

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM COLLETON COUNTY

Perry M. Buckner, Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRONSON SHELLEY,

APPELLANT

APPELLATE CASE NO. 2012-213520

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

ALAN WILSON
Attorney General

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

JENNIFER ELLIS ROBERTS
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorney for Appellant

Attorneys for Respondent

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF COLLETON) IND. NO.: 2011-GS-15-00552
) 2011-GS-15-00553
) 2011-GS-15-00554

STATE OF SOUTH CAROLINA,)
)
)
 vs.) TRANSCRIPT OF RECORD
)
BRONSON SHELLEY,)
)
)
)
DEFENDANT.)
)

November 13 - 15, 2012
Walterboro, South Carolina

B E F O R E:

THE HONORABLE PERRY M. BUCKNER, JUDGE.

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

STEVEN KNIGHT, ESQ.
Attorney for the State of South Carolina

DAVID MATHEWS, ESQ.
Attorney for the Defendant

RONDA T. CUMMINGS, CVR-M
Official Court Reporter
P.O. Box 2082
Walterboro, SC 29488

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1 **THE COURT:** All right, Solicitor, call your case.

2 **MR. KNIGHT:** The State is ready in 2011-GS-15-552,
3 the State versus Bronson Shelley, attempted murder;
4 Indictment 2011-GS-15-553, the State versus Bronson
5 Shelley, attempted murder; 2011-GS-15-554, the State
6 versus Bronson Shelley, possession of a weapon during the
7 commission of a violent offense.

8 **THE COURT:** Thank you.

9 All right, ladies and gentlemen of the jury panel, if
10 you would, please give me your attention. The State has
11 called for trial the case of the State of South Carolina
12 versus Bronson Shelley.

13 Mr. Shelley is charged by these three pieces of paper
14 I hold in my hand, which we call an indictment. The
15 indictment is not -- does not contain any evidence, nor is
16 the fact that the defendant was indicted, arrested, or
17 charged any evidence in this case.

18 The indictment is merely the document which brings
19 the case into this court. It is the formal document by
20 which this court obtains the power to hear the case.

21 In this case, the defendant is charged with two
22 indictments for attempted murder and one of possession of
23 a weapon during the commission of a violent crime. The
24 elements of those offenses, if you are selected as a
25 juror, I will explain to you in my charge to you on the

1 law at the conclusion of the case.

2 What you should know for now is that the defendant
3 has pled not guilty to those three indictments. That
4 places the burden on the State of South Carolina to prove
5 each and every element of the offenses beyond a reasonable
6 doubt. And it will be your duty, if you are selected as a
7 juror in the trial of this case, to determine whether or
8 not the State has met that burden.

9 Is there a problem?

10 BAILIFF: I need the second mic. He turned it in.

11 THE COURT: Make sure they're working, Bill. Are
12 they okay?

13 BAILIFF: Yes, sir.

14 THE COURT: All right.

15 Now, ladies and gentlemen, I remind you that earlier
16 this afternoon each of you took an oath from the Clerk of
17 Court and I asked you qualifying questions. I'm now going
18 to ask you questions in order to determine your
19 impartiality to serve as a juror in the trial of this
20 case. I remind you that the responses you're about to
21 give me to these questions are also under oath. So if
22 you're required to answer, stand up, wait on the
23 microphone, state your name, state your juror number,
24 which is on your badge, so Ronda Cummings, my court
25 reporter, will know who is speaking.

1 I'm going to ask you a number of questions, ladies
2 and gentlemen, so please listen carefully. These
3 questions are designed purely to ensure your impartiality
4 to serve as a juror in the trial of the case.

5 Before we ask the questions, however, I'm going to
6 ask the lawyers that are going to be trying the case to
7 stand and introduce themselves to you, beginning with
8 counsel for the State of South Carolina.

9 MR. KNIGHT: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 MR. KNIGHT: I'm Steven Knight. I'm Assistant
12 Solicitor here in the Fourteenth Judicial Circuit.

13 THE COURT: Counsel for the defendant.

14 MR. MATHEWS: Thank you, Your Honor.

15 I'm David Mathews, and I'm with the public defender's
16 office, and I represent Bronson Shelley.

17 THE COURT: Mr. Shelley, please stand and face my
18 jury panel.

19 Ladies and gentlemen, this is the defendant, Bronson
20 Shelley. Mr. Shelley is from Forest Park, Georgia.

21 Thank you, sir. You may be seated.

22 Is there any member of my jury panel related by
23 blood, connected by marriage, or a close, personal friend
24 of the defendant, Bronson Shelley, and that's
25 S-H-E-L-L-E-Y, of Forest Park, Georgia? If so, please

1 stand at this time.

2 (NO RESPONSE.)

3 THE COURT: Let the record reflect no one is
4 standing.

5 Now you have met counsel for the State of South
6 Carolina, Mr. Steve Knight, and counsel for the defendant,
7 Mr. David Mathews. I first of all ask, is there any
8 member of my jury panel related by blood, connected by
9 marriage, or a close, personal friend of counsel for the
10 State of South Carolina in this case, Mr. Steve Knight, or
11 any member of the Fourteenth Judicial Circuit Solicitor's
12 Office? If so, please stand at this time.

13 We're bringing the microphone to you. Your name and
14 juror number, please, ma'am?

15 JUROR: Susan Nettles, 135.

16 THE COURT: Counsel, this is Juror Number 135, Ms.
17 Susan Nettles.

18 Ms. Nettles, it is always a pleasure to see you.

19 JUROR: You too, Judge.

20 THE COURT: Ms. Nettles, are you related by blood to
21 someone in the solicitor's office?

22 JUROR: No, sir.

23 THE COURT: Are you connected by marriage to someone
24 in the solicitor's office?

25 JUROR: No, sir.

1 **THE COURT:** Are you a close, personal friend of
2 someone in the solicitor's office?

3 **JUROR:** Yes, sir, I am.

4 **THE COURT:** And that would be?

5 **JUROR:** Angela Stallings.

6 **THE COURT:** All right. Well, Ms. Stallings is an
7 investigator in the solicitor's office. The fact that Ms.
8 Stallings is an investigator in the solicitor's office and
9 you're friends with her, would that in any way affect your
10 ability to give the State of South Carolina or the
11 defendant in this case, Bronson Shelley, a fair and an
12 impartial trial?

13 **JUROR:** Yes, sir. She's a very close friend of mine,
14 and I would not go against her.

15 **THE COURT:** Very well. I'll excuse you from service
16 in the trial of this case, Ms. Nettles. Have a seat for
17 me. I know you're ready to go, but I have other matters
18 that I need to take care of, Susan. That's just this
19 case.

20 **JUROR:** Oh, okay.

21 **THE COURT:** All right. Anybody else related by
22 blood, connected by marriage, or a close, personal friend
23 of Mr. Knight or any member of the Fourteenth Judicial
24 Circuit Solicitor's Office; please stand?

25 (NO RESPONSE.)

1 **THE COURT:** Let the record reflect no one is
2 standing.

3 Any member of my jury panel ever been represented in
4 the past or currently represented by Mr. Steve Knight,
5 counsel for the State of South Carolina in this case? If
6 so, please stand.

7 (NO RESPONSE.)

8 **THE COURT:** Let the record reflect no one is
9 standing.

10 Any member of my jury panel related by blood,
11 connected by marriage or a close, personal friend of Mr.
12 David Mathews, counsel for the defendant, Bronson Shelley?
13 If so, please stand at this time.

14 (NO RESPONSE.)

15 **THE COURT:** Let the record reflect no one is
16 standing.

17 Any member of my jury panel ever been represented in
18 the past or currently represented by Mr. David Mathews or
19 any member of the Colleton County Public Defender's
20 Office? If so, please stand at this time.

21 Name and juror number, please.

22 **JUROR:** Andre Crawford, Number 40.

23 **THE COURT:** Number what?

24 **JUROR:** 40.

25 **THE COURT:** 40. Hold on one second. Let me check

1 your number.

2 Counsel, this is Juror Number 40, Andre N. Crawford.

3 Mr. Crawford, have you been represented by Mr.

4 Mathews in the past, or are you currently represented by
5 him or a member of the public defender's office?

6 JUROR: In the past.

7 THE COURT: In the past. Was it Mr. Mathews?

8 JUROR: Yes.

9 THE COURT: The fact that Mr. Mathews represented you
10 in the past, would that in any way affect your ability to
11 give the State of South Carolina or the defendant in this
12 case, Bronson Shelley, a fair and impartial trial?

13 JUROR: No, sir.

14 THE COURT: Thank you very much. You may be seated.

15 Any member of my jury panel related by blood,
16 connected by marriage or a close, personal friend of
17 anyone in the Colleton County Public Defender's Office?
18 If so, please stand at this time.

19 Let the record reflect no one is standing.

20 BAILIFF: Judge, ---

21 THE COURT: Oh, I'm sorry.

22 JUROR: Juror 116, Teresa McLeod.

23 THE COURT: Well, let me check that number for you
24 real quick.

25 All right, this is Teresa McLeod, 116. I call her

1 Terry.

2 Terry, how are you this afternoon?

3 JUROR: I'm doing just fine. Thank you.

4 THE COURT: Are you related by blood to someone in
5 the public defender's office?

6 JUROR: I am. I am related to Harris Beach.

7 THE COURT: All right. And how -- how close are you
8 related to Mr. Beach? He's not involved in the trial of
9 this case, but you're right, he's with the public
10 defender's office.

11 JUROR: Well, I'm not really sure, but his father and
12 my mother were double first cousins.

13 THE COURT: The fact that his father and your mother
14 were double first cousins and that he works for the public
15 defender's office but is not involved in the trial of this
16 case but his office is, would that in any way affect your
17 ability, Terry, to give the State of South Carolina or the
18 defendant in this case a fair and impartial trial?

19 JUROR: No, it will not.

20 THE COURT: Thank you very much.

21 JUROR: You're welcome.

22 THE COURT: You're doing exactly what I asked you to
23 do.

24 Anyone else?

25 (NO RESPONSE.)

