25 third person was in car.

ALICE THOMPSON - REDIRECT

1 Q. You've never heard or seen T.?

2 A. I don't know nothing about no T.

3 Q. You say the name T. in the 9-1-1 tape, ma'am.

4 A. I didn't know nothing about T.

5 Q. You asked Roger Benjamin who the gentleman in the yard
6 is and he answers back that it's T.

7 A. Well, I didn't pay no attention to that.

8 Q. You didn't --

9 A. Because I was thinking about my grandson could have
10 got killed.

11 Q. I understand. And I'm sorry --

12 A. And my grand baby.

13 MR. MCCARLEY: I have no further questions at this
14 time.

15 THE COURT: Anything on redirect?

16 MR. MCCARLEY: Thank you, Ms. Thompson.

17 MS. MAURICE: Just something short, Your Honor.

18 THE COURT: Okay.

19 REDIRECT EXAMINATION

20 BY MS. MAURICE:

21 Q. The first time you saw the car, was it going towards
22 the store?

23 A. Yes, ma'am.

24 Q. Okay. And I believe you said it -- so it was that
25 way. What side was closest of the car to you? Who did

ALICE THOMPSON - REDIRECT

1 you see closest to you in the car?

2 A. When the car was going down?

3 Q. Uh-huh.

4 A. I saw Dexter and then I saw Kendrick.

5 Q. Okay.

6 A. Kendrick was on, he was sitting up on top, shooting up
7 there over the top of the car.

8 Q. Okay.

9 A. And Dexter was the driver.

10 Q. And then the car turns around?

11 A. Little Dexter, he had a gun, just like both of them
12 had the same gun, shooting. The same kind of gun both of
13 them had it, shooting out the window.

14 Q. And when the car turns around where's it --

15 A. It stopped right there at my mother driveway.

16 Q. Okay. All right. What color do you have on today?

17 A. Purple.

18 Q. And what other color?

19 A. White.

20 Q. Is it -- do you have some gray?

21 A. There's gray in there; gray, white.

22 Q. Is it kind of purple? Or is it kind of blue? Or you
23 say purple.

24 A. Purple.

25 MS. MAURICE: No further questions, Your Honor.

ALICE THOMPSON - RECROSS

1 THE COURT: Anything on recross?

2 MR. MCCARLEY: Please sir.

3 THE COURT: Yes, sir.

4 RECROSS-EXAMINATION

5 BY MR. MCCARLEY:

6 Q. Ms. Thompson, did you ever see them pointing the gun
7 at anyone while they were shooting?

8 A. The gun was pointing. I didn't see them pointing at
9 nobody but they was shooting, the gun was pointed so, hey,
10 I could've got hit when I was out there.

11 Q. Were they just shooting --

12 A. And when I said, Dexter, what y'all doing, that's when
13 they went on -- that's when I said, I'm going to call the
14 police. And I called the police. They took off and went
15 back up that way.

16 Q. Ma'am, once the red truck or van stopped --

17 A. It had turned --

18 Q. -- and everybody had --

19 A. It had turned --

20 THE COURT: Ms. Thompson, Ms. Thompson, you're
21 doing -- what I need to do is, let him finish the
22 question.

23 THE WITNESS: Okay.

24 THE COURT: And then once he finishes the question you
25 can answer it. Okay?

1 THE WITNESS: Okay.

2 THE COURT: It's hard for the court reporter to get
3 everything down when y'all are talking over each other.

4 THE WITNESS: All right.

5 THE COURT: So if you'll let him finish his questions.

6 MR. McCARLEY: I apologize.

7 THE COURT: And then he'll give you time to finish
8 your answer and it will work out better for us all.

9 THE WITNESS: All right.

10 THE COURT: Thank you, ma'am.

11 BY MR. McCARLEY:

12 Q. The van -- the red vehicle stopped in your yard --

13 A. Uh-huh.

14 Q. -- and both, two or three gentlemen exited the vehicle
15 and ran. At that point, the people that were in the blue
16 car stopped and shot at just the red truck?

17 A. That's right.

18 Q. Okay. No further questions.

19 THE COURT: Thank you, sir. All right. Thank you,
20 ma'am.

21 THE WITNESS: Thank you.

22 THE COURT: Ms. Maurice, call your next witness.

23 MS. MAURICE: Your Honor, at this time the State
24 rests.

25 THE COURT: Okay. All right.

1 Ladies and gentlemen, you have heard the State's case
2 now. We're going to take a break. We've got some matters
3 I've got to take up with the lawyers. Then we'll bring
4 you back out and we'll begin the defense part of the
5 case. Okay?

6 Now, what have I told you from the very beginning?
7 Okay. You haven't heard all the case yet. I haven't told
8 you to begin deliberations and until I tell you you can
9 begin deliberating in this case, you cannot talk about the
10 evidence that you've heard so far, anything about this
11 case.

12 Okay? Y'all take a short break and hopefully we'll be
13 back in here in a few minutes and we can continue with the
14 rest of the case. Okay. Thank y'all.

15 (Thereupon, the jury exits the courtroom at
16 10:40 a.m.)

17 THE COURT: Ms. Holling? Ms. Holling, if you'd come
18 here a moment.

19 (Thereupon, a matter concerning a juror was heard off-
20 the-record.)

21 THE COURT: All right. Anything from the defense?

22 MR. MCCARLEY: We do have a motion at this time.

23 THE COURT: Yes, sir.

24 MR. MCCARLEY: A motion for directed verdict. In
25 regards to the attempted murder, even in the light most

1 favorable to the State, Your Honor, the State has not
2 proven -- has not put on evidence in regards to the
3 Defendant committing a violent injury to another person.

4 The only testimony is what we've just heard. There
5 were shots fired at a car. There were 14 shell casings.
6 The only thing that there's been evidence that was put on
7 that was hit was a vehicle without people in it.

8 In regards to the charge of, the weapons charge,
9 possession of a weapon during a violent crime, there's no
10 gun. There's been no evidence linking Mr. Brown to the
11 bullets or the casings found at the scene, nor has there
12 been any evidence put on as to when those bullets and
13 casings would have been fired.

14 THE COURT: All right.

15 MR. McCARLEY: Just a moment, please, sir.

16 (Defense counsel conferring.)

17 MR. McCARLEY: Your Honor --

18 THE CLERK: I'm sorry.

19 (Thereupon, the Clerk of Court discusses a matter with
20 the Court.)

21 THE COURT: I'm sorry, Mr. McCarley. I didn't mean to
22 break your chain of thought.

23 MR. McCARLEY: Your Honor, the State's witness just
24 testified, and that's the only testimony on point, that
25 the only thing the gun was ever pointed at was the vehicle

1 and there were no people in the vehicle and there's been
2 no charge in regards to discharging a firearm or injuring
3 personal property.

4 THE COURT: Thank you.

5 MR. MCCARLEY: And as such, we would ask for a
6 directed verdict, Your Honor.

7 THE COURT: Thank you, sir. Any arguments from the
8 State?

9 MS. MAURICE: Your Honor, there has been substantial
10 evidence to show that there were at least two individuals
11 in the car, and then running from the car as it was being
12 shot at and that one bullet ended up in the headrest where
13 the driver would have been sitting.

14 There are shell casings. I believe there were 17
15 shell casings we put in which is consistent with an
16 automatic weapon.

17 I have the victim and witness, eyewitness, testifying
18 as to the gun and the fact that Dexter Brown was one of
19 the shooters.

20 And, Your Honor, attempted murder is a violent crime
21 and I have evidence that they had a gun in their
22 possession during the attempt of murder.

23 THE COURT: Okay. Thank you. All right.

24 Mr. McCarley, in regard to the possession of a weapon
25 in a violent crime, we got at least two witnesses that

1 place the automatic weapon in Mr. Brown's hands.

2 There is testimony in the record that they were
3 shooting. All the evidence points that they were shooting
4 at a van perhaps, but there were people in the van at one
5 time.

6 And I think it's up to the jury to decide. So I'm
7 going to deny your motion for a directed verdict.

8 I'll note your objection to my decision for the record
9 so it can be preserved.

10 MR. MCCARLEY: Understood. Thank you, sir.

11 THE COURT: Thank you, sir. Appreciate it.

12 Is the State prepared -- I mean, is the defense
13 prepared to go forward? I'll let y'all talk about it,
14 talk with your witnesses.

15 We'll take about a five-minute break and then I'll
16 question him.

17 MR. MCCARLEY: Thank you, sir.

18 THE COURT: Thank you. Appreciate it.

19 We'll take about a five-minute break.

20 (Thereupon, at 10:45 a.m., a break was taken until
21 11:10 a.m., when the hearing of this matter resumed as
22 follows:)

23 THE COURT: Anything from the State?

24 MS. MAURICE: No, Your Honor.

25 THE COURT: Anything from the defense?

1 MR. MCCARLEY: No, sir.

2 THE COURT: All right. Let's see.

3 Mr. Brown, will you please stand, please, sir?

4 THE DEFENDANT: (Complying.)

5 THE COURT: Raise your right hand, please, sir,
6 (Defendant placed under oath.)

7 THE COURT: You can sit down if you'd like to.

8 THE DEFENDANT: (Complying.)

9 THE COURT: Mr. Brown, it is -- it's my
10 understanding -- and I guess, Mr. McCarley, I'm going to
11 let you tell me. What is he intending, the Defendant, at
12 this time regarding putting up a defense?

13 MR. MCCARLEY: There is none at this time.

14 THE COURT: He's not going to do that. Okay.

15 Now, Mr. Brown, I'm going to explain some of your
16 rights to you to make sure that you understand what I'm
17 telling you. And if there's something I say that you
18 don't understand, I want you to please ask me, you know, a
19 question so I can explain it, because this is very
20 important to you.

21 THE DEFENDANT: Uh-huh.

22 THE COURT: Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Now, we've reached a part of the trial
25 where you may present your defense and your attorney has

1 told me that you do not intend to put any defense up. Do
2 you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. And you've talked with him about
5 that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. You have the right to claim the
8 protections given to you by the Fifth Amendment of the
9 Constitution which says that no person shall be compelled
10 in a criminal case to be a witness against himself.

11 This means that you cannot be required to testify in
12 this case. You have the right to testify on your own
13 behalf, however, no one can make you testify.

14 This is a personal right and no one can waive that
15 right except you. If you decide to testify you'll be
16 subject to the same rules that govern other witnesses and
17 you may be examined and cross-examined on any relevant
18 issue in this case.

19 Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You've watched the witnesses on the stand
22 be cross-examined?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. In addition, if you have any
25 convictions involving dishonesty or false statements or

1 other crimes punishable by imprisonment for more than one
2 year and this Court determines that the probative value of
3 admitting this evidence outweighs its prejudicial effect
4 to you, the solicitor will be able to introduce your
5 record to attack your credibility. Do you understand
6 that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. If you decide to testify, this
9 decision on your part must be freely, voluntarily and
10 intelligently made with the knowledge of the protections
11 given to you by the Fifth Amendment and the consequences
12 of your decision to testify.

13 Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. And, Mr. Brown, how old are you?

16 THE DEFENDANT: Twenty.

17 THE COURT: And how far did you go in school?

18 THE DEFENDANT: Twelfth grade.

19 THE COURT: Did you graduate?

20 THE DEFENDANT: No.

21 THE COURT: Okay. Have you gotten any job skills or
22 job training?

23 THE DEFENDANT: I had a job before I got locked up.

24 THE COURT: What kind of job?

25 THE DEFENDANT: Augusta Fiberglass.

1 THE COURT: Your attorney has gone over this with
2 you. I'm asking you again about whether or not you're
3 going to testify.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. Now, if you decide not to testify I
6 will instruct the jurors that they cannot give the fact
7 that you did not testify any consideration whatsoever and
8 that there is to be absolutely no prejudice to you because
9 you did not testify.

10 Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. It is left entirely up to you
13 whether or not to testify. I know you've talked with your
14 attorneys but you may talk with them again, your family,
15 your friends, or anyone else, but the final decision is
16 left entirely up to you.

17 Do you understand everything that I've explained to
18 you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Have you talked it over with your
21 attorneys?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand what they've told you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you have any questions about what I've

1 told you?

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. Now, do you need any more time to
4 talk with your lawyers about this?

5 THE DEFENDANT: No, sir.

6 THE COURT: Okay. Do you wish to testify in this
7 matter?

8 THE DEFENDANT: No, sir.

9 THE COURT: Okay. All right, sir. Has anybody
10 threatened you to get you to not testify?

11 THE DEFENDANT: No, sir.

12 THE COURT: Has anybody promised you anything to get
13 you to not testify?

14 THE DEFENDANT: No, sir.

15 THE COURT: You're doing it freely and voluntarily?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Sir?

18 THE DEFENDANT: Yeah.

19 THE COURT: And you understand what you're giving up?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. All right, sir. All right.

22 I will so advise the jury and that will be part of my
23 charge to the jury.

24 Anything else we need to take up before I bring the
25 jury back in?

1 MS. MAURICE: Not from the State, Your Honor.

2 THE COURT: Okay.

3 MR. McCARLEY: Not from the defense, Your Honor.

4 THE COURT: Now, when the jury comes back you're going
5 to rest on the record?

6 MR. McCARLEY: Yes.

7 THE COURT: Are y'all prepared to go forward --

8 MS. MAURICE: Yes, Your Honor.

9 THE COURT: -- with closings at this time?

10 MR. McCARLEY: Yes, Your Honor.

11 THE COURT: Are you prepared to go forward?

12 MR. McCARLEY: Yes, Your Honor.

13 THE COURT: It's my understanding that since the
14 defense didn't put up any testimony, put up any witnesses
15 that you're going to get to close last?

16 MR. McCARLEY: Yes, sir.

17 THE COURT: Is that your understanding?

18 MS. MAURICE: Yes, Your Honor.

19 THE COURT: Okay. Just making sure we got all of that
20 straight.

21 MS. MAURICE: Unfortunately.

22 THE COURT: Okay. So you're going to have to open in
23 full.

24 MS. MAURICE: That's correct.

25 THE COURT: All right. Y'all bear with me. I got to

1 get this - do you have the indictments?

2 THE CLERK: I do.

3 THE COURT: Y'all bear with me for a second.

4 (Pause.)

5 THE COURT: Since I'm out of circuit I'm causing a
6 little more problems than I usually would. I'm reprinting
7 the verdict form.

8 MS. MAURICE: Thank you, Your Honor.

9 THE COURT: Okay.

10 (Pause.)

11 THE COURT: All right. Bring the jury -- are y'all
12 ready?

13 MR. MCCARLEY: Yes, sir.

14 THE COURT: Bring the jury back in.

15 (Jury enters courtroom at 11:22 a.m.)