1 **THE COURT:** All right. Now, I told you that what's
2 in the indictment are just allegations and that it is not
3 evidence, and if you're selected as a juror in the trial
4 of this case, you must decide the case based solely on
5 evidence introduced during the trial of the case. And
6 I'll be talking to you if you're on the jury about what
7 constitutes evidence. But I need to tell you a little bit
8 about the allegations in order to ask questions to ensure
9 your impartiality to serve as a juror in the trial of this
10 case.

11 In Indictment Number 2011-GS-15-00552, the State
12 versus Bronson Shelley, indictment for attempted murder,
13 it is alleged that this occurred in Colleton County, South
14 Carolina, on or about July the 12, 2011. It is alleged
15 that the defendant, Bronson Shelley, with malice
16 aforethought, accompanied by a present ability to complete
17 the act and the intent to kill, either express or implied,
18 did attempt to kill the victim, Deputy J. Burnette with
19 the Dorchester County Sheriff's Office, while on Augusta
20 Highway by shooting at the victim. Now those are
21 allegations.

22 I tell you about those allegations to ask you this;
23 has any member of my jury panel read about, heard about,
24 or know anything whatsoever about the facts which are
25 alleged in that indictment? If so, please stand at this

1 time.

2 (NO RESPONSE.)

3 THE COURT: Let the record reflect no one is
4 standing.

5 In Indictment 2011-GS-15-00553, the State versus
6 Bronson Shelley, indictment for attempted murder, it is
7 alleged that it occurred in Colleton County on or about
8 July the 12th, 2011; that the defendant, Bronson Shelley,
9 with malice aforethought, accompanied by a present ability
10 to complete the act and the intent to kill, either express
11 or implied, did attempt to kill the victim, Deputy J. --
12 and I hope I'm -- is it Eaches?

13 MR. KNIGHT: Eaches.

14 THE COURT: Eaches, E-A-C-H-E-S, with the Dorchester
15 County Sheriff's Office, while on Augusta Highway by
16 shooting at the victim.

17 Those are just allegations. I ask now, has any
18 member of my jury panel read about, heard about, or know
19 anything whatsoever about the facts which are alleged in
20 that indictment? If so, please stand at this time.

21 (NO RESPONSE.)

22 THE COURT: Let the record reflect no one is
23 standing.

24 Finally, in Indictment 2011-GS-15-00554, the State
25 versus Bronson Shelley, indictment for possession of a

1 weapon during the commission of a violent crime, it is
2 alleged that it occurred in Colleton County on or about
3 July 12th, 2011; that the defendant, Bronson Shelley, did
4 possess a handgun or visibly displayed what appeared to be
5 a handgun during the commission of or attempted commission
6 of attempted murder, alleged to be a violent crime.

7 Any member of my jury panel read about, heard about,
8 or know anything whatsoever about the facts which are
9 alleged in that indictment? If so, please stand at this
10 time.

11 (NO RESPONSE.)

12 **THE COURT:** Let the record reflect no one is
13 standing.

14 Now, next I'm going to call out a long list of names.
15 Many of these people will not be in this courtroom. Some,
16 or a few may be. Please bear with me. These are just
17 potential witnesses in the trial of this case. It doesn't
18 mean they will be witnesses. They are potential
19 witnesses, but I have to go through all potentials.

20 I am going to give you either a hometown with the
21 name, since many of them will not be present, or their
22 occupation, such as Colleton County Sheriff's Office or
23 Dorchester County Sheriff's Office. The list has a number
24 of names on it. At the end, I'm going to ask you whether
25 you're related by blood, connected by marriage, or a

1 close, personal friend of any of the potential witnesses
2 in the trial of this case. So bear with me as I call out
3 the names of the potential witnesses.

4 Bronson Shelley, Forest Park, Georgia.

5 Stand and face my jury panel, Mr. Shelley. Thank
6 you. Please be seated.

7 Maurio Rivers, Charlotte, North Carolina. James
8 Etheridge, Dorchester County Sheriff's Office. Andy
9 Martin, Dorchester County Sheriff's Office. Lieutenant
10 Joe Burnette, B-U-R-N-E-T-T-E, Dorchester County Sheriff's
11 Office. Justin Eaches, E-A-C-H-E-S, Dorchester County
12 Sheriff's Office. Tim Knight, K-N-I-G-H-T, Dorchester
13 County Sheriff's Office. M. Caudle, C-A-U-D-L-E,
14 Dorchester County Sheriff's Office. J. Tumbleston,
15 Dorchester County Sheriff's Office. J. Jefferson,
16 Dorchester County Sheriff's Office. C. Sciarrotta,
17 S-C-I-A-R-R-O-T-T-A, Dorchester County Sheriff's Office.
18 S. Richardson, Dorchester County Sheriff's Office. J.
19 Garrison, Dorchester County Sheriff's Office. D. Moore,
20 M-O-O-R-E, Dorchester County Sheriff's Office. T.
21 Vandoran, Dorchester County Sheriff's Office. W. Bense,
22 B-E-N-S-E, Dorchester County Sheriff's Office. R. Carson,
23 Dorchester County Sheriff's Office. D. Cheek, C-H-E-E-K,
24 Dorchester County Sheriff's Office. A. Martin, Dorchester
25 County Sheriff's Office. T. Will, W-I-L-L, Dorchester

1 County Sheriff's Office. M. Crider, C-R-I-D-E-R,
2 Dorchester County Sheriff's Office. N. Rallins,
3 Dorchester County Sheriff's Office. M. Files, F-I-L-E-S,
4 Dorchester County Sheriff's Office. Dr. Rita Hallaba,
5 H-A-L-L-A-B-A, Colleton County Medical Center. Fayth,
6 F-A-Y-T-H, Grooms, Dorchester County 911. Earl Asbell,
7 A-S-B-E-L-L, Dorchester County Sheriff's Office. Salina
8 Kinard, South Carolina Law Enforcement Division, S.L.E.D.
9 Nikki Hughes, South Carolina Law Enforcement Division,
10 S.L.E.D. Patricia Crooks, South Carolina Law Enforcement
11 Division, S.L.E.D. Lisa Waanamen, W-A-A-N-A-M-E-N, South
12 Carolina Law Enforcement Division, S.L.E.D. Illa Simmons,
13 South Carolina Law Enforcement Division, S.L.E.D. Amy
14 Stephens, South Carolina Law Enforcement Division,
15 S.L.E.D. Michelle Eichenmiller, South Carolina Law
16 Enforcement Division, S.L.E.D. Chance Boughamer,
17 B-O-U-G-H-A-M-E-R, Charlotte, North Carolina. T. Hodge,
18 Charlotte, North Carolina. Lauren Sumner, S-U-M-N-E-R,
19 Charlotte, North Carolina. B. K. Rogers, Charlotte
20 Mechlanburg Police Department. A. M. Melchin,
21 M-E-L-C-H-I-N, Charlotte Mechlanburg Police Department.
22 C. Hughes, Charlotte Mechlanburg Police Department. A. T.
23 Baswell, Charlotte Mechlanburg Police Department. A. J.
24 Hostutler, H-O-S-T-U-T-L-E-R, Charlotte Mechlanburg Police
25 Department. R. F. Reinke, R-E-I-N-K-E, Charlotte

1 Mechlanburg Police Department. T. M. Gail, Charlotte
2 Mechlanburg Police Department. E. L. Threatt,
3 T-H-R-E-A-T-T, Charlotte Mechlanburg Police Department.
4 J. E. Snider, Charlotte Mechlanburg Police Department. O.
5 C. Bryant, B-R-Y-A-N-T, Jr., Charlotte Mechlanburg Police
6 Department. Holice Fuse, F-U-S-E, Colleton County 911.
7 Belinda Owens, Colleton County 911. Jackie Lawson,
8 Colleton County Sheriff's Office. Cameron Ray Taylor,
9 Colleton County Sheriff's Office. Kevin Campbell,
10 Colleton County Sheriff's Office. Jimmy Wiggins, Colleton
11 County Sheriff's Office. Wade Marvin, Colleton County
12 Sheriff's Office. William Polk, Colleton County Sheriff's
13 Office. Jason Fernandez, Colleton County Sheriff's
14 Office. Matthews Boggs, B-O-G-G-S, Colleton County
15 Sheriff's Office. Cephus Rogers, Colleton County
16 Sheriff's Office.

17 Counsel, approach.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
19 RECORD AND OUT OF THE HEARING OF THE JURY PANEL.
20 THEREAFTER, THE FOLLOWING PROCEEDINGS WERE HELD ON THE
21 RECORD IN THE PRESENCE AND HEARING OF THE JURY PANEL.)

22 THE COURT: Special Agent Brim, B-R-I-M, Immigration
23 Control Enforcement. Lieutenant Pinckney, Colleton County
24 Sheriff's Office. Detective Dave Thomas, Colleton County
25 Sheriff's Office. Fred Inabinet, formerly of the Colleton

1 County Sheriff's Office. Gene Johnson, Colleton County
2 Sheriff's Office. Shannon Crosby, Colleton County
3 Sheriff's Office. Robert Gregory, Colleton County Fire
4 and Rescue. Kurt Kruysman, K-R-U-Y-S-M-A-N, Colleton
5 County Fire and Rescue. Stephen Bellew, B-E-L-L-E-W,
6 Colleton County Fire and Rescue. Byron Martinson,
7 Colleton County Fire and Rescue. Michelle Eichenmiller,
8 South Carolina Law Enforcement Division, S.L.E.D. Lori
9 Henry, Dorchester -- does that mean Dorchester Sheriff's
10 Department?

11 MR. KNIGHT: Dispatch, Your Honor.

12 THE COURT: Dorchester Dispatch with Dorchester
13 County. Selena Kinard, South Carolina Law Enforcement
14 Division. I think I've already called that name out. And
15 also Amy Stephens, as well as Andy Martin. Amy Stephens,
16 Selena Kinard, and Andy Martin -- or Selena Kinard and Amy
17 Stephens are with South Carolina Law Enforcement Division.
18 Andy Martin is with Dorchester County Sheriff's Office.

19 Any additional witnesses from the State?

20 MR. KNIGHT: No, sir. May we approach?

21 THE COURT: Counsel approach.

22 MR. KNIGHT: Did you call R. Carson or Richard
23 Carson?

24 THE COURT: I did.

25 MR. KNIGHT: I just wanted to make sure. I didn't

1 check him off.

2 THE COURT: Number 17.

3 How about you, David?

4 MR. MATHEWS: No, sir.

5 THE COURT: Any additional witnesses from the State
6 of South Carolina?

7 MR. KNIGHT: No, sir.

8 THE COURT: Any additional witnesses from the
9 defendant?

10 MR. MATHEWS: No, Your Honor.

11 THE COURT: All right, ladies and gentlemen, is any
12 member of my jury panel related by blood, connected by
13 marriage, or a close, personal friend of any of the
14 potential witnesses in the trial of this case whose names
15 I have just called? If so, please stand at this time.

16 JUROR: Sorry. Wade Marvin is my ---

17 THE COURT: Just hold on one second.

18 JUROR: 116. 116.

19 THE COURT: Counsel, this is Juror Number 116. This
20 is Teresa McLeod.

21 Ms. McLeod, you're related to Wade Marvin, or he's a
22 close, personal friend?

23 JUROR: He's my cousin.

24 THE COURT: A cousin. The fact that Mr. Marvin, who
25 is with the Colleton County Sheriff's Office is a

1 potential witness in the trial of this case, would that in
2 any way affect your ability to give the State or the
3 defendant in this case a fair and impartial trial?

4 JUROR: No, sir. It would not.

5 THE COURT: Thank you, ma'am. You may be seated.
6 Who's got the microphone?

7 Yes, ma'am? Your name and juror number, please?

8 JUROR: Okay. My juror number is 59.

9 THE COURT: One second. Give me your name.

10 JUROR: Tammie Fralix.

11 THE COURT: Ms. Fralix; is that right?

12 JUROR: Yes, sir.

13 THE COURT: Counsel, this is Juror Number 59, Tammy
14 Fralix.

15 Ms. Fralix, are you related by blood to any of the
16 potential witnesses? Just yes or no.

17 JUROR: No, sir.

18 THE COURT: Are you connected by marriage to any of
19 the potential witnesses?

20 JUROR: No, sir.

21 THE COURT: Are you a close, personal friend of any
22 of the potential witnesses?

23 JUROR: Yes, sir.

24 THE COURT: Which witness?

25 JUROR: Dolphus Pinckney and Jimmy Wiggins. I used

1 to work with them.

2 **THE COURT:** All right. The fact that you are friends
3 with Jimmy Wiggins and Lieutenant Dolphus Pinckney, both I
4 believe with the Colleton County Sheriff's Office, would
5 that in any way affect your ability to give the State of
6 South Carolina or the defendant in this case a fair and
7 impartial trial?

8 **JUROR:** No, sir.

9 **THE COURT:** Now just one moment. You said you used
10 to work with them.

11 **JUROR:** Yes, sir.

12 **THE COURT:** Were you employed with the Colleton
13 County Sheriff's Office?

14 **JUROR:** Yes, sir.

15 **THE COURT:** The fact that you're no longer employed
16 there -- is that right?

17 **JUROR:** That's correct.

18 **THE COURT:** You have to say yes or no for the record.
19 Thank you.

20 The fact that you used to work there, would that in
21 any way affect your ability to give the State or the
22 defendant in this case a fair and impartial trial?

23 **JUROR:** No, sir.

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

25 Yes, sir? Your name and juror number, please.

1 **JUROR:** Stephen Reeves, 152..

2 **THE COURT:** Just one second and let me check your
3 number.

4 Counsel, this is Juror Number 152, Stephen L. Reeves.

5 Mr. Reeves, are you related by blood to any of the
6 potential witnesses?

7 **JUROR:** No, sir.

8 **THE COURT:** Are you connected by marriage to any of
9 the potential witnesses?

10 **JUROR:** No, sir.

11 **THE COURT:** Are you a close, personal friend of any
12 of the potential witnesses?

13 **JUROR:** Yes.

14 **THE COURT:** And who is that?

15 **JUROR:** Ray Taylor.

16 **THE COURT:** Listed on my sheet as Cameron Ray Taylor.
17 Is that right?

18 **JUROR:** Yes.

19 **THE COURT:** The fact that you are a close, personal
20 friend of Cameron Ray Taylor with the Colleton County
21 Sheriff's Office, would that in any way affect your
22 ability to give the State of South Carolina or the
23 defendant in this case a fair and impartial trial?

24 **JUROR:** No, sir.

25 **THE COURT:** Thank you, sir.

1 Pass it to Todd.

2 Your name and juror number, please?

3 JUROR: Juror Number 107, Todd Litchfield.

4 THE COURT: All right. One second. Let me get your
5 number here, Todd.

6 Counsel, this is Juror Number 107, Todd A.
7 Litchfield.

8 Todd, are you related by blood to any of the
9 potential witnesses?

10 JUROR: No, sir.

11 THE COURT: Are you connected by marriage to any of
12 the potential witnesses?

13 JUROR: No, sir.

14 THE COURT: Are you a close, personal friend of any
15 of the potential witnesses?

16 JUROR: Yes, sir.

17 THE COURT: Which witness?

18 JUROR: William Polk, I think it's -- I know him as
19 Jerry Polk, Officer Jerry Polk.

20 THE COURT: William Polk with the Colleton County
21 Sheriff's Office?

22 JUROR: Yes, sir.

23 THE COURT: The fact that you're a close, personal
24 friend with William Polk, Mr. Litchfield, would that in
25 any way affect your ability to give the State of South

1 Carolina or the defendant in this case a fair and
2 impartial trial?

3 JUROR: No, sir.

4 THE COURT: Thank you, sir. You may be seated.
5 Let the record reflect no one else is standing.

6 Any member of my jury panel formed any opinion
7 whatsoever about the facts which are alleged in this case?
8 If so, please stand at this time.

9 (NO RESPONSE.)

10 THE COURT: Let the record reflect no one is
11 standing.

12 Any member of my jury panel formerly a member of the
13 Colleton County Grand Jury which found the indictment in
14 this case? If so, please stand at this time.

15 (NO RESPONSE.)

16 THE COURT: Let the record reflect no one is
17 standing.

18 Any member of my jury panel formed any opinion about
19 the alleged guilt or innocence of the defendant in this
20 case, Bronson Shelley? If so, please stand at this time.

21 Please come forward.

22 (WHEREUPON, THE FOLLOWING WAS HELD ON THE RECORD OUT
23 OF THE HEARING OF THE REMAINING JURY PANEL.)

24 BAILIFF: Number 35.

25 MR. KNIGHT: 35 or 135?

1 BAILIFF: 35.

2 THE COURT: 35. Mr. Cooper; is that right?

3 JUROR: Yes, sir.

4 THE COURT: All right, Ronda, this is Geoffrey
5 Cooper.

6 JUROR: Geoffrey.

7 THE COURT: Spelled with a G?

8 JUROR: Yes.

9 THE COURT: Geoffrey Cooper, Juror Number 35.

10 JUROR: 35.

11 THE COURT: Mr. Cooper, have you formed an opinion
12 about the guilt or innocence of the defendant?

13 JUROR: I have.

14 THE COURT: Why is that?

15 BAILIFF: I have serious ---

16 THE COURT: I can't hear you.

17 JUROR: I don't want to speak too loud.

18 THE COURT: Well, you turn to me, then, and don't be
19 turning to them.

20 JUROR: Okay.

21 THE COURT: Talk to me.

22 JUROR: It seems like a lot of sheriff office names,
23 a lot of witnesses against the defendant.

24 THE COURT: That has nothing to do with whether you
25 have formed an opinion, does it?

1 **JUROR:** Well, yes. I feel -- I feel like he's being
2 railroaded.

3 **THE COURT:** All right. Well, you stay with me. I'll
4 excuse you from service in the trial of this case. Return
5 to your seat.

6 **JUROR:** Okay.

7 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD IN
8 THE PRESENCE AND HEARING OF THE JURY PANEL:)

9 **THE COURT:** Let the record reflect no one else has
10 come forward in response to my question of forming an
11 opinion about the alleged guilt or innocence of the
12 defendant in this case, Bronson Shelley, other than Juror
13 Number 35, who I have disqualified from service in the
14 trial of this case only.

15 Any member of my jury panel ever been the victim of a
16 violent crime? If so, please stand at this time.

17 (NO RESPONSE.)

18 **THE COURT:** Let the record reflect no one is
19 standing.

20 Any member of my jury panel a member of or a
21 contributor to any group which has as its primary concern
22 the promotion of law enforcement or victim's rights?
23 These groups would include MADD, SADD, CAVE, or CADRE. If
24 so, please stand at this time.

25 (NO RESPONSE.)

1 **THE COURT:** Let the record reflect no one is
2 standing.

3 Any member of my jury panel ever been employed by any
4 type, other than the lady that I've already identified
5 back there that told me she worked for the sheriff's
6 office, unless there's another law enforcement officer
7 agency involved, if you've ever been employed by any law
8 enforcement office or agency, sheriff's office, police
9 department, highway patrol, S.L.E.D., please stand at this
10 time.

11 Yes? Your name and juror number, please?

12 **JUROR:** Willie Nixon, Juror Number 123.

13 **THE COURT:** 123. One minute. Let me check your
14 number.

15 Counsel, this is Juror Number 123, Willie Nixon.

16 Mr. Nixon, by whom were you employed?

17 **JUROR:** Colleton County Sheriff's Department.

18 **THE COURT:** And you're no longer employed -- I see
19 you're an electrician; is that right?

20 **JUROR:** Correct.

21 **THE COURT:** How long has it been since you worked for
22 them?

23 **JUROR:** Over twenty years.