16 THE COURT: Ladies and gentlemen of the jury, have
17 y'all discussed having a foreman yet? Have y'all voted on
18 a foreman?

19 THE JUROR: Yes.

20 THE COURT: Who's the foreman?

21 THE JUROR: (Raises hand.)

22 THE COURT: And your name, please, ma'am?

23 THE JUROR: Sharon W. Bechtold.

24 THE COURT: Ms. Bechtold, congratulations. You need
25 to switch seats. You got to be closest to me because when

1 I go over the verdict form with you, I'm going to come
2 down there and show you what I'm going to do.

3 Congratulations.

4 THE FOREPERSON OF THE JURY: Thank you.

5 THE COURT: Thank you.

6 Ladies and gentlemen, we're getting ready to continue
7 with the trial of this case.

8 Mr. McCarley?

9 MR. McCARLEY: Yes, sir.

10 THE COURT: Yes, sir. The Defendant's case?

11 MR. McCARLEY: The defense rests, Your Honor.

12 THE COURT: Okay. All right.

13 Ladies and gentlemen, what the Defendant has done, he
14 has -- the Defendant has rested without putting up any
15 testimony in this case.

16 I want to make sure that you understand that when the
17 Defendant decides not to testify, that you cannot give the
18 fact that he did not testify any consideration whatsoever
19 and that there is to be absolutely no prejudice to the
20 Defendant because he did not testify.

21 And I will go over that in more detail when I charge
22 you.

23 Now, you have now heard all of the evidence in this
24 case. And what we're going to do now is we're going to
25 begin listening to the closing arguments of the

1 attorneys.

2 And after they do their closing arguments, I will
3 charge you on the law.

4 Now, after I charge you on the law, I will go over the
5 verdict form with you.

6 After I go over the verdict form with you, I will then
7 excuse y'all to go back to the jury room. While y'all are
8 out, I will go over my charges on the law with the
9 attorneys to make sure that I have charged everything they
10 wanted me to charge. If my charges are complete to their
11 satisfaction, I will then send the bailiff back there and
12 tell you -- with the verdict form and the exhibits, and
13 tell you you can begin your deliberations.

14 So until I tell you you can begin your deliberations
15 in this case, you may not talk about it. Make sure
16 everybody understands that.

17 Listen to the closings from both attorneys. I'll then
18 charge you on the law, but until the verdict form comes
19 back to you with the evidence, with the exhibits, you may
20 not begin discussing this case.

21 Now, once it comes back there and I tell you you can
22 begin your deliberation, then, Madam Forelady, it will be
23 your duty to organize the jury and make sure everybody has
24 input into this decision-making process, because the
25 decision of the jury must be unanimous. Okay? All 12 of

CLOSING STATEMENTS BY THE STATE

1 you have got to agree on this decision. Okay? All
2 right.

3 Ms. Maurice?

4 CLOSING STATEMENTS BY THE STATE

5 MS. MAURICE: May it please the Court.

6 THE COURT: Yes, ma'am.

7 MS. MAURICE: Mr. McCarley. Ladies and gentlemen of
8 the jury.

9 Last night I was lying in bed thinking about what I
10 was going to say to y'all in this closing this morning.

11 Kept going, photos, photos, photos. And I was
12 thinking about, I guess it was, like, 20 photos. I always
13 felt like I was pulling the wrong photo and I thought, you
14 know, I really don't feel like I have given a full picture
15 of everything.

16 And then I started thinking, out of all these photos,
17 guess what I don't have? I don't have a photo of Dexter
18 Brown holding a big old gun and firing it. I wish I did.

19 This is the real world.

20 Then I thought, wouldn't it even be better if I had
21 one of those global satellite things that just happened to
22 be coming over the house right at that exact moment and I
23 got it on video? And it would be like James Bond or
24 Bourne Identity -- I like Bourne Identity -- CSI. And it
25 would be right there.

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1 But again, ladies and gentlemen, this is the real
2 world. And I don't have any of that.

3 And the only reason I'm going over those things and to
4 tell you I don't have them, because I was also thinking
5 last night, it's not fun for me to stand up here and go
6 first because as soon as I sit down and Mr. McCarley
7 starts talking, he's going to say something and I'm going
8 to go, (snaps fingers), I forgot it. I forgot to explain
9 it.

10 So this is my only chance. So just bear with me. I
11 actually even brought my notes up here today. And let's
12 go through, through everything.

13 And I just thought of something else when I looked
14 over here. Wouldn't it have been terrific if we had the
15 guns? If, when Investigator Croft went and made the
16 arrest, that they had those guns on them and we could have
17 have them tested with the shell casings? That was three
18 days later. It would have been great for us, stupid for
19 them, but it would have been great.

20 But we don't have that. Again, this is the real
21 world.

22 So let's look at what we do have. And let's stay
23 focused on what we do have and what's been presented to
24 y'all.

25 And that's why there's so many different little

CLOSING STATEMENTS BY THE STATE

1 things, little details that are important. And that's why
2 there's 12 of you, because when you go back to the jury
3 room to deliberate, one of you might remember one small
4 detail. And it's like, oh, yeah, or you might disagree on
5 some details. I don't know.

6 But that's why this process is so wonderful. This
7 process of 12 jurors that have to make a unanimous
8 decision and collectively get together and deliberate on
9 what was seen.

10 You know, the evidence will go back in the courtroom
11 (sic) with you. So, you'll be able to hold it a little
12 bit better. And those photos that I just glimpsed
13 through, you'll have them. So just keep that in mind.

14 And let's go through what evidence the State did
15 present. And what evidence the State did have and does
16 have.

17 Investigator Trottie got on the stand and he
18 testified. He was in the area. He was at the crime scene
19 within five minutes. It might have been five minutes, I
20 can't remember, but it was quick after he got dispatched.

21 You heard Ms. Alice say it didn't take long for the
22 police to get there. You heard her on the 9-1-1 and then
23 when the officers arrived. So he's close by. He gets
24 there first. He secures the scene.

25 Okay. That's important. It's real important because

CLOSING STATEMENTS BY THE STATE

1 of all those shell casings that were found.

2 Investigator Chavis arrives and he's appointed the fun
3 duty of looking for all of them. Okay. Y'all, this isn't
4 any high tech thing. He looked. He saw one. He put his
5 yellow marker on it. A., B., C., D., E., F., G., H., I.,
6 J. I think it was, what, 17? Y'all can count them back
7 there. Okay?

8 My point being -- and you got photos of where they
9 were on the road and how that is consistent with what
10 Ms. Alice said happened, how that's consistent with being
11 right there in front of her home on that road.

12 Next, Investigator Chavis takes those photos that
13 you'll have. He also goes through the vehicles the
14 victims were in.

15 There's testimony Brandon was driving. Roger Benjamin
16 was in the passenger seat. There's a little confusion
17 about if there was a third person or not. I think it's
18 very possible that Roger knows who was in the car and
19 Ms. Alice just didn't see it, but it's really not
20 important.

21 What Investigator Chavis found and what he didn't find
22 is important. He found a bullet in the driver's
23 headrest. A bullet in the driver's headrest. There's
24 also a bullet hole in the back glass, a bullet hole in the
25 bumper.

CLOSING STATEMENTS BY THE STATE

1 But, a bullet hole in the headrest.

2 And you'll have those photos. He took photos -- he
3 took pictures of all of that.

4 Then he went back and collected each one that he had
5 found. Picked them up. And he testified that there were
6 two types. I'm not an expert in that kind of thing and
7 wouldn't plan on being it, but apparently people who shoot
8 guns know that. But there were two different kinds which
9 is consistent with two different shooters.

10 Again, another consistency or corroboration of what
11 Roger and Ms. Alice say happened that day.

12 What he didn't find in the vehicle, in the victim's
13 vehicle. He did not find any shell casings in that
14 vehicle. Okay. Didn't find any bullets in the victim's
15 vehicle. He didn't find any guns in the victim's vehicle.

16 Now, this has been secured right after. Remember how
17 fast Officer Trottie got there? Okay. He takes the GSR
18 kit. He borrows two kits. It's always easy to second --
19 what did he call it? Quarterback, second quarterback from
20 the stand and all of that. Wished he had had 20 of them
21 and done two, but he did one. And he did it on Brandon
22 Parker.

23 And SLED came in here and told you how they checked
24 for gunshot residue and went through that process, and
25 that it was negative.

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1 So that's consistent with what he's already found as
2 far as no bullets in the car, no gun in the car, no
3 testimony that the victims were shooting.

4 It's just little details after little details.

5 The other evidence. The victim, Roger Benjamin, he
6 gets up there and he testifies. He's got identification,
7 he IDs, tells you who he saw shooting the weapons; Dexter
8 Brown, Kendrick Jacobs.

9 Ms. Alice gets there, you'll see. You'll have the
10 photo, too, close where her home is and where the porch
11 is. You can see the roads relate, and how close it is.

12 Gets up there. Sees the shooter. Not only testifies
13 today that it's Dexter Brown, in the 9-1-1 call she's
14 saying "Little Dexter." I mean, this is a minute after
15 this is going on. You can hear it in her voice.

16 Roger testified, through -- that he and Brandon Parker
17 were in Brandon's mama's car. That's why I called
18 Brandon's mom up yesterday. That's just another
19 corroboration. She had sent him to the store to get the
20 bag from Family Dollar that she had left.

21 You might have done that before. I usually do it at
22 Wal-Mart because they have those things that go around and
23 I'll get home and I know I put it in there but it's not in
24 the house.

25 But anyway, they go back. Obviously they went a few

CLOSING STATEMENTS BY THE STATE

1 other places.

2 He testifies when he's on his way back towards his
3 home is when he sees Dexter and Kendrick in this blue car.
4 Then he says they start shooting. They start shooting at
5 them.

6 Brandon pulls in that driveway, trying to get away.
7 Dexter and Kendrick are right behind them. It's when
8 they're shooting up.

9 Ms. Alice says it was like firecrackers.

10 That's all consistent.

11 You heard Roger say machine gun. I don't know.
12 Automatic. There were a lot of casings out there, okay.
13 So that's some quick firing. I'm not a scientist but
14 that's quick. That's just the ones we found.

15 You can hear Roger in the background from the 9-1-1,
16 and y'all can listen to the 9-1-1 tape again. You just
17 have to ask the Judge and we'll bring you out here and you
18 can listen to that over again.

19 Because the truth is in the details. The details that
20 can't be planned out. Details that, you know, aren't even
21 thought of. This is happening at that moment and she is
22 telling you what she saw.

23 Again, we don't have that global positioning satellite
24 video thing. But I submit to you what we do have is these
25 little details. These pieces that all corroborate exactly

CLOSING STATEMENTS BY THE STATE

1 what Ms. Alice said happened and exactly what Roger said
2 happened.

3 Investigator Croft's testimony. I thought he did an
4 excellent job unfolding the investigation. And there was
5 another thing I thought about last night and it was
6 actually the first time I thought about it. Probably
7 shouldn't admit that.

8 He is looking -- he's going to get the dogs, okay,
9 because they think at first when she's calling on the
10 9-1-1 tape, she said somebody ran into the woods. So
11 first thought, dogs. But then, no, he gets the call,
12 Dexter Brown and Kendrick Jacobs, they're in a blue car.

13 Well, he doesn't see a blue car. He's still in his
14 dog truck or whatever, you know, he's got the dogs back
15 there. But, what does he see? A car that he recognizes
16 as being Dexter Brown's. It's white.

17 So, out of an abundance of caution, making sure he
18 knows what he thinks he knows, he calls it in and gets
19 dispatch to identify that that's Dexter Brown's car. It
20 makes sense that he'd pull it. Can't see who's driving
21 it.

22 Who's driving it? Dexter's girlfriend, Ms. Ingram.
23 Ms. Ingram is driving Dexter's car. White Ford, not blue
24 Mercury. Huh.

25 If for some crazy reason Roger or Ms. Alice decided,

CLOSING STATEMENTS BY THE STATE

1 we're going to blame this on Dexter Brown, wouldn't they
2 have described his car as the shooters being in it?

3 We don't know why Dexter was driving his girlfriend's
4 car or girlfriend's daddy's car, and that's Ingram, and
5 she was driving Dexter's car, but we know for some reason
6 they had switched. Details.

7 And I was just thinking about that last night how
8 important something so simple can be. You know, when you
9 start, you know, the TV, little things like that, probably
10 they don't have to mess with that because they have global
11 positioning systems, satellite system.

12 But for us in real life, those small things are so
13 important. The truth. The truth is in the details. And
14 those details, I believe, come back to credibility of
15 witnesses. Those details support what Roger Benjamin said
16 happened and what Ms. Alice said happened.

17 There may be gray versus blue car. You can hear how
18 scared, how nervous she was that -- I'm sure there's going
19 to be a big deal about, oh, she knows Dexter so much but
20 she can't remember his last name.

21 Listen to her voice. Listen. Come out here and
22 listen to her again. She is scared. But she's saying
23 what happened. She didn't say white car. She said blue.
24 And she might have said Ford versus Mercury. She calls
25 the victim's car -- that's in the thing, I think it's a

CLOSING STATEMENTS BY THE STATE

1 Ford Explorer, but she calls it a van.

2 And at first that's a little confusing. And that's
3 why I went back to her and I said, Ms. Alice, is this what
4 you're calling a van. Oh, yeah.

5 The truth is in the details. She might not know or be
6 an expert on, like, models of car or whatever, but she
7 knows those colors. The colors that she's saying is in
8 her driveway is the color that's in her driveway;
9 burgundy.

10 And the color of the car, she says, Dexter was driving
11 and shooting out of, that's his girlfriend's car; light
12 blue. We don't know why when that car was returned to the
13 owner, Mr. Ingram's home, that it was clean as a whistle.
14 We just know it was.

15 Ms. Alice. She's standing there. She hears pa-pa-pa-
16 pa-pa. Thinks it's fireworks at first. Goes out. She
17 sees her grandson being shot at. She sees Roger being
18 shot at. She sees another guy running from the car. She
19 doesn't know who that guy is right now.

20 As soon as -- the 9-1-1, she's not saying that's
21 Brandon. She doesn't know. She sees another guy.

22 So Brandon comes back over to the house in just a
23 little bit while she's still on the phone with dispatch
24 and you can hear the confusion. There's always -- there's
25 normally a lot of confusion with, between the 9-1-1

CLOSING STATEMENTS BY THE STATE

1 operator and the excitement and the nervousness that's
2 going on.

3 But just listen, you know. She said, no, that's
4 Brandon. His mama lives down the street which is what
5 Ms. Morrisey, Leslie, said. Brandon's mom, owner of the
6 car, living down the street.

7 She's telling you about her granddaughter living in
8 the house and going inside and laying over her to protect
9 her.

10 She tells you about yelling at Dexter from the porch,
11 calling him Little Dexter. She's given him a home to live
12 in in the past.

13 And I'm not accusing and he's not being prosecuted for
14 attempting to murder her. I don't think he was aiming for
15 her. He was aiming for the men that were in that car.
16 But when you're shooting an automatic weapon coming down
17 the road, there is no telling who or what you're going to
18 hit.

19 What else supports what Ms. Alice was saying about the
20 automatic weapon and what Roger was saying? Seventeen, or
21 something like that, shell casings.

22 Ms. -- I think it was Glenda Williams, the lady that
23 was in the store. She heard multiple gunshots, too. She
24 didn't see anything but she heard the shots. Scared her
25 enough she went and locked the door to the store.

CLOSING STATEMENTS BY THE STATE

1 That 9-1-1 tape gives a snapshot of exactly what was,
2 just happened. It's not a photo of -- that we wish we
3 would have of the crime going on right then, but it's as
4 close to that as you can get.

5 Based on Ms. Alice, Roger, car descriptions, ID of the
6 shooters, the shell casings, the bullets and the headrest
7 of the car, and then the -- the tires were flat on the
8 car, too. I don't know how many bullets was in there, but
9 both tires were flat on the car, if you look at that
10 closely. And there's one shot into the window, and
11 there's one shot into the bumper, and there's one shot
12 into the headrest. So there, that says two tires, one
13 bumper. Hit the car five times.

14 And those men were in that car when that gunshot,
15 those gunshots started. They got out and ran. Thank
16 goodness.

17 The Judge will be giving you charges on the law in
18 just a little bit. I just want to give you a summary. If
19 I say something different than the Judge, he is over the
20 law so I would be wrong and he would be right.

21 And the only thing I want to try to do is bring a few
22 details for y'all to listen to because those charges, you
23 need to listen closely, but I'm going to ask that you
24 listen closely to some of the things I mention, too.

25 There's -- I anticipate there will be a lot of talk by

CLOSING STATEMENTS BY THE STATE

1 the defense about beyond a reasonable doubt and going back
2 to what I don't have, what the State doesn't have as far
3 as evidence.

4 Listen to the Judge. Beyond a reasonable doubt. If
5 you're firmly convinced, because nothing's absolute for
6 certain. If you're firmly convinced that Dexter Brown was
7 shooting that gun at that car, and those two men were in
8 that car, then you find him guilty of attempted murder.

9 And if you find him guilty of attempted murder, you
10 can go on to possession of a weapon during a violent
11 crime. This is a violent crime, Your Honor, -- I mean,
12 ladies and gentlemen.

13 He's going to go over and charge you on what attempted
14 murder is. I believe there'll be words like malice
15 aforethought, intent, criminal intent; those type things.

16 Keep in mind that there is no way a person can get
17 inside another person's mind and dissect what they're
18 thinking. Okay.

19 So how else can you determine what their intent is?
20 You have to look at the facts. You have to look at what
21 was going on. When Dexter put that gun in his hand,
22 pulled that trigger I don't know how many times, aimed it
23 at that car, which he even hit five times, and those boys
24 were in it or close to it, that can be shown as to what
25 his intent was.

CLOSING STATEMENTS BY THE STATE

1 Again, we can't get in and dissect his mind. So you
2 have to look at what the facts are.

3 Malice is a word, I guess it really comes back to more
4 of a reckless disregard for human life.

5 But listen to the Judge. Some of these things -- it's
6 easier for me to think of in a different way, but, when he
7 was shooting that gun, he didn't care who it hit. He
8 didn't think about who it hit. If that's not a reckless
9 disregard for human life, I don't know what is.

10 He'll get into circumstantial evidence, direct
11 evidence. And just listen to him, but, you know, some is
12 direct, like, the witnesses saw something or the casings
13 were picked up and those little tiny details that you kind
14 of fit together that corroborate the other. In this case
15 we have both, a little -- a good bit of each actually
16 except for those high tech things I wish we had.

17 The evidence we do have. You'll have all of this back
18 there. These are crime scene photos. Found shell casings
19 and their pictures. You can go through that. It says 16,
20 I think. One bullet that didn't fire, and one little
21 thing. And then all these shell casings.

22 Remember, this was happening fast. They didn't have
23 30 minutes to shoot all of that. The vehicle, you'll
24 have -- you'll be able to see how it hit the tires, the
25 glass, the bumper, headrest. Bullet still in there.

CLOSING STATEMENTS BY THE DEFENSE

1 GSR kit, which is just consistent. Those things are
2 just consistent with what Ms. Alice and Roger said
3 happened.

4 My favorite. The 9-1-1 tape. If there's any doubt in
5 your mind that that man did not take an automatic weapon
6 and shoot it down that road at that car that those two men
7 were in, listen to that 9-1-1 tape again. Please, listen
8 to that 9-1-1 tape again.

9 Then please find him guilty of attempted murder and
10 possession of a weapon during a violent crime.

11 Thank y'all for your time these last few days.

12 THE COURT: Thank you, Ms. Maurice. Mr. McCarley?

13 CLOSING STATEMENTS BY THE DEFENSE

14 MR. MCCARLEY: Thank you, sir.

15 THE COURT: Yes, sir.

16 MR. MCCARLEY: Madam Solicitor. Ladies and gentlemen
17 of the jury.

18 Make no mistake about it. Law enforcement's worked in
19 this case for six months, not just last night. And the
20 solicitor's right; they still just don't have it.

21 There's a number of things they don't have and we're
22 going to work our way through that entire thing. I
23 apologize for using my notes but this is just far, far too
24 important to Mr. Brown and you all's community for me to
25 leave anything out.

CLOSING STATEMENTS BY THE DEFENSE

1 The solicitor's office continues to talk about CSI,
2 how this is not CSI. Well, CSI, as you all probably know,
3 stands for crime scene investigation. Okay. And there
4 was one.

5 And the solicitor's office continues to talk about how
6 they don't have the high-tech gadgets. We're not asking
7 for -- as citizens of the community, we're not asking for
8 high-tech gadgets. They have fingerprints. They can
9 fingerprint bullets and casings. They have GSR kits.
10 They have one right here. And they had a store of them
11 back at the sheriff's office, seven miles away, and they
12 had five hours to go get them.

13 We're not asking for CSI-Miami or CSI-New York. We're
14 asking for CSI-Barnwell so that we can have a safe
15 community and we can have people in jail that need to be
16 in jail.

17 Dexter Brown does not need to be in jail.

18 A number of other things to go through, to talk
19 about. Reasonable doubt. And how the State's case does
20 not stand up to the burden of beyond a reasonable doubt.
21 A reasonable doubt, again, is anything that would give a
22 person pause or make them hesitate before acting.

23 So I go back to the GSR kit. That could give you
24 pause, ladies and gentlemen. The fact that only one
25 person out of everybody at the scene was tested for a GSR

CLOSING STATEMENTS BY THE DEFENSE

1 kit. And speaking specifically about GSR kits, you heard
2 Agent Simmons from SLED tell us that you can shoot a gun
3 and still test negative on a GSR.

4 Now that might seem like a detail, like something
5 small that doesn't matter, but when the gentleman who
6 tested negative on his GSR is now in prison for possession
7 of a firearm by a convicted felon, that matters, ladies
8 and gentlemen.

9 It is a very big deal that a GSR can be tested
10 negative on someone who shot a gun.

11 That can give you pause. That can make you hesitate.

12 The fact that the police searched the car that they
13 believed was used in this crime, found the car, searched
14 the car, tested the car and found nothing. It's not a
15 crime, ladies and gentlemen, to have a clean car. It's
16 just not.

17 The fact that they searched the house in this case,
18 okay. They searched it months after, okay. They admitted
19 that on the stand. They searched it months after. And
20 then they tried to use that as an excuse for why they
21 didn't find anything. Okay.

22 And it was mentioned that there were some guns in the
23 house but especially not in South Carolina, it's not a
24 crime to have a gun in your home. We all know that.

25 Okay.

CLOSING STATEMENTS BY THE DEFENSE

1 So they searched the house and they found nothing
2 linking Dexter Brown to the shooting.

3 The solicitor's office continues to try to convince
4 you by saying, shooting and Dexter Brown, shooting and
5 Dexter Brown that they're somehow linked, and they're just
6 not.

7 We've all seen the pictures of all the bullets and all
8 the casings and everything that happened at the scene.
9 Okay. And none of those items were tested. None of those
10 items in any form or fashion linked Dexter Brown to that
11 incident.

12 That, ladies and gentlemen, is a very, very good
13 reason to hesitate or to have pause.

14 The simple fact that Mr. Brown is charged here with
15 possession of a weapon and doing something you can only do
16 with a weapon, okay, and there just is no weapon. The
17 weapon's been looked for for six months and there is no
18 weapon.

19 Not only is there no smoking gun, okay, there's no gun
20 at all.

21 As a matter of fact, thinking about this thing, it
22 just keeps coming back that there's no physical evidence
23 whatsoever at the scene. There's nothing physical that
24 exists that links Dexter Brown. What is it? What is it?
25 What is the jury going to see?

CLOSING STATEMENTS BY THE DEFENSE

1 He knows the only thing that the jury sees that could
2 link Dexter Brown to the case physically is Dexter Brown
3 being here in this courtroom. Okay. And the reason
4 Dexter Brown is here in this courtroom is because of these
5 arrest warrants. Okay.

6 And these arrest warrants don't mean anything at all.
7 They are no evidence whatsoever. The fact that Dexter
8 Brown sits here today is no evidence whatsoever that he
9 was involved.

10 And talking about the witnesses. Okay. Talking about
11 Roger Benjamin and talking about Alice Thompson. Imagine
12 if this case -- for a moment, imagine if this case was
13 about who was in the car that was being shot at. Okay.
14 Was -- were there two people or were there three people?
15 And in which direction did they run?

16 As the 9-1-1, you know, Ms. Alice Thompson said she's
17 never heard of T., but then in the 9-1-1 tape she says
18 T.'s in her yard.

19 Roger Benjamin says there's three people. She's
20 always said that there's two people. Could you find
21 beyond a reasonable doubt how many people were even in
22 that vehicle? And then answer that question for yourself
23 in your own heart and in your own mind and then ask
24 yourself if you can trust those same people beyond a
25 reasonable doubt as to who was driving by in a car,

CLOSING STATEMENTS BY THE DEFENSE

1 looking through another person who's shooting a gun and
2 identify them while they're admittedly scared.

3 I've listened to that 9-1-1 tape a number of times and
4 Ms. Thompson, what occurred to Ms. Thompson is wrong.
5 Okay. But two wrongs don't make a right. And sending
6 Dexter Brown to jail would be another wrong.

7 Roger Benjamin made a statement on the day of the
8 incident, on the very day that it occurred. It's his
9 version of the 9-1-1 tape. He said it on that very day.
10 He signed it. Okay.

11 And he admitted on the stand it's just not the truth.
12 It's not fully true. And when you put that together with
13 the 9-1-1 tape and you hear Ms. Thompson asking Roger
14 Benjamin in the background, "Who's Dexter?" And "What
15 color is the car?" You have a witness who testified to
16 not telling the truth telling another witness what
17 happened.

18 That's just a lot of pause and hesitation. That's a
19 lot of reasonable doubt. And a lot of reasonable doubt
20 means Dexter Brown is not guilty.

21 Now what can't give you pause, ladies and gentlemen.
22 And this is very, very important, is the fact that Dexter
23 Brown did not take the stand. The Judge has already told
24 you and he'll tell you again, that is his absolute and
25 complete constitutional right.

CLOSING STATEMENTS BY THE DEFENSE

1 And you can't hold him against that at all (sic).
2 Okay.

3 We all -- just like the cloak of innocence, that
4 Dexter Brown has been wearing this entire trial. Okay.
5 We all have that right. He's chosen to exercise that
6 right.

7 Speaking to the cloak of innocence. Dexter Brown is
8 still wearing that cloak here today, ladies and
9 gentlemen. He walked in here with it yesterday morning
10 just like you all did. And he's still wearing it.

11 The reason he's still wearing it is the same thing I
12 said in the beginning; the State's case, the police's case
13 they've been trying to make for six months, is not strong
14 enough to take the cloak of innocence off Dexter Brown.
15 We all wear that cloak and it's heavy for a reason. And
16 it's been heavy for a reason since the start of the
17 country; so they couldn't arrest people and put people in
18 jail for no reasons.

19 All right. And the evidence is not strong enough.
20 Like the solicitor said, it's just not there. They just
21 don't have it. The evidence is not strong enough to take
22 the cloak of innocence off Dexter Brown.

23 And that's why I ask you to return a verdict of not
24 guilty.

25 Thank you very much.

JURY CHARGE

1 THE COURT: Thank you, Mr. McCarley.

2 MR. MCCARLEY: Yes, sir.

3 JUDGE'S CHARGE TO THE JURY

4 THE COURT: All right. Ladies and gentlemen, you have
5 now heard the closing arguments of the attorneys. It's my
6 duty now to charge you on the law of this case.

7 Mr. Bernard -- I mean, Mr. Dexter Bernard Brown is
8 charged with the attempted murder of Brandon Parker by one
9 indictment. By another indictment he is charged with the
10 attempted murder of Roger Benjamin. And by the final
11 indictment he is charged with possession of a weapon
12 during a violent crime.

13 Now, I remind you that the fact that the Defendant was
14 arrested, charged, and indicted in this case is not
15 evidence in this case and not -- and may not be considered
16 by you as evidence of guilt in this case, nor does it
17 create any presumption or inference of guilt.

18 These indictments are simply the formal written
19 instruments which contain the charges made against the
20 Defendant. They are the formal documents by which this
21 case is brought into court.

22 The Defendant has pled not guilty to these indictments
23 and that plea puts the burden on the State to prove the
24 Defendant guilty. A person charged with committing a
25 criminal offense in South Carolina is never required to

JURY CHARGE

1 prove himself innocent.

2 I charge you that it is an important rule of law that
3 the defendant in a criminal trial, no matter how serious
4 the charges may be, will always be presumed to be innocent
5 of the crime for which the indictments were issued unless
6 the guilt has been proven by evidence satisfying you, the
7 jury, of that guilt beyond a reasonable doubt.