24 **THE COURT:** Over twenty years. The fact that you
25 were previously employed with them, Mr. Nixon, would that

1 in any way affect your ability to give the State or the
2 defendant in this case a fair and impartial trial?

3 JUROR: No, sir.

4 THE COURT: Thank you, sir. You may be seated.
5 In the back, your name and juror number, please?

6 JUROR: I'm Fred Ford, Number 58.

7 THE COURT: 58. Just one moment.

8 Counsel, this is Juror Number 58, Fred H. Ford. Mr.
9 Ford, by what law enforcement agency were you previously
10 employed?

11 JUROR: The Department of Corrections.

12 THE COURT: And how long ago was that, Mr. Ford?

13 JUROR: About ten years ago.

14 THE COURT: All right. The fact that you were
15 previously employed by the Department of Corrections,
16 would that in any way affect your ability to give the
17 State of South Carolina or the defendant in this case a
18 fair and impartial trial?

19 JUROR: No, Judge.

20 THE COURT: Thank you, sir. You may be seated.

21 Let the record reflect no one else is standing in
22 response to my last question.

23 Is there any member of my jury panel who knows of any
24 bias or prejudice they may have about the facts which are
25 alleged in this case, any of the witnesses involved

1 therein, any of the offices or attorneys involved therein,
2 or any of the parties involved therein? If so, please
3 stand at this time.

4 (NO RESPONSE.)

5 THE COURT: Let the record reflect no one is
6 standing.

7 Any member of my jury know of any reason whatsoever
8 why they can't give the State of South Carolina or the
9 defendant, why you as a juror, he or she, should not serve
10 as a juror in this case, with particular emphasis being
11 placed on your ability to be fair and impartial to both
12 the State of South Carolina and the defendant, Bronson
13 Shelley? If you know of any reason whatsoever why you
14 should not serve as a juror in this case, please stand at
15 this time.

16 (NO RESPONSE.)

17 THE COURT: Let the record reflect no one is
18 standing.

19 Any additional voir dire from the State?

20 MR. KNIGHT: No, sir.

21 THE COURT: Any additional voir from the defendant?

22 MR. MATHEWS: No, Your Honor.

23 THE COURT: Madam Clerk, I am advised that the
24 parties agree to waive an alternate juror and proceed with
25 whatever number necessary to complete the trial of the

1 case, and the strikes are five and five.

2 Is that correct from the State of South Carolina?

3 MR. KNIGHT: Yes, sir.

4 THE COURT: Is that correct from the defendant?

5 MR. MATHEWS: Yes, Your Honor.

6 THE COURT: Madam Clerk, the strikes are five and
7 five, and they will waive an alternate and proceed with
8 whatever number necessary to complete the trial of the
9 case. Would you ask your staff to give us a list, please?

10 CLERK: Yes, sir.

11 THE COURT: All right, ladies and gentlemen of my
12 jury panel, for those of you that I have not disqualified
13 as jurors in the trial of this case, what's happening
14 right now is the clerk is using the computer to make a
15 list. Nobody has seen that list. I haven't.

16 She's going to hand one to me, one to my law clerk,
17 and one to the court reporter. She is not going to give a
18 list to the attorneys.

19 She's going to call the list out in the order in
20 which the computer selected them, at which time, if your
21 name is called by the clerk, I'm going to ask you to come
22 down the middle aisle, come all the way to the clerk's
23 bench, turn around and face the direction I'm seated in
24 now toward the back of the courtroom, actually what we
25 call the front of the courtroom, at which time the parties

1 will exercise their preemptory strikes.

2 Each side has five strikes. We'll be striking until
3 we select a jury of twelve persons.

4 If you have some personal belongings, such as a
5 pocketbook or a coat, please bring that with you when your
6 name is called by the clerk when you come forward.

7 Madam Clerk, are you ready?

8 CLERK: Yes, I am.

9 THE COURT: Is the State ready to proceed?

10 MR. KNIGHT: Yes, sir.

11 THE COURT: Is the defendant ready to proceed?

12 MR. MATHEWS: Yes, Your Honor.

13 THE COURT: Madam Clerk, would you give us the jury,
14 please?

15 CLERK: Yes, I will.

16 126, Leonida D. Moore -- Leonida D. Moore. Please
17 come all the way up. Turn around and face the counsel
18 tables.

19 What say ye for the State?

20 MR. KNIGHT: Present the juror.

21 CLERK: What say ye for the defendant?

22 MR. MATHEWS: Please swear the juror.

23 CLERK: Please have a seat in the jury box to my
24 right.

25 Number 8, Angel C. Barnes.

1 **THE COURT:** Come on forward.

2 **CLERK:** Come on forward all the way up here, and then
3 turn around and face counsel tables.

4 What say ye for the State?

5 **MR. KNIGHT:** Present the juror.

6 **CLERK:** What say ye for the defendant?

7 **MR. MATHEWS:** Please excuse the juror from the trial
8 of this case.

9 **CLERK:** Please have a seat back with the panel.

10 142, Amy J. Peer.

11 What say ye for the State?

12 **MR. KNIGHT:** Present the juror.

13 **CLERK:** What say ye for the defendant?

14 **MR. MATHEWS:** Please swear the juror.

15 **CLERK:** Please have a seat in the jury box.

16 164, Brian O. Sharpe.

17 What say ye for the State?

18 **MR. KNIGHT:** Please present the juror.

19 **CLERK:** What say ye for the defendant?

20 **MR. MATHEWS:** Please swear the juror.

21 **CLERK:** Please have a seat in the jury box.

22 188, Shannon Q. Turner.

23 What say ye for the State?

24 **MR. KNIGHT:** Excuse the juror for the trial of this
25 case.

1 CLERK: Please have a seat back with the panel.

2 100, Sharon F. Jones.

3 What say ye for the State?

4 MR. KNIGHT: Please present the juror.

5 CLERK: What say ye for the defendant?

6 MR. MATHEWS: Please excuse the juror for the trial
7 of this case.

8 CLERK: Please have a seat back with the panel.

9 81, Ricky D. Haynes.

10 What say ye for the State?

11 MR. KNIGHT: Present the juror.

12 CLERK: What say ye for the defendant?

13 MR. MATHEWS: Please excuse the juror for the trial
14 of this case.

15 CLERK: Please have a seat back with the panel.

16 79, Deangela L. Haynes.

17 What say ye for the State?

18 MR. KNIGHT: Present the juror.

19 CLERK: What say ye for the defendant?

20 MR. MATHEWS: Please swear the juror.

21 CLERK: Please have a seat in the jury box.

22 94, Rebecca L. Jarrell.

23 What say ye for the State?

24 MR. KNIGHT: Present the juror.

25 CLERK: What say ye for the defendant?

1 MR. MATHEWS: Please swear the juror.

2 CLERK: Please have a seat in the jury box.

3 190, Roger D. Waddle.

4 What say ye for the State?

5 MR. KNIGHT: Present the juror.

6 CLERK: What say ye for the defendant?

7 MR. MATHEWS: Please swear the juror.

8 CLERK: Please have seat in the jury box.

9 130, Hazel J. Mulligan.

10 What say ye for the State?

11 MR. KNIGHT: Present the juror.

12 CLERK: What say ye for the defendant?

13 MR. MATHEWS: Please swear the juror.

14 CLERK: Please have a seat in the jury box.

15 148, Carol A. Priester.

16 What say ye for the State?

17 MR. KNIGHT: Present the juror.

18 CLERK: What say ye for the defendant?

19 MR. MATHEWS: Please excuse the juror for the trial
20 of this case.

21 CLERK: Please have a seat back with the panel.

22 195, Kathy M. Watford.

23 What say ye for the State?

24 MR. KNIGHT: Present the juror.

25 CLERK: What say ye for the defendant?

1 **MR. MATHEWS:** Please excuse the juror for the trial
2 of this case.

3 **CLERK:** Please have a seat back with the jury panel.

4 **THE COURT:** That's five, Mr. Mathews.

5 **MR. MATHEWS:** Yes, sir.

6 **CLERK:** 178, Anthony Smuz.

7 What say ye for the State?

8 **MR. KNIGHT:** Present the juror.

9 **CLERK:** Does the defendant have any strikes for
10 cause?

11 **MR. MATHEWS:** Please swear the juror.

12 **CLERK:** Please have a seat in the jury box.

13 59, Tammie M. Fralix. Please come up a little
14 further.

15 What say ye for the State?

16 **MR. KNIGHT:** Excuse Juror Number 59, please.

17 **CLERK:** Please have a seat back with the panel.

18 89, Antonio R. Holmes.

19 What say ye for the State?

20 **MR. KNIGHT:** Excuse Mr. Holmes from the trial of this
21 case, please.

22 **CLERK:** Please have a seat back with the panel.

23 39, Herbert O. Craven.

24 **THE COURT:** Come on forward, Mr. Craven.

25 **CLERK:** Come forward.

1 **THE COURT:** Come all the way up to here and turn
2 around for me so they can see you.

3 **CLERK:** What say ye for the State?

4 **MR. KNIGHT:** Present the juror.

5 **CLERK:** Does the defendant have any strikes for
6 cause?

7 **MR. MATHEWS:** Please swear the juror.

8 **CLERK:** Please have a seat in the jury box to my
9 right.

10 127, Michael E. Moore.

11 What say ye for the State?

12 **MR. KNIGHT:** Present the juror.

13 **CLERK:** What say -- does the defendant have any
14 strikes for cause?

15 **MR. MATHEWS:** Please swear the juror.

16 **CLERK:** Please have a seat in the jury box.

17 137, Tiffany L. Newton.

18 What say ye for the State?

19 **MR. KNIGHT:** Excuse Ms. Newton from the trial of this
20 case.

21 **CLERK:** Please have a seat back with the panel.

22 98, Amanda L. Jones.

23 What say ye for the State?

24 **MR. KNIGHT:** Present the juror.

25 **CLERK:** Does the defendant have any strikes for

1 cause?