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

13 The presumption of innocence is like a robe of
14 righteousness placed about the shoulders of the Defendant
15 which remains with the Defendant until it has been
16 stripped from the Defendant by evidence satisfying you of
17 the Defendant's guilt beyond a reasonable doubt.

18 The presumption of innocence is not mere legal
19 theory. It is not just a legal phrase. It is a
20 substantial right to which every defendant is entitled
21 unless you, the jury, are satisfied from the evidence of
22 the Defendant's guilt beyond a reasonable doubt.

23 The Defendant is entitled to every inference in his
24 favor which can reasonably be drawn from the evidence.
25 When two inferences may be drawn from the same set of

JURY CHARGE

1 facts, one consistent with a verdict of guilty and one
2 inference consistent with a verdict of not guilty, the
3 Defendant is entitled to the inference which is consistent
4 with a verdict of not guilty.

5 You cannot find the Defendant guilty based upon
6 suspicion, conjecture or speculation, no matter how
7 strong. A conviction can only be based upon proof of
8 guilt beyond a reasonable doubt.

9 If the proof does not meet that standard, you must
10 find the Defendant not guilty.

11 What is reasonable doubt in the law? A reasonable
12 doubt is the kind of doubt that would cause a reasonable
13 person to hesitate to act. The State has the burden of
14 proving the Defendant guilty beyond a reasonable doubt.

15 Some of you may have served as jurors in civil cases
16 where you were told that it is only necessary to prove
17 that a fact is more likely true than not true, such as by
18 the greater weight or preponderance of the evidence.

19 In criminal cases the State's proof must be more
20 powerful. It must be beyond a reasonable doubt. Proof
21 beyond a reasonable doubt is proof that leaves you firmly
22 convinced of the Defendant's guilt.

23 There are very few things in this world that we know
24 with absolute certainty. And in criminal cases, the law
25 does not require proof that overcomes every possible

JURY CHARGE

1 doubt.

2 Based on your consideration of the evidence, if you
3 are firmly convinced that the Defendant is guilty of the
4 crime charged, you must find the Defendant guilty.

5 If you think there's a real possibility that the
6 Defendant is not guilty, you must give the Defendant the
7 benefit of the doubt and find him not guilty.

8 During this trial you and I have certain duties to
9 perform. As the Trial Judge it is my responsibility to
10 preside over the trial in this case, and I also had the
11 duty to rule on the admissibility of the evidence offered
12 during this trial.

13 You are to consider only the competent evidence before
14 you. If there was any testimony ordered stricken from the
15 record in this case during this trial, you must disregard
16 that testimony.

17 You are to consider only the testimony which has been
18 presented from this witness stand and any exhibits which
19 have been made part of the record in this case.

20 I have the duty to charge you with the law applicable
21 in this case. As the Presiding Judge, I am the sole judge
22 of the law. And it is your duty as jurors to accept the
23 law and apply the law as I now state it to you.

24 If you already have any idea as to what the law is or
25 what the law ought to be and it does not agree with what I

JURY CHARGE

1 now tell you the law is, you must abandon those ideas
2 because you are sworn to accept the law and apply the law
3 exactly as I state it to you.

4 In every case tried before a jury, the jury is the
5 sole and exclusive judge of the facts.

6 A trial judge cannot intimate, state, comment on, or
7 make any statement to the jury about the facts of a case.
8 Since you, the jury, are the sole judge of the facts in a
9 case, you are not to infer from what I have said during
10 the progress of this trial, in ruling upon the
11 admissibility of evidence, or otherwise, or anything that
12 I say now during the course of this instruction to you,
13 that I have an opinion about the facts in this case.

14 The law does not allow me to have an opinion about the
15 facts in this case. It is a matter solely for you, the
16 jury, to determine.

17 As jurors, it is your duty to determine the effect,
18 value, weight, and truth of the evidence presented during
19 this trial.

20 There are two types of evidence which are generally
21 presented during a trial; direct evidence and
22 circumstantial evidence.

23 Direct evidence is the testimony of a person who
24 claims to have actual knowledge of a fact, such as an
25 eyewitness. It is evidence which immediately establishes

JURY CHARGE

1 the main fact to be proved. Circumstantial evidence is
2 proof of a chain of facts and circumstances indicating the
3 existence of a fact.

4 It is evidence which immediately establishes
5 collateral facts from which the main fact may be
6 inferred. Circumstantial evidence is based on inference
7 and not on personal knowledge or observation.

8 The law makes absolutely no distinction between the
9 weight or value to be given to either direct or
10 circumstantial evidence, nor is a greater degree of
11 certainty required of circumstantial evidence than of
12 direct evidence.

13 You should weigh all of the evidence in this case.
14 After weighing all of the evidence, if you are not
15 convinced of the guilt of the Defendant beyond a
16 reasonable doubt, you must find the Defendant not guilty.

17 Necessarily, you must determine the credibility of
18 witnesses who have testified in this case. Credibility
19 simply means believability.

20 It becomes your duty as jurors to analyze and to
21 evaluate the evidence and determine which evidence
22 convinces you of its truth. In determining the
23 believability of witnesses who have testified in this
24 case, you may believe one witness over several witnesses,
25 or several witnesses over one witness.

JURY CHARGE

1 ~~You may believe a part of the testimony of a witness~~
2 and reject the remaining part of the testimony of that
3 same witness.

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

7 You may consider whether any witness has exhibited to
8 you any interest, bias, prejudice, or other motive in this
9 case.

10 You may also consider the appearance and manner of a
11 witness while on the witness stand.

12 The rules of evidence ordinarily do not permit
13 witnesses to testify to opinions or conclusions. An
14 exception to this rule exists for witnesses we call expert
15 witnesses. A witness who by education and experience has
16 become expert in some art, science, profession, or calling
17 may state an opinion as to relevant and material matters
18 in which the witness claims to be an expert and may also
19 state the reasons for the opinion.

20 You should consider any expert opinion received in
21 evidence in this case and, like any other evidence, give
22 it the weight you think it deserves. If you decide that
23 the opinion of an expert witness is not based on
24 sufficient education or experience, or if you conclude
25 that the reasons given in support -- my papers stuck

JURY CHARGE

1 together.

2 If you conclude that the reasons given in support of
3 the opinion are not sound or that the opinion is
4 outweighed by other evidence, you may disregard the
5 opinion entirely.

6 An expert witness's testimony is to be given no
7 greater weight than that of other witnesses simply because
8 the witness is an expert. Further, you are not required
9 to accept an expert's opinion even though it is not
10 contradicted.

11 I instruct you and emphasize to you that the fact that
12 the Defendant did not testify is not a fact -- not a
13 factor to be considered by you in any way in your
14 deliberation and in your consideration on the question of
15 the guilt or innocence of the Defendant.

16 It must not be considered by you in any manner
17 whatsoever.

18 A defendant has the constitutional right to remain
19 silent and the assertion of this right must not be
20 considered by you in your deliberations.

21 I repeat. Under your oath you are to draw no
22 conclusions whatsoever from the fact that the Defendant in
23 this case did not testify. The fact that this Defendant
24 did not testify should not even be discussed in the jury
25 room.

JURY CHARGE

1 ~~The burden of proof, as I have told you, is on the~~
2 State. The Defendant is not required to prove his
3 innocence. The burden of proof remains on the State to
4 prove guilt beyond a reasonable doubt.

5 In order to establish criminal liability, criminal
6 intent is required. For example, the mental state
7 required to be proven by the State for a particular crime
8 might be purpose, intent, knowledge, recklessness or
9 criminal negligence.

10 Criminal intent must be proven by the State beyond a
11 reasonable doubt. Criminal intent is always a matter that
12 must be determined by the jury from the circumstances
13 surrounding the situation. There is no way to prove
14 intent to a mathematical certainty. There is no way
15 medical science can dissect a person's brain and determine
16 what the person had in mind, so the law says that criminal
17 intent may be inferred from the circumstances shown to
18 have existed.

19 This is how you make a determination of whether or not
20 the element requiring intent was present. It is not
21 necessary to establish intent by direct and positive
22 evidence. But intent may be established by inference in
23 the same way as any other fact; by taking into considering
24 the acts of the parties and all the facts and
25 circumstances of the case.

JURY CHARGE

1 ~~Criminal intent is a mental state, a conscious~~
2 wrongdoing. It is up to you to determine what the
3 Defendant intended to do based on the circumstances shown
4 to have existed.

5 Criminal intent can arise from action or failure to
6 act. It may arise from negligence, recklessness or
7 indifference to duty, or to consequences that is
8 considered by the law to be the equivalent of criminal
9 intent.

10 The Defendant is charged with attempted murder.
11 Attempted murder is when a person who with intent to kill,
12 attempts to kill another person with malice aforethought,
13 either express or implied.

14 Malice is hatred, ill will or hostility toward another
15 person. It is the intentional doing of a wrongful act
16 without just cause or excuse and with the intent to
17 inflict an injury or under circumstances that the law will
18 infer an evil intent.

19 Malice aforethought does not require that malice exist
20 for any particular time before the act is committed, but
21 malice must exist in the mind of the Defendant just before
22 and at the time the act is committed.

23 Therefore, there must be a combination of the previous
24 evil intent and the act.

25 Malice aforethought may be express or inferred. These

JURY CHARGE

1 ~~terms, express and inferred, do not mean different kinds~~
2 of malice but merely the manner in which malice may be
3 shown to exist. That is, either by direct evidence or by
4 inference from the facts and circumstances which are
5 proved.

6 Express malice is shown when a person speaks words
7 which express hatred or ill will for another or when the
8 person prepared beforehand to do the act which was later
9 accomplished.

10 For example, lying in wait for a person or any other
11 act in preparation of going to show that the deed was
12 within the Defendant's mind would be express malice.
13 Malice may be inferred from conduct showing a total
14 disregard for human life.

15 Inferred malice may also arise when the deed is done
16 with a deadly weapon. A deadly weapon is any article,
17 instrument, or substance which is likely to cause death or
18 great bodily harm. Whether an instrument has been used as
19 a deadly weapon depends on the facts and circumstances of
20 each case.

21 An attempt is an effort to accomplish a crime which
22 does not succeed. An attempt includes a specific intent
23 to do a particular criminal act along with an act falling
24 short of the act intended.

25 The State must show more than mere preparation and

JURY CHARGE

1 ~~intent. There must be some overt act committed in the~~
2 ~~effort to commit the crime.~~

3 Intent means intending the result which actually
4 occurs, not accidentally or involuntarily. Intent may be
5 shown by acts and conduct of the Defendant and other
6 circumstances from which you may naturally and reasonably
7 infer intent.

8 Once again, ladies and gentlemen, to prove attempted
9 murder, the State must prove beyond a reasonable doubt
10 that the Defendant attempted to kill another person with
11 malice aforethought.

12 The Defendant is also charged with possession of a
13 weapon during the commission of or attempt to commit a
14 violent crime. The State must prove beyond a reasonable
15 doubt that the Defendant was in possession of a firearm or
16 visibly displayed what appeared to be a firearm during the
17 commission of a violent crime.

18 A firearm means any machine gun, automatic weapon,
19 revolver, pistol, or any weapon which will, or is designed
20 to, or may be readily converted to expel a projectile.

21 In order to find the Defendant guilty of possession of
22 a weapon during the commission of a violent crime, you
23 must first find the Defendant guilty of either committing
24 a violent crime or attempting to commit a violent crime.

25 And I will tell you that attempted murder is a violent

JURY CHARGE

1 crime.

2 I have declared the law to you through these
3 instructions to help guide you to a just and lawful
4 verdict. Whether some of these instructions apply will
5 depend upon what you find to be the facts.

6 The fact that I have instructed you on various
7 subjects in this case must not be taken by you as
8 indicating an opinion of this Court as to what you should
9 find to be the facts or to what your verdict should be.
10 Your verdict must represent the considered judgment of
11 each juror.

12 In order to return a verdict, it is necessary that
13 each one of you jurors agree on that verdict. Your
14 verdict must be unanimous. All 12 of you must agree on
15 the verdict.

16 Your verdict cannot be based on sympathy, passion,
17 prejudice, emotion, or any other consideration not in
18 evidence in this case.

19 Remember at all times, you are not partisans favoring
20 one party over another. You are the judges of the facts.
21 Your sole interest is to seek the truth from the evidence
22 in this case, and render a fair and just verdict.

23 Now, Madam Forelady, I am going to go over this
24 verdict form with you. Now, again, I told you that I'm
25 going to go over it with you. I'm not going to let you

JURY CHARGE

1 have it yet, okay, but I want to go over it with you.

2 This verdict form lists the indictments. There are
3 two, possibly three questions that you're going to be in
4 charge of answering when you preside over the jury.

5 Okay.

6 It says that you're to circle the appropriate verdict
7 below and follow the accompanying instructions carefully.

8 The first question is: We, the jury, unanimously find
9 the Defendant as to the first charge of attempted murder
10 of Brandon Parker; either guilty or not guilty.

11 Question number two: We, the jury, unanimously find
12 the Defendant as to the second charge of attempted murder
13 of Roger Benjamin; guilty or not guilty.

14 Now, if you find the Defendant guilty of either one or
15 two or both, you are to continue to number three.

16 If you find the Defendant not guilty as to both of
17 these, you stop your deliberations at that point. Okay.

18 Question number three: We, the jury, unanimously find
19 the Defendant as to the charge of possession of a weapon
20 during the commission of a violent crime; guilty or not
21 guilty.

22 Now, you're presiding over the jury. Everybody is
23 supposed to take part in the deliberations.

24 After you make a unanimous decision, you will sign
25 your name and date it and let the bailiff know you've

JURY CHARGE

1 reached a verdict. Okay?

2 Now, as I have told you before, I'm going to let you
3 go back into the jury room. When you go back into the
4 jury room, you cannot begin your deliberations.

5 I will be out here. I will go over my charges with
6 the attorneys. If I have misstated the law, they will ask
7 me to come back and recharge you on some elements of the
8 law and I will come back and I will charge you on those
9 elements of the law.

10 If they tell me that I've said everything I was
11 supposed to say, we'll gather up the evidence, the
12 bailiffs will come back and bring the evidence into the
13 court with you -- into the jury room with you and give you
14 the verdict form and you will be told to begin your
15 deliberations at that time.

16 But until you are told to begin your deliberations,
17 you may not begin talking about this case. Okay?

18 Now, I'm going to excuse you to go back into the jury
19 room at this time. And I'll let you know where we go from
20 there. Okay?

21 Thank you for your attention.

22 (Thereupon, the jury exits the courtroom at
23 12:25 p.m.)