2 MR. MATHEWS: Please swear the juror.

3 THE COURT: Please have a seat in the jury box.
4 132, Conrad J. Mustipher.

5 What say ye for the State?

6 MR. KNIGHT: Present the juror.

7 CLERK: Does the defendant have any strikes for
8 cause?

9 MR. MATHEWS: Please swear the juror.

10 CLERK: Please have a seat in the jury box.

11 The jury has been drawn.

12 THE COURT: Are there any matters of law pertaining
13 to the selection of the jury that need to be decided
14 before the jury is sworn, from the State of South
15 Carolina?

16 MR. KNIGHT: No, sir.

17 THE COURT: From the defendant?

18 MR. MATHEWS: Yes, Your Honor.

19 THE COURT: Counsel, approach.

20 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
21 RECORD OUT OF THE HEARING OF THE JURY PANEL. THEREAFTER,
22 THE FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
23 PRESENCE AND HEARING OF THE JURY PANEL:)

24 THE COURT: Ladies and gentlemen, I have to take up a
25 matter of law that pertains to the selection of the jury.

1 Y'all just stay right there in your seats. Please don't
2 discuss the case. I need to determine whether the
3 selection of the jury was done properly. I'll be right
4 back with you.

5 Rather than make you move -- I realize the
6 temperature is going down. You don't have to cover your
7 face, sir. I'm going to adjust the temperature in this
8 courtroom. It just takes a while, because it's a big
9 building to warm up, but we'll work on that for you.

10 Ma'am, I understand it's a little chilly, but I'll
11 get it for you.

12 Please don't discuss the case, ladies and gentlemen.
13 I'm going to have to keep you here, because I may need to
14 restrike the jury. Until I've made a decision, please
15 remain in your seats. I'll be back with you just as soon
16 as I possibly can.

17 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD ON
18 THE RECORD IN CHAMBERS OUT OF THE PRESENCE AND HEARING OF
19 THE JURY PANEL:)

20 (BATSON MOTION)

21 THE COURT: All right, let the record reflect we're
22 in chambers outside the presence of the jury. Mr. Mathews
23 approached the bench at the conclusion of the jury
24 selection and advised the Court that he had a Batson
25 Motion based on race.

1 I asked the parties first of all to stipulate to the
2 racial component of the jury. My understanding is that
3 there is a stipulation that there are seven Caucasian and
4 five African Americans on the jury. Is that correct, from
5 the State?

6 MR. KNIGHT: Yes, sir.

7 THE COURT: Correct from the defendant?

8 MR. MATHEWS: Yes, sir.

9 THE COURT: I also asked the parties to stipulate as
10 to the racial component of the strikes exercised by the
11 parties. The defendant exercised all five preemptory
12 strikes. The defendant struck Juror Number 8, and these
13 are the actual juror numbers, and not the order in which
14 they were chosen, who was a white female; Juror Number
15 100, who is a black female; Juror Number 81, black male;
16 Juror Number 148, white female; Juror Number 195, white
17 female.

18 The State struck Juror Number 188, black female;
19 Juror Number 59, white female; Juror Number 89, black
20 male; Juror Number 137, black female.

21 Have I accurately stated the racial components of the
22 strikes for the defendant?

23 MR. KNIGHT: Yes, sir.

24 MR. MATHEWS: Yes, sir.

25 THE COURT: For the State?

1 MR. KNIGHT: Yes, sir. I apologize.

2 THE COURT: All right. Mr. Mathews, this is your
3 motion.

4 MR. MATHEWS: Your Honor, the State has used three of
5 its four -- of the four strikes that it used against
6 African Americans, and I think that creates an inference,
7 at least, of a Batson violation. We would ask the State
8 to provide racially neutral reasons.

9 THE COURT: Well, let the record reflect that the
10 defendant is present, that Mr. Shelley is a male, African
11 American.

12 The first step in a Batson Motion is whether the
13 party asserting discrimination has established a prima
14 facia case of purposeful discrimination. On the basis of
15 the fact that I need to move to Section Two for purposes
16 of this hearing, and that's whether the party who
17 exercised the strike can provide a racially neutral
18 explanation for the strike, since race is the basis for
19 the motion.

20 We will begin, Mr. Knight, with you, your striking of
21 Juror Number 188, Shannon Q. Turner, black female.

22 MR. KNIGHT: Your Honor, I have her as being
23 unemployed.

24 THE COURT: Pardon?

25 MR. KNIGHT: I have her as unemployed. I struck two

1 other people who were unemployed, too.

2 THE COURT: Is that the sole purpose of your strike?

3 MR. KNIGHT: Yes, sir.

4 THE COURT: All right.

5 Juror Number 59, Tammie Fralix, white female.

6 MR. KNIGHT: Yes, sir. She was being assisted by one
7 of the deputy sheriffs. It appeared to me she had a
8 health issue.

9 THE COURT: Yeah. Let the record reflect that one of
10 my bailiffs or one of my deputies, I'm not sure which, had
11 to assist this juror in order to walk from her seat up to
12 the clerk's stand. And when the deputy let go of the
13 juror, the deputy had to go back and grab the juror to
14 keep her from falling.

15 Is that the sole purpose of your strike?

16 MR. KNIGHT: Yes, sir.

17 THE COURT: All right. Juror Number 89, Antonio
18 Holmes, black male.

19 MR. KNIGHT: I struck him because he is unemployed.

20 THE COURT: And, finally -- is that the sole purpose
21 of your strike?

22 MR. KNIGHT: Yes, sir. That's correct.

23 THE COURT: Finally, Juror Number 137, Tiffany
24 Newton, black female.

25 MR. KNIGHT: Unemployed. That's the sole reason I

1 struck her.

2 THE COURT: Very well.

3 All right. Mr. Mathews, you are the party asserting
4 discrimination. You have to now carry the burden of
5 proving purposeful discrimination in the exercise of
6 preemptory strikes by showing this Court that there is
7 mere pretext, based on the reasons that have been provided
8 me by the party who exercised the strikes at issue.

9 MR. MATHEWS: I'm looking for people ---

10 THE COURT: I don't think, Mr. Mathews, you're going
11 to find that anybody was unemployed that is seated on the
12 jury. I have checked, but you tell me if I am wrong, Mr.
13 Mathews.

14 MR. MATHEWS: I cannot show that you're wrong, Your
15 Honor.

16 THE COURT: Very well.

17 You're satisfied, then, that there are racially
18 neutral reasons.

19 MR. MATHEWS: Yes, sir.

20 THE COURT: Your motion is respectfully denied, as
21 you have failed to carry the burden of proving purposeful
22 discrimination in the exercise of the State's preemptory
23 strikes.

24 Thank you very much. We will return to the
25 courtroom.

1 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD ON
2 THE RECORD IN THE COURTROOM IN THE PRESENCE AND HEARING OF
3 THE JURY PANEL:)

4 THE COURT: All right, Counsel, with the exception of
5 the matter of law that we took up outside the presence of
6 the jury, are there any other matters from the defendant
7 pertaining to the selection of the jury that need to be
8 decided before the jury is sworn?

9 From the defendant?

10 MR. MATHEWS: No, sir.

11 THE COURT: And I understand there are none from the
12 State; is that correct?

13 MR. KNIGHT: That's correct, Your Honor.

14 THE COURT: Very well.

15 All right. Ladies and gentlemen of the jury panel,
16 the first thing I want you to know is we're not going to
17 start the trial. I know it's late, and I've kept you
18 afterwards because I wanted to get the jury today, and
19 I'll actually swear you in the morning, but I want you to
20 go to your jury room. Why? Because when you come back in
21 the morning, I want you to report to your jury room.
22 Don't come to the courtroom. And my bailiffs -- Bill is
23 going to take excellent care of you back there. All of
24 them will, and they're going to show you how to get in and
25 out of the courthouse.

1 Do not discuss this case. You have not heard any
2 evidence in this case, so it would be improper.

3 I'm going to get the courtroom warmer for you. It's
4 supposed to get a little cooler tonight. It takes us a
5 long time in this big building, but we'll work on that.
6 The thermostat is right above your head right there.

7 And you have to have a special key; don't you, Pat?

8 CLERK: Yes.

9 THE COURT: Believe me, we've got everybody that
10 wants to control it around here, but we'll do our best to
11 make it comfortable.

12 I'll talk to you when I bring you back, because I'm
13 going to send you home after you find out where your jury
14 room is. I do want you to do a little bit of work for me
15 tonight. They're going to give you a pad and a pencil. I
16 want you to select a foreperson of the jury.

17 Now, listen to me carefully. Don't get in there and
18 everybody say: I don't want to do it.

19 I want you to pick somebody that can do that. The
20 foreperson presides in the jury room, just like the
21 chairperson of a committee would preside at a committee
22 meeting.

23 The foreperson's job is to see that each and every
24 member of the jury has a full and a fair opportunity to
25 voice their opinions in the jury room once deliberations

1 begin.

2 It will also be the foreperson's job to write the
3 jury's verdict, but I will give you instructions about how
4 to do that in my charge to you on the law at the
5 conclusion of the case. In other words, I'll give you a
6 verdict form and instruct the foreperson, because the
7 foreperson will sign.

8 Also, the foreperson will sign -- whatever they write
9 on the verdict form, they will write where it says
10 "Verdict" on the indictment. My law clerk, who is not
11 here right now -- my regular law clerk, Camden Hodge, who
12 is being sworn in today, he will be bringing these
13 indictments to the foreperson and asking that whatever you
14 write on the verdict form that I prepare for you, also
15 write the same words on the indictment.

16 So the foreperson presides in the jury room, just
17 like the chairperson of a committee. They see that each
18 member of the jury has a full and fair opportunity to
19 voice their opinion.

20 The foreperson is the jury's spokesperson, should
21 that need arise out here in the courtroom. The foreperson
22 speaks for the entire jury, and the jury signs and writes
23 the verdict for the jury. Those are the duties of the
24 foreperson.

25 I want you to quickly pick a foreperson from the

1 twelve of you. Write the name on a piece of paper, knock
2 on your jury room door, give it to my bailiff. He will
3 bring it out to me, and then I'm going to bring you back
4 in and excuse you for the evening.