24 THE COURT:- Anything from the State regarding the
25 charges?

1 MS. MAURICE: No, Your Honor.

2 THE COURT: Anything from the Defendant?

3 MR. GIBBONS: May we approach?

4 MR. McCARLEY: May we approach, Your Honor?

5 THE COURT: Sure.

6 (Off-the-record discussion.)

7 THE COURT: Any correction about the charges?

8 MR. McCARLEY: None from the defense, Your Honor.

9 THE COURT: All right. What I would ask y'all to do
10 is if y'all would go through the evidence, Mr. McCarley
11 and Ms. Maurice, if you would go through the evidence,
12 make sure all of the evidence is together. And then we'll
13 send that back to the jury room along with the verdict
14 form. Okay?

15 (Attorneys comply.)

16 THE COURT: Y'all were chosen as alternates in the
17 case. The case is now ready to go to the jury and since,
18 you know, we don't need you as alternates, y'all are free
19 to go.

20 I know y'all have made excellent jurors, but you are
21 free to go.

22 THE JUROR: Thank you.

23 THE COURT: You are free to go. You are welcome to
24 stay if you want to, but otherwise you are now free to go.

25 THE JUROR: No, sir. I'm hungry.

1 THE COURT: Thank you.

2 (Thereafter, the alternate jurors were excused at
3 12:30 p.m. Deliberations commenced. At 1:15 p.m., there
4 was a question from the jury. Thereafter, the trial
5 resumed as follows:)

6 THE COURT: All right. Back on the record in the
7 State versus Dexter Brown.

8 I've got a question from the jury. The jury would
9 like to listen to the 9-1-1 call again.

10 Bring them back? I don't have any problems with
11 that. I just want to make sure. Bring them back out here
12 and play it in the courtroom? Mr. McCarley?

13 MR. MCCARLEY: Yes, sir.

14 MS. MAURICE: Yes, Your Honor. If we -- Mr. Bamberg
15 said he can set it up, if you give me just a minute, to
16 make it a little bit closer. We've got the volume up as
17 loud as it can go.

18 THE COURT: Okay.

19 MS. MAURICE: I don't know if that's a problem or not.

20 THE COURT: What we're going to need to do is -- Madam
21 Bailiff, do you mind going in the jury room and getting
22 that disk, that 9-1-1 disk? I don't know what exhibit it
23 was.

24 THE COURT REPORTER: Twenty-six.

25 THE COURT: Then once we get it out, if you'll go

1 ahead. Is there anything else we need to take up before I
2 bring the jury back out, Mr. McCarley?

3 MR. MCCARLEY: No, sir.

4 THE COURT: Anything else, Ms. Maurice?

5 MS. MAURICE: No, Your Honor.

6 (Thereupon, a note from the jury was marked and
7 received into evidence as Court's Exhibit No. 1.

8 Thereafter, the jury enters the courtroom at 1:18 p.m.,
9 and the trial continued:)

10 THE COURT: All right. Ladies and gentlemen, I've
11 received a note that y'all would like to listen to the
12 9-1-1 call again.

13 So we are preparing that. As you know, we went back
14 in the jury room and got the disk back out and as soon as
15 I am told it's ready to be played, we'll play it again for
16 you.

17 (Pause.)

18 THE COURT: Are we ready?

19 MR. BAMBERG: (Nods head.)

20 THE COURT: Play the tape, please, sir.

21 (Thereupon, the 9-1-1 call, State's Exhibit No. 26,
22 was played for the jury.)

23 THE COURT: All right. Ladies and gentlemen, y'all
24 have now heard the 9-1-1 tape again. I'm going to let
25 y'all go back into the jury room to begin your

1 deliberations, to continue your deliberations. Okay?

2 Thank you all.

3 (Thereupon, the jury exits the courtroom at 1:25 p.m.)

4 THE COURT: All right. Anything from the State?

5 MS. MAURICE: No, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. MCCARLEY: No, Your Honor.

8 THE COURT: Okay. Then we'll be in recess until you
9 find out what's going to go on.

10 MS. MAURICE: I'm ready right now if you want to.

11 (Thereafter, another matter was heard by the Court.

12 At 3:24 p.m., the Court received a note from the jury and
13 the trial resumed as follows:)

14 THE COURT: Back on the record in the case of State
15 versus Brown.

16 I've got two questions from the jury. The first
17 question is: In the State of South Carolina, if there is
18 a drive-by shooting and there are people at the residence,
19 is that considered attempted murder?

20 Any response from the State?

21 I'll come back to you.

22 MS. MAURICE: Yeah. I really don't know what to say.

23 THE COURT: Yeah.

24 MS. MAURICE: I don't know if -- I'm kind of

25 confused. I don't know if they're suggesting I should

1 have put that Alice Thompson maybe was a victim or -- I
2 don't really understand it.

3 THE COURT: I don't -- well, I'll read the next
4 question.

5 The next question is: If the driver wasn't shooting,
6 is it also the charge of attempted murder?

7 MS. MAURICE: Well, we didn't do hand of one hand of
8 all.

9 THE COURT: No, we didn't.

10 MR. GIBBONS: Your Honor, and I think as to the first
11 question, I think they have to find the name in the
12 indictments, the victim, not bystanders.

13 THE COURT: Oh, no. I understand. My suggestion --

14 MS. MAURICE: Right.

15 THE COURT: -- and y'all tell me what you want me to
16 do, but my suggestion is that they need to just consider
17 the evidence and they consider exactly what was charged
18 and who was charged and that's all they -- that's all that
19 they can consider in this case.

20 MS. MAURICE: Okay.

21 THE COURT: And just tell them that. Is there
22 anything else that you want me to tell them?

23 MR. GIBBONS: Just as long as your charge says they
24 have to find the elements against the victims named in the
25 indictment.

1 THE COURT: I just think, you know, I just think I
2 need to -- they need to consider the testimony and the
3 evidence that they had, and consider the charges against
4 the Defendant that's here, and that's what they're
5 supposed to decide.

6 (Cell phone goes off.)

7 MS. MAURICE: I think he needs to be held in contempt
8 of Court.

9 THE COURT: That's an easy thing to do.

10 (Laughter.)

11 MS. MAURICE: I agree with Your Honor, with what
12 you're --

13 THE COURT: Anything else, Mr. Gibbons?

14 MR. GIBBONS: That's all right.

15 THE COURT: I'm going to keep it very basic. I'll
16 bring them back in here. Okay.

17 Would you bring the jury back in here?

18 (Thereupon, the jury enters the courtroom at
19 3:25 p.m., and the trial continued:)

20 THE COURT: All right. Ladies and gentlemen, I
21 appreciate y'all's deliberation and I've gotten the new
22 questions that y'all had.

23 And what I'm going to tell you is not going to sound
24 like an answer to you, but let me just remind you of a
25 couple of things more than anything else.

1 Okay. Y'all have heard all the evidence in this case
2 that you're going to hear. Okay? And that is the
3 evidence that you have got to consider in determining the
4 facts of this case. Okay.

5 Now, with regard to the charges or the indictment, you
6 can only deal with those indictments that we have, not any
7 of the other factual situations that you have asked any
8 questions about.

9 So you've got the evidence that we have. And we've
10 got the indictments against Mr. Brown. And y'all have got
11 to determine that. Y'all have got to determine his guilt
12 or innocence from that. Okay.

13 And I'm sorry I can't give you any more direction than
14 that, but that's where we are. Okay.

15 So, I'm going to let you go back into the jury room
16 and continue your deliberations.

17 FOREPERSON OF THE JURY: Thank you.

18 THE COURT: Thank you.

19 (Thereupon, the jury exits the courtroom at 3:27 p.m.)

20 THE COURT: Anything from the State?

21 MS. MAURICE: No, Your Honor.

22 THE COURT: Anything from the Defendant?

23 MR. McCARLEY: No, sir.

24 THE COURT: Okay. I'll mark this set of questions a
25 Court's Exhibit.

1 (Thereupon, the note from the jury was marked and
2 received into evidence as Court's Exhibit No. 2. The jury
3 deliberations continued. At 4:32 p.m., there was another
4 note received from the jury and the trial continued:)

5 THE COURT: I've got a question by the jury.

6 We're back on the record in the case versus State
7 versus Dexter Brown. I have another question from the
8 jury.

9 The question from the jury is: What do we do if the
10 vote is not unanimous?

11 Okay. Now, I thought I was fairly specific when I was
12 telling them they had to be unanimous. Okay. And I don't
13 want to give them an Allen Charge at this stage of the
14 game.

15 So, what I was just going to do is bring them back out
16 here and say, you know, it's got to be unanimous and send
17 them back to deliberate.

18 Unless y'all have some other suggestions. I
19 appreciate pearls of wisdom.

20 Anything from the defense?

21 MR. MCCARLEY: No pearls of wisdom from the defense,
22 Your Honor.

23 THE COURT: Anything from the State?

24 MS. MAURICE: What would be the problem -- I guess,
25 what's your concern with giving an Allen Charge? I

1 haven't looked at an Allen Charge in awhile, to be honest
2 with you.

3 THE COURT: The Allen Charge, I just didn't want to
4 give it now. About eight o'clock tonight I'm inclined to
5 give it, you know. But right now, you know, I just -- I
6 don't like to give it right now because they've been
7 deliberating for about, well, about three hours.

8 MS. MAURICE: Okay.

9 THE COURT: So I want them to have to --

10 MS. MAURICE: Thank you, Your Honor.

11 THE COURT: Before I give an Allen Charge, I just want
12 to tell them it's got to be unanimous. They've got to
13 work that out. Okay.

14 Anything, Mr. Gibbons?

15 MR. GIBBONS: Do you just want to write back on their
16 note, Judge, or do you want to bring them out?

17 THE COURT: I don't mind writing back on the note or I
18 can just step in there and just tell them that.

19 I'll write back on the note, it must be unanimous.
20 Okay?

21 MR. GIBBONS: Okay.

22 THE COURT: I'll just write on here: Your decision
23 must be unanimous.

24 MR. GIBBONS: Okay. It's pretty basic.

25 THE COURT: Actually I'm going to say: The decision

1 of the jury must be unanimous. The verdict of the jury
2 has to be unanimous. Okay?

3 MS. MAURICE: That sounds better.

4 THE COURT: Thank you. On the bottom of the Court's
5 Exhibit, I'm going to get you to take it back there,
6 Mr. Jenkins, and I'm going to get you to let the Forelady
7 see it. She can read it to them.

8 Essentially it just says the verdict of the jury must
9 be unanimous and put the time and you need to bring it
10 back.

11 THE BAILIFF: All right. Bring that back?

12 THE COURT: Bring it back to me.

13 THE BAILIFF: Okay.

14 THE COURT: Thank you, sir.

15 (Thereupon, the bailiff complied. Afterward, the jury
16 note was marked and received into evidence as Court's
17 Exhibit No. 3. Deliberations continued at 4:35 p.m.,
18 until 5:01 p.m., when the trial again resumed as follows:)

19 THE COURT: State ready?

20 MS. MAURICE: Yes, Your Honor.

21 THE COURT: Is the Defendant ready?

22 MR. McCARLEY: Yes, we are, Your Honor.

23 THE COURT: I understand they've got a verdict so
24 bring them in. Okay. Thank you.

25 (Thereupon, the jury enters the courtroom at

JURY VERDICT

1 5:02 p.m.)

2 THE COURT: All right. Madam Forelady, has the jury
3 reached a verdict?

4 FOREPERSON OF THE JURY: Yes, sir. We have.

5 THE COURT: Is that verdict unanimous?

6 FOREPERSON OF THE JURY: Yes, sir. It is.

7 THE COURT: Okay. Would you please give the bailiff
8 the verdict form?

9 FOREPERSON OF THE JURY: (Complying.)

10 THE COURT: Thank you, sir. All right.

11 Madam Clerk, would you publish the verdict?

12 THE CLERK: Okay. In the State of South Carolina
13 versus Dexter Brown, in the Court of General Sessions of
14 the Second Judicial Circuit, Indictment Number 2011-GS-
15 06-00010, Indictment Number 2011-GS-06-00011, Indictment
16 Number 2011-GS-06-00120, we, the jury, unanimously find
17 the Defendant as to the first charge of attempted murder
18 of Brandon Parker, guilty.

19 We, the jury, unanimously find the Defendant as to the
20 second charge of attempted murder of Roger Benjamin,
21 guilty.

22 If you find the Defendant guilty of one or two or
23 both, continue to number three.

24 We, the jury, unanimously find the Defendant as to the
25 charge of possession of a weapon during the commission of

JURY VERDICT

1 a violent crime, guilty.

2 THE COURT: Thank you, ma'am. Anything from the
3 Defendant?

4 MR. MCCARLEY: Yes, Your Honor.

5 THE COURT: Yes, sir.

6 MR. MCCARLEY: We do have a motion.

7 THE COURT: Okay. I'll take up the motions in a
8 minute. That's all. Okay. All right.

9 Ladies and gentlemen of the jury. I know y'all
10 listened and I appreciate your attention and listening and
11 all the time you took to render -- decide, make your
12 decision. I appreciate what you did. The State
13 appreciates what you did.

14 And I've got to tell you that your service is real
15 important. And so, I -- the good news is you get paid for
16 this, this huge amount of money on a daily basis and the
17 other good news is you don't have to serve on any juries
18 for the remainder of the year in circuit court.

19 But thank you for the good job you did. I appreciate
20 your service.

21 Now let me tell you, you are now free to talk about
22 the case with anybody you want to. But you also don't
23 have to talk to anybody if you don't want to. So if
24 anybody contacts you and they want to talk about the case
25 and you don't feel like talking with them, you can let me

1 know, you can contact the clerk's office, you can give me
2 the name of anybody that's talking to you that you don't
3 want to talk to and I'll talk to them about it.

4 But if somebody wants to talk to you about it and you
5 feel like talking to them about it, you're free to do
6 that. Okay? All right.

7 I want to thank you again for your service. I
8 appreciate everything you did. We are not having any more
9 trials this week so y'all are free. Okay.

10 Thank you again. Appreciate it.

11 THE CLERK: I need Madam Foreperson to sign it.

12 THE COURT: Okay. Madam Forelady, you need to hang
13 around and sign some things. The rest of you are free to
14 go. Thank you all, again. Appreciate your service.

15 (Thereupon, the jury exits the courtroom at 5:10 p.m.)

16 THE COURT: Mr. McCarley, you indicated you had some
17 motions?

18 MR. MCCARLEY: Yes, Your Honor.

19 THE COURT: Yes, sir.

20 MR. MCCARLEY: The defense moves at this time for a
21 new trial based on the objections made during the trial.

22 We also renew the grounds set forth in the directed
23 verdict stage whereby the defense did not meet the
24 elements of commission of a violent injury to another
25 person. As to the attempted murder charge as well as

1 having never placed the firearm in the hands of the
2 Defendant in regards to the possession of a firearm during
3 a violent crime.