5 Do not discuss this case. You have not heard any
6 evidence in this case, and it would be improper for you to
7 discuss it amongst yourselves or with anybody else.

8 Thank you for your patience. You may retire to your
9 jury room. I'll be right back with you in just a few
10 moments after you pick your foreperson.

11 (NOVEMBER 13, 2012, 5:31 P.M., WHEREUPON, THE JURY
12 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
13 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

14 THE COURT: Counsel, approach.

15 (WHEREUPON, A BENCH CONFERENCE WAS HELD OUT OF THE
16 HEARING OF THE REMAINING JURY PANEL. THEREAFTER, THE
17 REMAINING JURY PANEL WAS RELEASED, AND WAS INFORMED TO
18 CALL BACK FOR FURTHER INSTRUCTIONS. THEREAFTER, THE
19 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF THE
20 PRESENCE OF THE JURY:)

21 THE COURT: On the record, Ronda.

22 All right, let the record reflect that no jurors are
23 in the courtroom, and the jury that was selected but not
24 sworn is outside the jury room.

25 Just for the record, I noticed that when I called the

1 potential list of witnesses, one of the witnesses with the
2 Colleton County Sheriff's Department was Cameron Ray
3 Taylor, who was Number 50 on my witness list. He is the
4 brother of the court reporter, but I understand from both
5 counsel from the defendant and counsel for the State of
6 South Carolina that they have no objection to Ronda
7 Cummings serving as the court reporter, even though her
8 brother is a potential witness in the trial of this case.

9 Is that correct from the State?

10 MR. KNIGHT: Yes, sir.

11 THE COURT: Is that correct from the defendant?

12 MR. MATHEWS: Yes, Your Honor.

13 THE COURT: All right.

14 Now, if we can get a note from the jury as to the
15 foreman, I will keep my word to you, Paul.

16 (WHEREUPON, A NOTE WAS RECEIVED FROM THE JURY, AND
17 THE FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF
18 THE PRESENCE OF THE JURY:)

19 THE COURT: All right, Counsel, I've received a note
20 from the jury. They have chosen Anthony Smuz, Jr.,
21 Anthony F. Smuz. Let's see. That would be Jury 178, is
22 the foreperson of the jury.

23 Any objection to making the jury's note a Court's
24 Exhibit?

25 From the State?

1 MR. KNIGHT: No, sir.

2 THE COURT: From the defendant?

3 MR. MATHEWS: No, Your Honor.

4 THE COURT: Ronda, it will be Court's Exhibit Number
5 One, without objection. If you will mark it for me,
6 please?

7 (WHEREUPON, Court's Exhibit No. 1 was marked for
8 identification and received into evidence.)

9 THE COURT: Anything further from the State before I
10 bring the jury in?

11 MR. KNIGHT: No, sir.

12 THE COURT: From the defendant?

13 (NO RESPONSE.)

14 THE COURT: From the defendant?

15 MR. MATHEWS: No, Your Honor, nothing.

16 THE COURT: Bring me the jury.

17 (NOVEMBER 13, 2012, 5:40 P.M., WHEREUPON, THE JURY
18 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
19 WERE HELD IN THEIR PRESENCE.)

20 THE COURT: Congratulations, Mr. Smuz.

21 Be careful on the back row for me.

22 All right, ladies and gentlemen, now, let me help you
23 a little bit. You've got pocketbooks, you've got
24 belongings. Now, Mr. Foreman, that's going to be your
25 seat throughout the trial. The rest of you can sit

1 anywhere you want to. If you want to sit by somebody,
2 just line up.

3 I do ask you to do this, especially you back row
4 people, and the front row really, don't sit down and make
5 people crawl over you. Why? Because on the back row,
6 there's a step below you, and I've had people step off
7 that step and fall, and you can get hurt that way. So,
8 when you come in, fill all the way down to the end.

9 If you want to sit by somebody, just line up that way
10 on both the front row and back row, and that will be your
11 seat. So everybody else can sit anywhere else you want
12 to.

13 Now, over the overnight recess, I don't know if there
14 will be anything on radio, television, and the newspaper.
15 Please do not read such, watch such, or listen to such.

16 You must decide this case based solely upon evidence
17 introduced during the trial of this case when both sides
18 are present with the right of cross-examination.

19 Now, it's improper for you to use any type of
20 electronic device; computer, smartphone, anything, to do
21 any research about this case, even if you think it would
22 help you.

23 So please don't get on any blog or website. Please
24 don't use your computer to do any research about any
25 lawyer or any party in this case or any issue that might

1 arise during this case. You must decide this case solely
2 upon evidence introduced during the trial of the case when
3 both sides are present with the right of
4 cross-examination.

5 Now, we're going to start at 9:30 in the morning.
6 Don't worry. Pat Grant takes great care of her juries.

7 I need to brag to you about that, Pat, because I've
8 been places where they didn't, and you really do.

9 You're going to find out. Get here early. We'll
10 have something for you to drink. The bailiffs will take
11 good care of you. They'll have a snack for you. We're
12 going to take a lunch order from you.

13 I need you here prior to 9:30 in the morning. When
14 you come, report to your jury room. Don't come to the
15 courtroom or out here. Go straight to where you just
16 were, to your jury room, because I'm going to try to start
17 at 9:30.

18 Sometimes matters arise that I have to take care of
19 in the morning, like they did a little bit this morning,
20 but I will promise you I will start as close to 9:30 as I
21 can.

22 Now, I haven't sworn you yet. I will swear you first
23 thing in the morning once we start. So be in your jury
24 room prior to 9:30 in the morning.

25 If anybody needs a work excuse for serving on the

1 jury, where do you want them to go, Pat?

2 CLERK: For today?

3 THE COURT: Uh-huh.

4 CLERK: Since it's late, do they need it? Can we
5 just do it tomorrow?

6 THE COURT: Does anybody need a work excuse? Hold
7 your hand up if you do.

8 I've got two.

9 CLERK: Okay. Go down to General Sessions. The
10 girls will be down there.

11 THE COURT: One of the girls will be in the door
12 downstairs marked "General Sessions." We'll get you one
13 for showing that you're serving on the jury this week.

14 Now, I thank you for your patience. I know it took a
15 while, but you see it takes a while to get it started. We
16 have to go through a process to make sure we get an
17 impartial jury.

18 I want to thank you for listening. I thank you for
19 your patience.

20 We're going to start as close to 9:30 in the morning
21 as I can get there, so please be in your jury room prior
22 to 9:30. Over the overnight recess, please do not discuss
23 this case with anyone, not even a member of your own
24 family.

25 If somebody tries to talk to you about the case, just

1 tell them you're on the jury and you can't talk about it.
2 If they persist in trying to talk you, all you have to do
3 is get their name, give it to me. I'll handle that
4 problem for you, ladies and gentlemen, and I'll promise
5 you that person is not going to bother you anymore.

6 Now, I hope everybody has a pleasant evening. Be in
7 your jury room prior to 9:30 in the morning. You're now
8 excused for the balance of the evening.

9 You may leave the courtroom. If you need a work
10 excuse, the girls will be in the General Sessions Office
11 downstairs. You can go right through this door, and the
12 deputies will escort anybody that needs an escort. Over
13 here.

14 Make sure they don't need one.

15 (NOVEMBER 13, 2012, 5:45 P.M., WHEREUPON, THE JURY
16 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
17 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

18 THE COURT: All right, anything on the record outside
19 the presence of the jury before we adjourn?

20 From the State of South Carolina?

21 MR. KNIGHT: No, sir.

22 THE COURT: From the defendant?

23 MR. MATHEWS: No, Your Honor.

24 THE COURT: We're adjourned until 9:30 a.m. tomorrow
25 morning.

1 Counsel, I'll expect Requests to Charge no later than
2 5:00 o'clock tomorrow afternoon.

3 Thank you very much. This court is recessed until --
4 Pat, here are my three indictments ---

5 CLERK: Yes, sir.

6 THE COURT: --- 9:30 a.m. tomorrow morning.

7 (WHEREUPON, THIS CASE WAS RECESSED. ON NOVEMBER 14,
8 2012, AT 9:35 A.M., THE FOLLOWING PROCEEDINGS WERE HELD ON
9 THE RECORD OUT OF THE PRESENCE OF THE JURY:)

10 THE COURT: All right. Is the State ready to
11 proceed?

12 MR. KNIGHT: Yes, sir.

13 THE COURT: Is the defendant ready to proceed?

14 MR. MATHEWS: Yes, Your Honor.

15 MR. KNIGHT: One question, Your Honor.

16 Are you requesting a sequestration of the witnesses?

17 THE COURT: I couldn't hear you. Talk to me, not to
18 him.

19 MR. KNIGHT: The question is, did Mr. Mathews make a
20 sequestration motion?

21 THE COURT: No, he did not.

22 MR. KNIGHT: Okay, sir. I just wanted to make sure,
23 Your Honor.

24 THE COURT: That means he hasn't made one.

25 Take your seat, Mr. Mathews.

1 Are we ready to go?

2 MR. MATHEWS: Yes, sir.

3 THE COURT: Your witnesses can stay in here. Mr.
4 Mathews has the majority of the witnesses, because he had
5 me call out seventy-two names yesterday.

6 Bring me the jury, please.

7 (NOVEMBER 14, 2012, 9:42 A.M., WHEREUPON, THE JURY
8 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
9 WERE HELD IN THEIR PRESENCE.)

10 THE COURT: Good morning, Mr. Foreman.

11 FOREMAN: Good morning.

12 THE COURT: Good morning, ladies and gentlemen of the
13 jury. I hope everybody had a pleasant evening. Thank you
14 for being here on time.

15 Has everybody filled out a lunch order? If you have
16 not, raise your hand for me.

17 (NO RESPONSE.)

18 THE COURT: Good.

19 Madam Clerk, would you please swear the jury?

20 CLERK: Yes, sir.

21 (WHEREUPON, THE JURY WAS DULY SWORN.)