4 THE COURT: And any specific objections with regard to
5 the new trial? Just general?

6 MR. McCARLEY: Yes, sir.

7 THE COURT: All right, sir.

8 I'm going to deny your motion for a new trial. And I
9 believe that there was testimony by eyewitnesses regarding
10 Mr. Brown and the commission of the acts involved.

11 I understand the argument that you're making with
12 regard to your interpretation of attempted murder, but
13 attempted murder is also his conduct. And firing a gun at
14 a van, I think falls easily within the definition of the
15 attempted murder statute.

16 But I will note your request. I will deny your motion
17 but I'll note your objection so that can be preserved on
18 the record should you wish to go forward with this.

19 MR. McCARLEY: Thank you, Your Honor.

20 THE COURT: Anything further?

21 MR. McCARLEY: No, sir.

22 THE COURT: All right. Thank you, sir. Do y'all need
23 a minute before we go to the sentencing?

24 MR. McCARLEY: Please, sir.

25 MS. MAURICE: Yes, sir. We do.

SENTENCING

1 THE COURT: How long do you need to take? Ten
2 minutes?

3 MS. MAURICE: Well, here comes the sentencing sheet
4 now.

5 THE COURT: I'm going to give y'all about 10 minutes.

6 MS. MAURICE: Okay.

7 (Thereupon, a break was taken from 5:10 p.m., until
8 5:19 p.m., when the trial continued as follows:)

9 THE COURT: Back on the record in the State versus
10 Dexter Brown in the sentencing phase. Mr. McCarley?

11 MR. MCCARLEY: Yes, sir. Although we disagree with
12 the verdict, we'd like --

13 THE COURT: Y'all can come up.

14 MS. MAURICE: Have the sentence sheets been handed
15 up?

16 THE COURT: Yeah. I got the sentencing sheets.
17 Uh-huh.

18 MR. MCCARLEY: Again, even though we disagree with the
19 verdict, we'd like the Court to consider the fact that
20 Dexter's been working.

21 He has family. His father would like to speak when
22 the Court sees fit. We'd also like the Court to consider
23 that no one was hurt in any form or fashion in this.

24 The defense strongly requests the Court to run the
25 sentences concurrent as well as to consider the fact that

SENTENCING

1 Mr. Brown is a young man and give a reasonable sentence in
2 the hopes that he can become a productive part of the
3 community again at some point, Your Honor.

4 THE COURT: I'll be glad to hear from his father.
5 Yes, sir. Your name, please, sir?

6 MR. BROWN: Dexter Brown.

7 THE COURT: Mr. Brown, let me hear from you, please,
8 sir.

9 MR. BROWN: Well, the verdict -- a lot of things in
10 the testimony was not so. And, like, they got on the
11 stand and said that I was -- they took care and raised
12 him. I took care of him all my life, ever since his mama
13 got killed in '97.

14 And he's been working, going to school. He had got a
15 grant to go to school in Mississippi with my uncle. And
16 he's working and everything.

17 THE COURT: Yes, sir.

18 MR. BROWN: I raised him and took care of my father in
19 the home.

20 THE COURT: Anything else you want to tell me?

21 MR. BROWN: That's it, sir.

22 THE COURT: Okay. Thank you, Mr. Brown. Appreciate
23 it. All right.

24 Mr. McCarley, anything else?

25 MR. MCCARLEY: No, sir.

SENTENCING

1 THE COURT: Anything from the State?

2 MS. MAURICE: You want the previous convictions, Your
3 Honor?

4 THE COURT: Yes. Yes, ma'am.

5 MS. MAURICE: 2004, burglary second degree; 2008,
6 possession of crack cocaine. It looks like, Your Honor,
7 that there's another possession. It looks like it was
8 probably a probation revocation.

9 THE COURT: Anything else?

10 MS. MAURICE: No, Your Honor.

11 THE COURT: All right. Mr. Brown, the jury in
12 Barnwell County, having heard the testimony in this case,
13 has found you guilty. And, it is my duty to sentence you.

14 WITH REGARD TO INDICTMENT NUMBER 2011-GS-06-10 AND 11,
15 WHICH ARE BOTH THE ATTEMPTED MURDER CHARGES, THE SENTENCE
16 OF THIS COURT IS THAT YOU ARE COMMITTED TO THE STATE
17 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF 30 YEARS. THESE
18 SENTENCES ARE CONCURRENT. I WILL GIVE YOU CREDIT FOR ANY
19 TIME THAT YOU HAVE SERVED.

20 WITH REGARD TO INDICTMENT NUMBER 2011-GS-6-120,
21 POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
22 CRIME, THE SENTENCE OF THIS COURT IS YOU ARE COMMITTED TO
23 THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF FIVE
24 YEARS. THAT SENTENCE IS CONSECUTIVE TO THESE.

25 Good luck to you. Thank you.

SENTENCING

1 THE DEFENDANT: Fuck you. Y'all crackers got what
2 y'all wanted, ain't you? Your grandson will get it, too,
3 you old bitch.

4 THE OFFICER: Whoa.

5 THE COURT: I can re-sentence him, Mr. McCarley.

6 MR. MCCARLEY: Would you like to?

7 THE COURT: I might. I'll think about it for a
8 minute.

9 MR. MCCARLEY: Yes, sir.

10 (Thereupon, the Defendant exits the courtroom at
11 5:25 p.m.)

12 THE COURT: All right. While I'm considering that, I
13 will take one more plea if you got it, and then we're
14 through for the week.

15 (Thereupon, Court stood in recess from 5:25 p.m.,
16 until 5:27 p.m., when the hearing of this matter continued
17 as follows:)

18 THE COURT: Mr. McCarley, we're going to go back on
19 the record for a minute --

20 MR. MCCARLEY: Yes, sir.

21 THE COURT: -- in the State versus Dexter Brown. Is
22 everybody present in the courtroom?

23 MR. MCCARLEY: Does Mr. Brown need to return?

24 THE OFFICER: He's gone to the jail, your Honor.

25 THE COURT: He's already gone to the jail? All I want

SENTENCING

1 to do is have the Sheriff tell me on the record what he
2 has told -- what he was told or what his staff was told.
3 Sheriff?

4 THE SHERIFF: Your Honor, as the Defendant was leaving
5 the courthouse he verbally made a threat against the
6 witness in this case. And on the way to the elevator no
7 words were said, but he made a verbal threat to myself and
8 the investigator about myself and Investigator John
9 Trottie.

10 The statement was: I didn't get life. I'll -- you
11 will get life.

12 Like I say, 30 (verbatim) years, 85 percent, I'm
13 afraid the Good Master will take me before he will, but I
14 just wanted it on the record.

15 THE COURT: Okay. Thank you, sir.

16 I also want to note on the record that we were
17 concerned at one point during the trial about perhaps
18 intimidation or threats to witnesses.

19 I'm just going to have that noted on the record in
20 case anything comes up on appeal or anything like that.
21 There was some concern about that before the trial. It
22 proved to be a concern during the trial.

23 And, so that's on the record.

24 Mr. McCarley, anything else you want to put on the
25 record?

SENTENCING

1 MR. MCCARLEY: No, sir.

2 THE COURT: Anything from the State?

3 MS. MAURICE: No, Your Honor.

4 THE COURT: Okay. All right. Thank you all.

5 Appreciate it. Thank you, Sheriff.

6 (Thereafter, the Court stood in recess from 5:29 until
7 5:37 p.m., and the following ensued:)

8 THE COURT: Bring Mr. Brown back in.

9 (Thereupon at 5:38 p.m., the Defendant returned to the
10 courtroom, and the following transpired:)

11 THE COURT: We're back on the record in the State of
12 South Carolina versus Dexter Bernard Brown. Mr. Brown?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: As you were leaving the courtroom you made
15 some comments?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Then I understand you made some threats to
18 the sheriff's department?

19 THE DEFENDANT: No, sir.

20 THE COURT: You didn't make any threats at all?

21 THE DEFENDANT: No, sir.

22 THE COURT: What did you tell them?

23 THE DEFENDANT: What I tell them?

24 THE COURT: Uh-huh.

25 THE DEFENDANT: I will be back. Ain't like I got

SENTENCING

1 life.

2 THE COURT: You didn't say anything to them? You did
3 not make any threats to them?

4 THE DEFENDANT: No, sir.

5 THE COURT: What were the comments that you made
6 leaving the courtroom?

7 THE DEFENDANT: I just told you what I said.

8 THE COURT: And that was it?

9 THE DEFENDANT: That was it.

10 THE COURT: The sheriff's office indicated to me that
11 you made threats to the deputies.

12 THE DEFENDANT: If that's how you feel, that's how you
13 feel.

14 THE COURT: Okay. All right, sir. Did you want to
15 apologize for anything you said?

16 THE DEFENDANT: Apologize for saying? I ain't got
17 life and I'll be back. That's it.

18 THE COURT: So you don't feel like any apologies are
19 necessary?

20 THE DEFENDANT: Not for saying -- ain't like I got
21 life. I don't see no need for apologizing.

22 THE COURT: Okay. All right, sir.

23 THE DEFENDANT: (Inaudible.)

24 THE COURT: I couldn't hear you.

25 THE DEFENDANT: Oh, I say you give me time like I done

SENTENCING

1 murdered somebody or something. Nothing linking me to
2 nothing, but you give me 35 years.

3 THE COURT: What?

4 THE DEFENDANT: I said, nothing linking me to nothing
5 and you give me 35 years. You got people who kill people
6 who get less time than that. That ain't right.

7 THE COURT: Mr. Brown, you've been convicted. There
8 was eyewitness testimony in here. And you don't act at
9 all appropriately, I don't think. You understand what I'm
10 saying?

11 THE DEFENDANT: What you trying to say?

12 THE COURT: Well, if you don't understand there's no
13 reason for me to go into it any further. Okay.

14 Mr. Brown, so that I won't do anything -- what I'm
15 going to do, and I've told -- I've sentenced you, but on
16 my own I'm going to consider whether I'm going to
17 re-sentence you or not. Okay.

18 And re-sentencing isn't going to be better. Do you
19 understand what I'm saying?

20 THE DEFENDANT: (Nods head.)

21 THE COURT: Sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. All right, sir. All right. I'm
24 modifying the sentences. Same years, everything's
25 consecutive. Thank you, sir.

SENTENCING

1 THE DEFENDANT: Y'all happy now?

2 (Thereupon, the Defendant exits the courtroom at
3 5:42 p.m. Court stood in recess until 5:46 p.m., when the
4 trial resumed as follows:)

5 THE COURT: One more time. We're going to back on the
6 record in the State of South Carolina versus Dexter
7 Brown. All right.

8 Mr. McCarley, I believe you said there was something
9 you wanted to tell me?

10 MR. MCCARLEY: The defense would like to make a motion
11 to reconsider and for you to retain jurisdiction, Your
12 Honor.

13 THE COURT: All right. Mr. McCarley, I'm not going to
14 rule on that at this time, but I will take your motion
15 under advisement, consider it, and we'll get back to it.

16 MR. MCCARLEY: Thank you, sir.

17 THE COURT: We're now off the record. Thank you, sir.

18 END OF PROCEEDINGS: 5:45 p.m.

19 * * * *

20 CERTIFICATE OF REPORTER

21 I, Cheri L. Young, Registered Professional Reporter,
22 and Official Court Reporter for the State of South
23 Carolina, do hereby certify that the foregoing transcript
24 of proceedings heard on Monday, May 11, 2011, and Tuesday,
25 May 12, 2011, in Barnwell, South Carolina, was reported by

SENTENCING

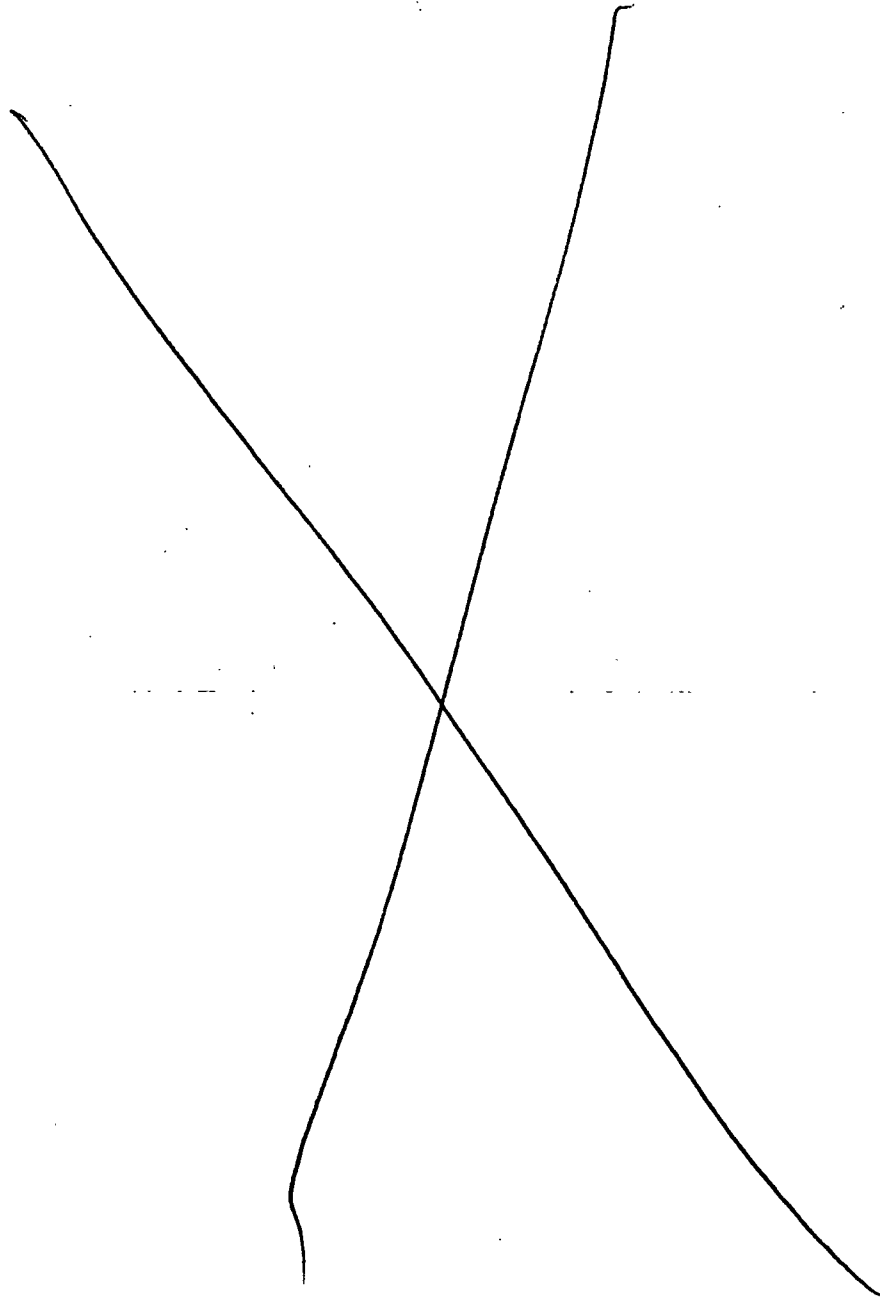
1 me using machine shorthand and realtime computer-aided
2 translation and is a true, accurate and complete
3 transcript of the proceedings had and evidence introduced
4 in the hearing of the matter.

5 I do further certify that I am neither of kin, counsel
6 nor interest to any party hereto.

7 I have hereunto set my hand this Thursday, the 3rd day
8 of May, 2012.

9
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11 

12 Cheri L. Young, RPR
13 Official Court Reporter.
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STATE OF SOUTH CAROLINA
COUNTY OF BARNWELL

COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

CASE NO. 2011-GS-06-0010,
0011, 0120

STATE OF SOUTH CAROLINA)

) MOTION FOR RECONSIDERATION
) TRANSCRIPT OF RECORD

versus)

) DATE:

DEXTER BERNARD BROWN,)

) SEPTEMBER 22, 2011

DEFENDANT)

BEFORE:

HONORABLE EDGAR DICKSON PRESIDING JUDGE

APPEARANCES:

KIP McALISTER, ESQUIRE

ASSISTANT SOLICITOR

FOR THE STATE

NICHOLAS McCARLEY, ESQUIRE

PUBLIC DEFENDER

FOR THE DEFENDANT

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

1 DATE:

2 SEPTEMBER 22, 2011

3 THE COURT: Mr. McCarley, this your motion?

4 MR. MCCARLEY: Yes, Your Honor, it is. This the Defense
5 moving for reconsideration of the sentence in the case of
6 Dexter Brown, a trial you heard in May in Barnwell County,
7 sir. First off I'd like to thank the Court for granting
8 this motion. We're aware it's discretionary and we
9 appreciate being heard.

10 We would like the Court to reconsider the sentence in
11 three parts, Your Honor: First, to reconsider the original
12 sentence where Dexter was given the maximum possible
13 penalty; also, the resentencing after what occurred in the
14 courtroom; as well as to reconsider the sentence based on
15 some personal family background that counsel has only been
16 made aware of since the trial.

17 I'm aware that you're going to want to speak to Dexter,
18 himself. His family, a couple of family members are also
19 here, I also have a couple of letters from the community on
20 his behalf.

21 THE COURT: Okay.

22 MR. MCCARLEY: If I may first, Your Honor.

23 THE COURT: Yes, sir.

24 MR. MCCARLEY: Thank you. As to the original sentence
25 where he was given the maximum sentence possible for the

1 crimes he was convicted of, the Defense doesn't believe
2 Dexter has the kind of violent criminal history that would
3 warrant a maximum penalty. Also of note, Dexter's co-
4 defendant was sentenced to Fifteen years in the next term of
5 Court after Mr. Brown's trial.

6 THE COURT: Was it, did the co-defendant go to trial?

7 MR. McCARLEY: The co-defendant did not, he pled
8 guilty, Your Honor.

9 THE COURT: But he was sentenced to Fifteen years?

10 MR. McCARLEY: Yes, sir.

11 THE COURT: Okay. Alright.

12 MR. McCARLEY: Also, from an equitable standpoint, the
13 victims in this case, as the testimony of the State's
14 witnesses at trial showed, did not come with clean hands.
15 One victim, it came out at trial, has outstanding charges.
16 The other victim was not available for trial because he is
17 currently incarcerated in North Carolina for possession of a
18 firearm by a convicted felon.

19 Finally, speaking to the original sentence, no one was
20 injured in this incident. We are aware of how serious and
21 how severe what occurred on that roadside that day was, but
22 the fact remains that no one was injured.

23 THE COURT: And Mr. Brown pointed that out to me at
24 trial.

25 MR. McCARLEY: Yes, sir.

1 THE COURT: Okay.

2 MR. MCCARLEY: We'd also like the Court to reconsider
3 the resentencing. Dexter had high hopes in taking this to
4 trial. Those hopes were even higher when the jury was out
5 as long as it was. He was then convicted and sentenced, and
6 he lost his cool. In the multiple conversations he and I
7 have had via phone and in person since then he has told me
8 that he is sorry that, as he told me on multiple occasions,
9 he allowed his pride to get out in front of him, and he's
10 sorry, but he will, he will himself speak to that, Your
11 Honor.

12 THE COURT: Okay.

13 MR. MCCARLEY: And then, by way of possibly explaining
14 what occurred in the courtroom at the end, Dexter's -- a
15 little bit about his family and personal background that I
16 was not aware of at trial and at the sentencing phase, if I
17 may, - - -

18 THE COURT: Yes, sir.

19 MR. MCCARLEY: --- Dexter was raised initially by his
20 mother and step father. I have come to find that that step
21 father was abusive towards Dexter and his mother. His
22 little brother actually lived in the home as well and
23 suffered from seizures, his step father was not physically
24 abusive toward the younger brother because I'm told in a
25 number of instances Dexter would step in so that that would

1 not occur for his -- that would not occur to his younger
2 brother, sir. His mother passed away in a car wreck. His
3 younger brother was in the car. His step father was, either
4 pled to or was found guilty of manslaughter in that
5 incident. The car was tampered with, and Dexter's mother
6 passed away. After that incident, -- Dexter was eight years
7 old and his younger brother was six at that time, Your
8 Honor. After that incident he did go to counseling to deal
9 with the passing of his mother. As a part of that
10 counseling he was diagnosed severely ADHD. He took
11 medicine, including Adarol and I believe as well, Butrin,
12 during that treatment. Coming up then in school Dexter was
13 on the honor roll and played sports. His, he then dropped
14 out and started making poor, poor decisions due to peer
15 group and the like, and he takes ownership of those. And
16 he's told me that it all started to go wrong, you know, in
17 the late teenage years. And before that, I mean, we're just
18 now talking about the fact that he was in the newspaper for
19 playing sports and for being on the honor roll. He
20 actually, I spoke to a lady whose child he tutored in late
21 middle school and she couldn't, you know she just couldn't
22 believe the situation that he had gotten himself into. And
23 he admits to getting himself into that situation. So, those
24 are kind of the three bases we would like the Court to
25 reconsider the sentence for Mr. Brown. Again, I think his

1 aunt, Ms. Carter, may like to speak on his behalf, and I'm
2 not sure whether or not his father would, Your Honor.

3 THE COURT: You're welcome to come up.

4 SOLICITOR McALISTER: Your Honor, I did have a couple
5 of things from the State just for the record at the
6 appropriate time.

7 THE COURT: Okay. Yeah, I'm going to let you respond
8 after I hear from them.

9 SOLICITOR McALISTER: Yes, sir.

10 THE COURT: Yes, ma'am, if you'd come on up.

11 COURT REPORTER: I need your name.

12 SOLICITOR McALISTER: Yes, ma'am, I'm Kip, K-I-P,
13 McAlister, M-C-A-L-I-S-T-E-R.

14 THE COURT: Come on up, please, ma'am. Okay, would you
15 tell me your name, please, ma'am?

16 MS. CARTER: I'm Karen Carter. I'm his aunt.

17 THE COURT: Okay. Now, Ms. Carter, what do you want to
18 tell me, please, ma'am?

19 MS. CARTER: I would like to first thank you for this
20 opportunity to have my nephew come to get a resentence of
21 his sentence. This is very emotional for me because Dexter
22 is like a son to me. When his mother passed our mother
23 helped raise him, and then she passed, and so the primary
24 family that he had that we raised him, that was myself and
25 my brother. And again, I, this is a very emotional

1 experience for me because I just can't believe how this
2 could have occurred, really, because of our upbringing and
3 nurturing him and raising him. I understand that he has
4 probably made some mistakes in his life, but at this point
5 in time I understand that my nephew, this is something that
6 he is regretful, and he definitely realizes that, you know,
7 it was the behavior that he rendered before the Court was
8 not necessary. And he really wants to be forgiven for that.
9 My nephew is a very intelligent young man. Also, he's a
10 very kind and giving young man. We had to take care of our
11 father for many, many years after our mother passed. My
12 nephew stepped in as a young child helping to do whatever he
13 could for his grandfather, even bathing him, feeding him,
14 making sure he had his medicine on time. He also was a
15 caring young man towards his other relatives, his friends,
16 looking after young ones. His whole demeanor doesn't even
17 fit this character, and I realize over the years he did go
18 through a lot of traumatic experiences, and I tried to cover
19 him in a lot of that. However, when you don't have your
20 mother, you don't have your grandmother, you know, I was the
21 only woman that was there for him, and I tried my best, but
22 you know, as they get older, you know, teenage years, but
23 again, my nephew really, really is very remorseful, and very
24 apologetic about the things he done. He's really recognized
25 a lot of the behavioral issues, and a lot of behavioral

1 issues could have come from the things that he went through
2 when he was a young child. And that's something that, you
3 know, I always kept in mind when, you know, talking to him
4 and trying to give him guidance. So, I'm asking you, the
5 Court, to please think about and give him a lesser sentence,
6 if not time served, because he can do so much better. He
7 was working, he had his own car, he was living in his own
8 place, he was doing well. He would call me every other day
9 to let me know how much he enjoyed his job. We had that
10 connection and I just know that I can help him because I am
11 a public servant, I work with Community Development, and
12 that's what I do. And I can assist my nephew in many ways.
13 So, I'm asking you and I'm begging your forgiveness for my
14 nephew to give him a lesser sentence or time served. Thank
15 you.

16 THE COURT: Okay. Thank you, ma'am.

17 MR. McCARLEY: I don't believe his father is going to
18 speak today.

19 THE COURT: Alright.

20 COURT REPORTER: Sir, I need your full name.

21 MR. McCARLEY: Nick, N-I-C-K, McCARLEY, M-C-C-A-R-L-E-
22 Y.

23 THE COURT: Alright, what else, Mr. McCARLEY?

24 MR. McCARLEY: I believe Mr. Brown would like to speak
25 to you, sir.

1 THE COURT: Okay, Mr. Brown, I'd like to hear from you,
2 please, sir.

3 DEFENDANT BROWN: I want to say I'm sorry for the
4 outburst and the curse words I used that day in your
5 courtroom. I had let my pride get the best of me that day
6 when you told me I had all that time. And I felt like my
7 life was over with. So, I had let my pride get the best of
8 me, and I just wanted to let you know I'm sorry.

9 THE COURT: Alright, sir. Okay. Now, you've already
10 been, you're already up -- where have they placed you?

11 DEFENDANT BROWN: At Lee County.

12 THE COURT: Lee County?

13 DEFENDANT BROWN: Yes, sir.

14 THE COURT: Okay. Alright, sir. Have you signed up
15 for any training or anything?

16 DEFENDANT BROWN: Training, I go to Arnold School, I've
17 got a trade.

18 THE COURT: Okay. But what did you go for?

19 DEFENDANT BROWN: Electricity.

20 THE COURT: Electricity?

21 DEFENDANT BROWN: Yes, sir.

22 THE COURT: Have you started any classes yet?

23 DEFENDANT BROWN: Not yet, I'm still on the waiting
24 list.

25 THE COURT: Oh, you're still on the waiting list.

1 Okay. How long did they tell you the waiting list would be?

2 DEFENDANT BROWN: I ain't know, probably like a month
3 or three months, somewhere in there.

4 THE COURT: Okay. Alright, sir. Anything else you
5 want to tell me?

6 DEFENDANT BROWN: No, sir.

7 THE COURT: Okay. Thank you, sir.

8 Alright, Mr. McAlister.

9 SOLICITOR McALISTER: Your Honor, just a couple of
10 things just for the record. This was out of Barnwell
11 County, Indictments 2001-GS-06-10, 2011-GS-06-11 for
12 attempted murder, and also an indictment for 2011-GS-06-120
13 for possession of a weapon during a violent crime. Just
14 going back to the sentencing, the State, it feels that your
15 sentence that you imposed that day was appropriate due to
16 the nature of the circumstances with the crime. We also
17 felt these things that transpired after the initial
18 sentencing that the modified sentence was appropriate, Your
19 Honor. The victims could not be here, and did not wish to
20 be here today but they will be made aware of whatever
21 outcome we have here today, and Investigator Jeff Croft, who
22 was the lead investigator on this case from the Sheriff's
23 Department could not be here as well. He wanted me to let
24 you know that he is in training in Columbia and just
25 couldn't get down here.

1 THE COURT: Okay. And Mr. McAlister, he was convicted
2 by a jury of two counts of attempted murder, is that
3 correct?

4 SOLICITOR McALISTER: Correct, Your Honor, and if I
5 remember correctly, the initial sentences were on those two
6 counts concurrent for Thirty years, and then you added the
7 consecutive count of five years for possession of a weapon
8 during a violent crime.

9 THE COURT: Alright. And then I modified it to
10 everything consecutive?

11 SOLICITOR McALISTER: Yes, sir.

12 THE COURT: Okay.

13 SOLICITOR McALISTER: And the co-defendant Mr. McCarley
14 spoke of did plea at a recent term of Court in Barnwell
15 County, Two to Fifteen years, and that was what he was
16 initially offered. At the time of this trial he was under
17 mental -- that was one reason for that plea to Fifteen
18 years.

19 THE COURT: Okay. Alright. Alright, McCarley,
20 anything else?

21 MR. MCCARLEY: Just in closing to remind the Court of
22 something it already knows, the penalty for this crime, zero
23 to Thirty years does allow for a great deal of latitude.
24 And Dexter, in light of the, a number of the facts and
25 circumstances and situations that hopefully I've brought to

1 light here today would appreciate as much mercy in your
2 reconsideration of this sentence as possible, Your Honor.
3 That's all from the Defense.