22 THE COURT: All right, ladies and gentlemen, the case
23 we're about to try is the case of the State of South
24 Carolina versus Bronson Shelley. Mr. Shelley is charged,
25 as I told you, by these three piece of paper which I hold

1 in my hand, which we call indictments. In two of the
2 indictments, he is charged with the offense of attempted
3 murder, and then the third indictment, he's charged with
4 possession of a weapon during the commission of a violent
5 crime. It is alleged that the violent crime and the
6 weapon possession is the offense of attempted murder.

7 The elements of those crimes, both attempted murder
8 and possession of a weapon, I will explain to you in my
9 charge on the law at the conclusion of the case. As I
10 told you, the fact that the defendant was indicted,
11 arrested, and charged, is not evidence in this case, and
12 you must base your decision on evidence.

13 Now, the defendant has pled not guilty to the
14 indictment. That puts the burden on the State of South
15 Carolina to prove each and every element, as I will
16 explain to you at the close of the case, beyond a
17 reasonable doubt. And it will be your duty to decide this
18 case based on evidence introduced during the trial of the
19 case as to whether or not the State has met that burden.

20 Now, ladies and gentlemen, I haven't heard the
21 evidence in this case, nor have you. Our system is
22 designed exactly that way, so that you will have an open
23 mind, and I'll have an open mind.

24 I don't know what law I'm going to charge you at the
25 conclusion of the case, because it's going to be based on

1 what evidence is introduced, and you haven't heard that
2 evidence yet. So you enter with an open mind, and I enter
3 as the presiding judge with an open mind.

4 Before we begin this trial, the first thing I want to
5 tell you is that this probably, as I suggested to you
6 yesterday, will be different from what many of you might
7 expect. I've found that most people really don't have the
8 time or the chance to attend an actual court session, as
9 each of you are doing right now. And many people may think
10 from watching television, or going to a movie, or reading
11 a book, that trials are always full of high drama, intense
12 action, and riveting and entertaining circumstances.

13 It amazes me how many people think that the doors are
14 going to open back there and a person in a white coat is
15 going to come in with a test tube and tell us exactly what
16 happened, and that they found it in the laboratory,
17 because television makes you believe that that's what
18 happens in a trial.

19 Now, ladies and gentlemen, although sometimes trials
20 can be full of drama, an actual trial is not for
21 entertainment. An actual trial is a search for the truth
22 in an effort to make sure that justice is done between the
23 parties before the court.

24 Searching for the truth and making sure that justice
25 is done is often slow, it is often repetitive, it is often

1 **MR. MATHEWS:** Your Honor, may be approach briefly?

2 **THE COURT:** Counsel, approach.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
4 RECORD OUT OF THE HEARING OF THE JURY. THEREAFTER, THE
5 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD IN THE
6 PRESENCE AND HEARING OF THE JURY:)

7 **THE COURT:** I will place the matter of law on the
8 record at the appropriate time.

9 We will now begin the trial of the case. Ladies and
10 gentlemen, I ask that you give the attorneys your careful
11 consideration. They've worked hard to prepare the case
12 for their respective clients, and although what they tell
13 you is not evidence, I want you to listen to them
14 carefully.

15 Solicitor?

16 **MR. KNIGHT:** May it please the Court, Your Honor?

17 **THE COURT:** Yes, sir.

18 **MR. KNIGHT:** Mr. Foreman and ladies and gentlemen of
19 the jury, let me tell you what I've got to prove. I've
20 got to prove that Mr. Bronson Shelley with intent to kill
21 another person, in this case two people, with malice
22 aforethought, either express or implied. I have that
23 burden. I assume that burden. During the course of the
24 trial, I want you to think about this, the elements I just
25 talked about, as you listen to the testimony.

1 This case was on July the 12th of 2011. It started
2 over in Dorchester County. Two deputy sheriffs were
3 working on patrol on I-95 South. One of them observed a
4 vehicle violating a traffic violation.

5 He pulled in beside the vehicle, took a look at the
6 driver of the vehicle, the type of the vehicle. Then he
7 let the vehicle proceed a little bit, turned on the blue
8 light, and a chase begins down I-95. It goes off Exit 68,
9 what I know as Highway 61. I think it's also called
10 Augusta Highway. There are speeds up to ninety or a
11 hundred miles an hour.

12 Another deputy took over the chase. During the
13 chase, out pops the sunroof of the car. Shots were fired
14 at the deputies. Fortunately, it didn't hit either one of
15 them, but it hit their vehicle -- it hit one of their
16 vehicles. That burden is on me to prove that, that this
17 occurred here in Colleton County somewhere in the
18 neighborhood of 55519 Augusta Highway.

19 You're going to see some video. You're going to hear
20 some audio. You're going to see some photographs of what
21 transpired, what the results of these activities were.

22 There were two people in the vehicle. One was the
23 driver. One was the passenger. This occurred around
24 7:00, a little after 7:00 o'clock here in Colleton County.

25 You'll also hear some people from S.L.E.D. testifying

1 about their analysis and the results of that analysis of
2 the pistols and the casings and things of this nature.
3 But during the course of all of this testimony, as His
4 Honor previously described, number one, look, listen,
5 because at the conclusion of the case -- the trial of this
6 case, I'm going to ask you to return a verdict of guilty
7 on all three indictments. Thank you.

8 **THE COURT:** Mr. Mathews?

9 **MR. MATHEWS:** Thank you, Your Honor.

10 Mr. Foreman, ladies and gentlemen of the jury, I'm
11 Dave Mathews, as I already indicated. That's Bronson
12 Shelley, my client.

13 There are -- Mr. Knight has told you what the -- some
14 of the issues will be. Some of the questions that maybe
15 the State may not be able to resolve is who shot, at what
16 did they shoot, and was there an intent to kill anybody.

17 This much is not -- I believe not in dispute. I
18 believe the evidence will show that a black Lexus was
19 heading south on Interstate 95, that a Dorchester County
20 Deputy Sheriff tried to pull the black Lexus over. It
21 started to pull over. There were a couple of other police
22 cars ahead that had another truck pulled over. It pulled
23 back into the -- pulled back onto the interstate and sped
24 up. Blue lights are clearly on.

25 The initial car that was following it pulled over and

1 let the car driven by Lieutenant Burnette, Joe Burnette
2 from the Dorchester County Sheriff's Department, take the
3 lead. Ultimately, something like four Dorchester County
4 Deputy Sheriffs were in line. Lieutenant Burnette was the
5 lead car. The next car, there might be some dispute
6 there.

7 You'll have the opportunity to see an L-3. An L-3 is
8 the in-car video that the deputy sheriffs had in their
9 cars.

10 So all four of the Dorchester County Sheriff's Office
11 patrol cars that were involved in this pursuit had on
12 their in-car cameras. One was Lieutenant Burnette, one
13 was Officer Jefferson, one was an Officer Knight. And
14 Officer -- Corporal Eaches, I don't know whether his L-3
15 is working or not. I know that Jefferson's was, but in
16 any event, the video will clearly show and the testimony
17 will show that Lieutenant Burnette was the only car
18 anywhere close to the black Lexus at the end down on
19 Augusta Highway.

20 At some point, actually thirty-four seconds into the
21 fifth call to the Dorchester County 911, or at 190849 into
22 Burnette's L-3, he indicates shots were fired. Okay?
23 That's when Lieutenant Burnette says shots were fired. So
24 at some point, something -- somebody apparently fired some
25 shots from this Lexus. A slug was recovered from the --

1 from the Lexus -- I mean, I'm sorry, from the patrol car,
2 and it was sent to S.L.E.D. to be examined.

3 The wreck happened because Burnette tapped his car
4 into the Lexus. It went straight forward. At no point
5 was the Lexus behind any patrol cars. Okay? Everything
6 -- everything happened behind them.

7 The car tipped over on its roof, and they found three
8 guns inside the car. They found a Bursa .380. They found
9 a Colt .38, and they found -- I don't know what the other
10 one was, but they found another weapon, too, that was in
11 the glove box.

12 The weapons were both found -- one was inside the car
13 on the roof. The car is turned upside down, and one
14 pistol you can see. You can see it right there on the
15 roof.

16 The other one, the Colt .45 -- I'm sorry, the Colt
17 .38, they couldn't see until they turned the car back
18 over. It was in the grass underneath the car. I think
19 the evidence will show that.

20 So whatever firing was done, I believe the evidence
21 will show was done inside the car. No firing -- nobody
22 fired any shots once the car was stopped.

23 The guns were sent to S.L.E.D. One of the things,
24 too, they took swabs from the triggers of both the Bursa
25 and the .38. The Dorchester County Sheriff's Office took

1 that and submitted those swabs into evidence, presumably
2 to look for DNA to find out who fired.

3 The two black males jumped out of the car, got out of
4 the car and ran. One was apprehended a few minutes later.
5 They used the dogs, and the dogs tore them up, both of
6 them.

7 The first one they brought back, they brought back
8 briefly, that's later identified as Maurio Rivers. He's
9 not here today, but he was the first one that was brought
10 back, and he passed out shortly thereafter. EMS was sent
11 out, and they took him to the hospital.

12 They took a swab from his hand, too, a gunshot
13 residue swab, to find out whether he -- you know, they --
14 they do that to find out whether somebody has fired a gun.
15 About an hour later, they got the second guy. Both of the
16 people were identified as black males with dreadlock hair
17 and white t-shirts.

18 This happened over the course of -- the ability to
19 see is just the course of a few seconds. That was the
20 description they had.

21 When they bring back the first guy, later identified
22 as Maurio Rivers, Officer Burnette, I think Lieutenant
23 Burnette says: I think that was the driver. I think that
24 was the driver. The other guy is the shooter.

25 I think that's what the testimony will show, but what

1 the testimony is is what comes from that stand. That's
2 what I believe the testimony will show.