4 THE COURT: Okay. Alright.

5 Mr. Brown, what I'm going to do is, I've saved all of
6 my trial notes. I'm going to go back, I'm going to review
7 my trial notes, - - -

8 DEFENDANT BROWN: Yes, sir.

9 THE COURT: --- and then I'll get back with your
10 attorney and make my decision. Okay?

11 DEFENDANT BROWN: Yes, sir. Okay.

12 THE COURT: Alright. Good luck to you.

13 MR. MCCARLEY: Thank you, for the time, sir.

14 DEFENDANT BROWN: Thank you.

15 SOLICITOR McALISTER: Thank you, Your Honor.

16 (END OF TRANSCRIPT)

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CERTIFICATE

I, the undersigned, Mrs. Harry A. Walker, of Rowesville, South Carolina, Official Court Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the captioned cause, relative to appeal, in the Court of General Sessions for Barnwell County, held in Orangeburg County, South Carolina, on the 22nd day of SEPTEMBER, 2012.

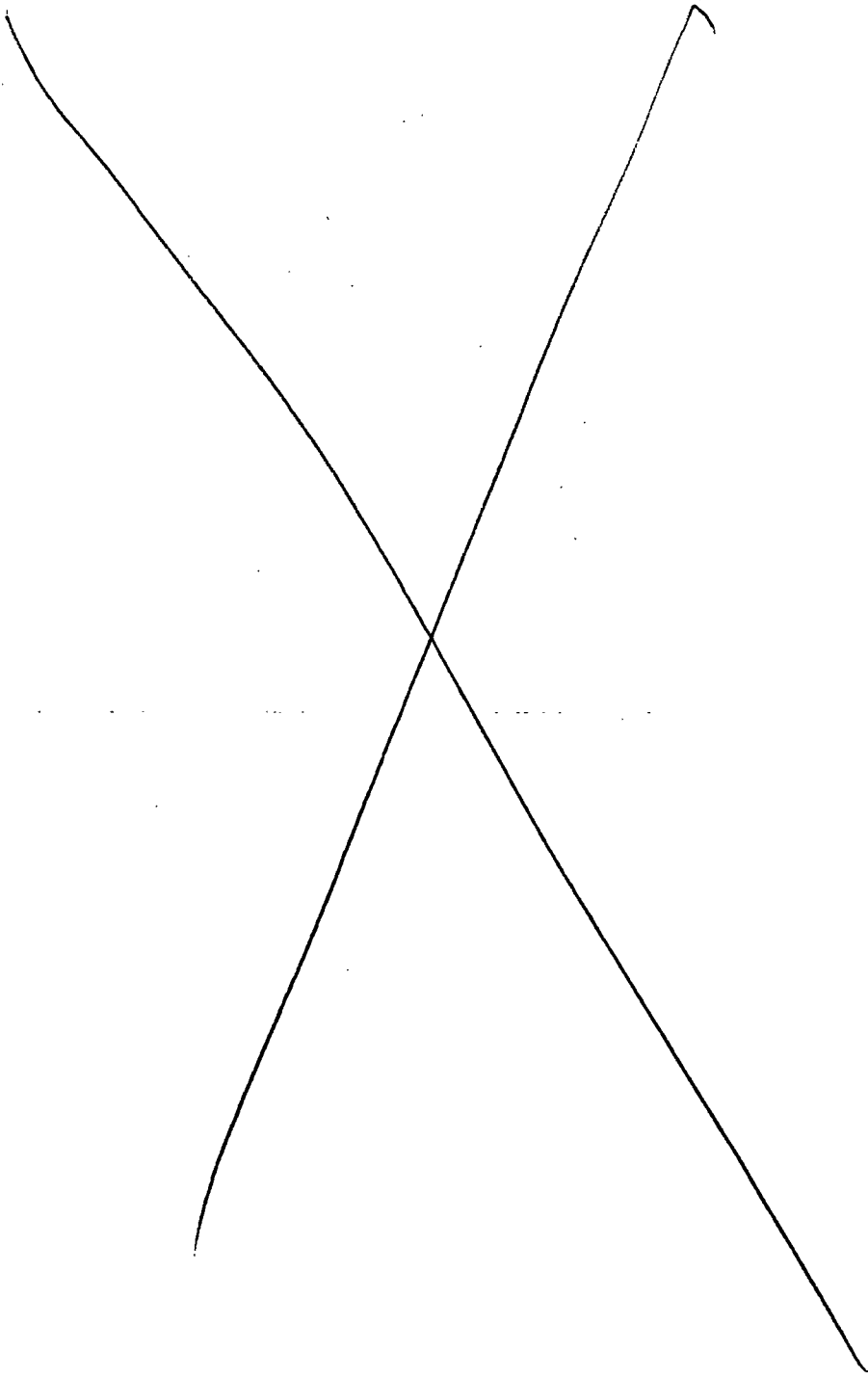
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

DATE: JANUARY 29, 2013

Harry A. Walker

(MRS.) HARRY A. WALKER

000237



000238

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF BARNWELL)	SECOND JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA)	ORDER GRANTING MOTION
)	TO RECONSIDER SENTENCE
VS.)	2011-GS-06-0010
)	2011-GS-06-0011
DEXTER BENARD BROWN II,)	2011-GS-06-0120
)	
DEFENDANT.)	

This matter came before the Court on the September 29, 2011 on Defendant's motions to reconsider the sentences imposed by this Court on the above referenced indictments. Present were: Allen Keith 'Kip' McAlister, Assistant Solicitor; Nicholas Randolph McCarley, Attorney for the Defense; and Dexter Benard Brown II, Defendant.

After hearing arguments, this Court hereby restores the original sentence of May 12, 2011, which was 30 years for each conviction for attempted murder, terms to be run CONCURRENT, and a five year sentence for the conviction of possession of a deadly weapon during a violent crime, which is to be run consecutive. The total sentence is 35 years.

Based on the foregoing, the Defendant's motions to reconsider the sentences previously imposed by this Court are hereby granted, and the attempted murder sentences are to be run CONCURRENT, the weapon sentence is consecutive.

IT IS SO ORDERED.

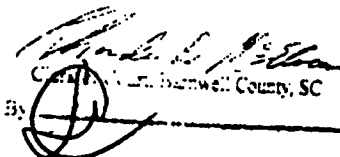


Edgar Dickson
Resident Judge
First Judicial Circuit

1/1
October 9, 2011
Orangeburg, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BARNWELL
I, _____, Clerk of Court for the Barnwell County,
do hereby certify that the foregoing
is a true and correct copy of the original
filed in my office this

NOV 15 2011



Rhonda D. McEvein
Clerk of Court
Barnwell County, SC

FILED FOR RECORD
2011 NOV 15 AM 11:10
RHONDA D. MCEVEIN
CLERK OF COURT
BARNWELL COUNTY, S.C.

15/18

WITNESSES

Barnwell Sheriffs Office

Jeff Croft

Law Enforcement Case #: C10-10-7431

06:43:15 p.m.

LM

ARREST WARRANT NUMBER

11-DI06-0034

ACTION OF GRAND JURY

Ernie Bill

Mark Divilbiano

Foreperson of Grand Jury

Date: 4/28/2011

VERDICT

Guilty

Strom W. Beckford

Foreperson of Petit Jury

Date: 5-12-11

Barnwell Public Defende

803 541 7046
000239

DOCKET NO. 2011GS0600120

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

MAY TERM 2011

THE STATE

vs.

DEXTER BENARD BROWN II

CDR #: 0519

Indictment for

POSSESSION OF WEAPON DURING A
VIOLENT CRIME

§ 16-23-0490

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF Barnwell
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS0600120

VS.
Dexter Benard Brown II

A/W#: 11-DI06-0034

AKA:

Date of Offense: 4/28/2011

Race: 2 Sex: M Age: 20

S.C. Code §: 16-23-0490

DOB: 06-12-1990 SS#: 248-83-8709

CDR Code #: 0549

Address: 70 RED BUD DRIVE

City, State, Zip: BARNWELL, SC 29812

SENTENCE SHEET

DL# 102446837* SID#

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45

The charge is. As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor SC Bar # 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 5 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 with 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: 5/12/11
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 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 PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. Or Job Corp.

Table with columns for Recipient, *Fine, and amounts. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge), §14-1-211 (A)(2)(DUI Surcharge), §56-5-2995 (DUI Assessment), §56-1-296 (DUI Breath Test), Proviso 47.9 (Public Def. Prob), §14-1-212 (Law Enforce Funding), §14-1-213 (Drug Court Surcharge), §50-21-114 (BUI Breath Test Fee), §56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments).

TOTAL \$ 133.90

Bank of Court Deputy Clerk
Court Reporter
Presiding Judge
Judge Code: 2153
Sentence Date: May 12, 2011

12/18
WITNESSES

Barnwell Sheriffs Office

11-16-2011 Jeff Croft

Law Enforcement Case #: C10-10-7431

06:42:14 p.m.

LM

ARREST WARRANT NUMBER

K338560

ACTION OF GRAND JURY

Gene Bell

Mark D. Miller

Foreperson of Grand Jury

Date: 1/6/2011

INDICT

Guilty

William W. Beckstead

Foreperson of Petit Jury

Date: 5-12-11

Barnwell Public Defende

803 541 7046

000241

DOCKET NO. 2011GS0600010

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

JANUARY TERM 2011

THE STATE

vs.

DEXTER BENARD BROWN II

CDR #: 3410

Indictment for

ATTEMPTED MURDER

§ 16-03-0029(A)

J. STROM THURMOND, SOLICITOR

82

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)

INDICTMENT FOR
ATTEMPTED MURDER
§ 16-03-0029(A)

At a Court of General Sessions, convened on January 2011, the Grand Jurors of Barnwell County present upon their oath:

That **DEXTER BENARD BROWN II** did in Barnwell on or about October 15, 2010, feloniously, willfully and with malice aforethought, attempt to murder Brandon Parker by means of discharging a firearm numerous times at Brandon Parker. All in violation of Section 16-3-29 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.

J. Strom Thurmond

J. STROM THURMOND, SOLICITOR

100
38

803 541 7046
000243

Barnwell Public Defense

06:41:40 p.m. 11-16-2011 11/18

STATE OF SOUTH CAROLINA)
COUNTY OF Barnwell)
STATE)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS0600010

VS.
Dexter Benard Brown II)
AKA:)
Race: 2 Sex M Age: 20)
DOB: 06-12-1990 SS#: 248-83-8709)
Address: 70 RED BUD DRIVE)
City, State, Zip: BARNWELL, SC 29812)
DL# 102446837* SID#)

A/W#: K338560
Date of Offense: 10/15/2010
S.C. Code §: 16-03-0029(A)
CDR Code #: 3410

SENTENCE SHEET
NMT 30yrs.

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Murder: Attempted Murder

CONVICTED OF or PLEADS

In violation of § 16-03-0029(A) of the S.C. Code of Laws, bearing CDR Code # 3410
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/ minor 1st or Lawd Act)

The charge is: As indicted. Lesser Included Offense. Defendant Waives Presentment to Grand Jury. (def's initials)
The plea is: Without Negotiations or Recommendation. Negotiated Sentence. Recommendation by the State.

ATTEST
Kam M. M... Solicitor SC Bar # 69590
Dexter Benard Brown II Defendant
M... Attorney for Defendant SC Bar # 78930

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 30 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 with 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: 2011 GS 06 0001

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 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 PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____ May serve W/E beginning _____
*Fine: \$ _____ Substance Abuse Counseling
§14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol Testing
§14-1-211 (A)(1)(Conv Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ prts of \$ _____ Beginning
§56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ Paid to Public Defender Fund
§56-1-236 (DUI Breath Test) \$25 \$ _____
Proviso 47.9 (Public Def/Prob) \$500 \$ _____
§14-1-212 (Law Enforce Funding) \$25 \$ 25.00
§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114 (BLI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
Proviso 90.5 (SCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 3.40

Other: _____

TOTAL \$ 133.40

Presiding Judge [Signature]
Appointed PD or appointed other counsel.
§47-12 requires \$500 be paid to Clerk during probation.

Justice Code: 2153

Sentence Date: May 12, 2011

000244

WITNESSES

Barnwell Sheriffs Office

Jeff Croft

Law Enforcement Case #: C10-10-7431

11-16-2011

06:13 p.m.

LM

ARREST WARRANT NUMBER

K338563

ACTION OF GRAND JURY

Ernie Bill

Mark Mulliken

Foreperson of Grand Jury

Date: *1/6/2011*

VERDICT

Guilty

Steven W. Beckford

Foreperson of Petit Jury

Date: *5-12-11*

Barnwell Public Defend

803 541 7046

DOCKET NO. 2011GS0600011

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

JANUARY TERM 2011

THE STATE

vs.

DEXTER BENARD BROWN II

CDR #: 3410

Indictment for

ATTEMPTED MURDER

§ 16-03-0029(A)

J. STROM THURMOND, SOLICITOR

000245

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)

INDICTMENT FOR
ATTEMPTED MURDER

§ 16-03-0029(A)

At a Court of General Sessions, convened on January 2011, the Grand Jurors of Barnwell County present upon their oath:

That **DEXTER BENARD BROWN II** did in Barnwell on or about October 15, 2010, feloniously, willfully and with malice aforethought, attempt to murder Roger Benjamin by means of discharging a firearm numerous times at Roger Benjamin. All in violation of Section 16-3-29 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.

J. Strom Thurmond
J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Barnwell)
 STATE)
 vs.)
Dexter Benard Brown II)
 AKA:)
 Race: 2 Sex: M Age: 20)
 DOB: 06-12-1990 SS#: 248-83-8709)
 Address: 70 RED BUD DRIVE)
 City, State, Zip: BARNWELL, SC 29812)
 DL# 102446837* SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS0600011
 A/W#: K338563
 Date of Offense: 10/15/2010
 S.C. Code §: 16-03-0029(A)
 CDR Code #: 3410

SENTENCE SHEET

NOTE 30415

In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Attempted Murder

CONVICTED OF or PLEADS

In violation of § 16-03-0029(A) of the S.C. Code of Laws, bearing CDR Code # 3410
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/minor 1st or Lawd Act)
 The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Maria Murrie 69590 Solicitor SC Bar # 78930 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 30 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 with 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: 2011 GS 06 00010
 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 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 PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED
 Set by SCOPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient:		\$
*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-236 (DUI Breath Test)	\$25	\$
Proviso 4.7.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§56-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2942(J)(Vehicle Assessment)	\$40/lea	\$
Proviso 9C.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
§16 to County (if paid in installments)		\$ <u>2.40</u>
TOTAL		\$ <u>132.40</u>

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 _____

Appointed PD or appointed other counsel.
 §47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge: [Signature]
 Judge Code: 2153
 Sentence Date: May 12, 2011

000247