3 But they looked an awful lot alike, frankly. And the
4 description was -- was -- at one point I think that
5 Lieutenant Burnette says that either -- the second guy,
6 later identified as my client, Mr. Shelley, was either
7 wearing jeans or shorts. Now that's a big difference.
8 Listen to that. Listen carefully about the identification
9 of who was doing what and where it was being done.

10 Consider also what was being fired at, what the
11 intent was at that point. Now -- and the results, you
12 know, of the DNA of the trigger to show who fired what
13 gun. Consider all of that carefully. Listen to the
14 evidence, and when you do, I think that you will -- I
15 believe that you will find that the State has not met its
16 burden of proof. Thank you.

17 **THE COURT:** Call your first witness.

18 **MR. KNIGHT:** Justin Eaches, please.

19 **THE COURT:** Come around, please, to be sworn by the
20 Clerk of Court.

21 **CLERK:** Please come forward and place your left hand
22 on the Bible and raise your right.

23 JUSTIN EACHES, after being duly sworn, testified
24 as follows:

25 **CLERK:** Please have a seat on the witness stand.

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 WITNESS: Yes, ma'am.

2 CLERK: Have a seat and state your full name for the
3 record.

4 THE COURT: Watch your step for me. Make yourself
5 comfortable.

6 WITNESS: Good morning, Your Honor.

7 THE COURT: Good morning to you. I know with all
8 that equipment it's hard.

9 WITNESS: Yes, sir.

10 THE COURT: Adjust the microphone to your height and
11 the chair to your comfort. Begin by stating your full
12 name and spelling your last name for the court reporter.

13 WITNESS: Yes, sir. It's Justin Eaches, that's
14 E-A-C-H-E-S.

15 THE COURT: Your witness, Counsel.

16 MR. KNIGHT: Thank you, Your Honor.

17 THE COURT: Direct examination.

18 MR. KNIGHT: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. KNIGHT:

21 Q Mr. Eaches, who are you employed with, sir?

22 A Dorchester County Sheriff's Office.

23 Q In what capacity?

24 A (NO RESPONSE.)

25 Q Are you a patrol officer, investigator?

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 A I work on the Interstate Crime Enforcement Unit, and
2 Patrol Division, and K-9 Unit.

3 Q And what's your training and experience in law
4 enforcement, sir?

5 A I was employed with Dorchester County Sheriff's
6 Office in 2001.

7 Q 2001. Were you on duty on July the 12th of 2011?

8 A Yes, I was.

9 Q What area of Dorchester County were you working?

10 A In Dorchester County I was at mile marker 74 on
11 Interstate I-95.

12 Q Were you in a parked position, or were you going up
13 and down the highway?

14 A I was in a stationary position in the median.

15 Q In the median. Were -- was your car clearly marked,
16 logos on the side saying: Dorchester County Sheriff's
17 Department?

18 A Yes. It would say: Dorchester County Sheriff's
19 Office.

20 And it was a K-9 patrol vehicle. It was fully marked
21 with a light bar.

22 Q Okay. At approximately 7:00 o'clock that evening
23 what, if anything, did you observe?

24 A I was conducting stationary traffic enforcement where
25 I sit in the median, clearly marked and visible where all

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 lanes of traffic can see me southbound.

2 Q Okay.

3 A I observed a black vehicle approaching in the number
4 two lane, which is the non-passing lane on the interstate,
5 start to move to the right-hand side of the road and then
6 make a lane change to the number one lane, which is the
7 passing lane on the interstate.

8 Q And what caused you to observe that, sir?

9 A First, it was the car moving off to the right side of
10 the road and then abrupt lane change with no turn signal
11 into the number one lane.

12 Q And what did you do as a result of that observation?

13 A Entered onto Interstate 95 South and pulled along the
14 side of the vehicle before attempting to make a traffic
15 violation.

16 Q Okay. Did you come parallel with the vehicle?

17 A Yes.

18 Q Could you observe who was operating said vehicle?

19 A Yes.

20 Q Would you describe them to the best of your ability?

21 A The person driving the vehicle had a long, braided
22 hair, like in a ponytail type setting. The other
23 passenger in the vehicle, there was one other occupant,
24 had a shorter, braided hairstyle.

25 Q Okay. Let me ask you if you can identify this, sir?

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 **A** Yes.

2 **Q** You can?

3 **A** Yes.

4 **MR. MATHEWS:** No objection.

5 **MR. KNIGHT:** Without objection, Your Honor.

6 **THE COURT:** Have the court reporter mark it and have
7 the witness -- you're going to do two? Have the witness
8 identify which is which. I understand without objection.

9 (WHEREUPON, State's Exhibit No. 1 was marked for
10 identification only.)

11 (WHEREUPON, State's Exhibit No. 2 was marked for
12 identification only.)

13 **Q** I show you State's Exhibit Number One. Can you
14 identify who that is, sir?

15 **A** Yes, that's going to be the driver.

16 **Q** Do you recall his name, sir?

17 **A** Maurio Rivers.

18 **Q** I show you what's been marked as State's Exhibit
19 Number Two. Can you identify that, sir?

20 **A** Yes.

21 **Q** And who is that?

22 **A** That would be the passenger, Shelly Bronson.

23 **MR. KNIGHT:** Your Honor, the State moves State's
24 Exhibits One and Two into evidence.

25 **THE COURT:** Any objection, Mr. Mathews?

1 MR. MATHEWS: No, sir, Your Honor.

2 THE COURT: Ladies and gentlemen of the jury, State's
3 Exhibits One and Two will be admitted into evidence in the
4 trial of this case without objection. State's One and Two
5 in evidence.

6 (WHEREUPON, State's Exhibit No. 1 was admitted into
7 evidence.)

8 (WHEREUPON, State's Exhibit No. 2 was admitted into
9 evidence.)

10 THE COURT: You may publish to the jury.

11 MR. KNIGHT: Thank you, Your Honor.

12 Q What was the next thing you did after these lane
13 changes?

14 A What I do is I try to identify people in the vehicle,
15 such as if there's -- how many occupants, try to get a
16 description the best I can of the driver and passenger.
17 Also, I try to check to see if seatbelts are on, and
18 secondly, if there's any kids in the vehicle.

19 From then, I'll check the tag with my dispatch and
20 run the tag for information. And then I'll attempt to
21 stop the vehicle.

22 Q Did you attempt to stop this vehicle?

23 A Yes, I did.

24 Q Did you activate your blue light and siren?

25 A Yes, I did.

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 Q Okay. Did the vehicle stop at that point?

2 A No. It proceeded to the right side, the emergency
3 lane using a turn signal and then moving over.

4 Q Okay. The emergency lane and then moving back into
5 the highway?

6 A No. From the highway into the emergency lane where
7 we pull a vehicle over.

8 Q Did the vehicle stop?

9 A No. It was going speeds of around forty-five in the
10 emergency lane.

11 Q Then what did the vehicle do?

12 A It proceeded. There was another patrol unit that had
13 a tractor trailer pulled over, and it proceeded towards
14 that direction and then made an abrupt left back into the
15 interstate and proceeded by them.

16 Q Your blue light was on?

17 A Yes.

18 Q And did you follow that black vehicle?

19 A Yes.

20 Q How far did you follow it?

21 A I followed the vehicle until it wouldn't stop and
22 increased speeds, and that's when I put out to my dispatch
23 that the vehicle wasn't stopping.

24 Q Do you recall what speed it increased to?

25 A We got over a hundred miles an hour.

1 Q Okay. Did you have a what's known as an L-3 in your
2 car on this date?

3 A Yes. At the time I was using a spare vehicle, and I
4 did have a camera in my vehicle.

5 Q Okay. I ask you if you can identify this, please,
6 sir?

7 A It's an audio copy on a DVD disk with the initials
8 JDB.

9 Q That's you?

10 A Lieutenant J. Burnett.

11 Q That's you?

12 A No.

13 Q I gave you the wrong one. Excuse me.
14 We'll do better this time.

15 A Okay.

16 Q I ask you if you can identify this one?

17 A Yes. This is a copy of an in-car DVD, Corporal J.
18 Eaches and my initials on it.

19 Q That's the one that came out of your car?

20 A Yes.

21 MR. KNIGHT: David?

22 MR. MATHEWS: No objection.

23 MR. KNIGHT: I'd move this into evidence, Your Honor,
24 without objection.

25 THE COURT: Let her mark it.

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 (WHEREUPON, State's Exhibit No. 3 was marked for
2 identification only.)

3 THE COURT: Any objection, Mr. Mathews?

4 MR. MATHEWS: No, objection, Your Honor.

5 THE COURT: It would be Number Three?

6 MR. KNIGHT: Yes, sir.

7 THE COURT: State's Exhibit Number Three will be
8 admitted into evidence in the trial of this case without
9 objection. State's Three in evidence.

10 (WHEREUPON, State's Exhibit No. 3 was admitted into
11 evidence.)

12 THE COURT: You may publish.

13 MR. KNIGHT: Your Honor, with the assistance of Mrs.
14 Stallings, may we publish to the jury?

15 THE COURT: You need Mrs. Stallings, Assistant
16 Solicitor Knight. I can tell you that.

17 MR. KNIGHT: Yes, sir, I do.

18 THE COURT: I will take judicial notice of that fact.

19 MR. KNIGHT: Thank you, sir.

20 THE COURT: Angela, let me know when you're ready.

21 MRS. STALLINGS: Yes, sir.

22 THE COURT: Can y'all see all right, you and your
23 client?

24 MR. MATHEWS: We can see it, Your Honor.

25 THE COURT: Ladies and gentlemen of the jury, can

1 everybody see? I can dim the lights if we need to. Can
2 everybody see it clearly?

3 (NO RESPONSE.)

4 MRS. STALLINGS: Do you want me to expand it?

5 MR. KNIGHT: It depends on whether or not they can
6 see it.

7 THE COURT: Well, let me see what we're going to have
8 first, and then I'll decide.

9 MR. KNIGHT: We can expand it, Your Honor. Mrs.
10 Stallings can. I can't.

11 THE COURT: That's true.

12 MR. KNIGHT: Yes, sir.

13 THE COURT: Can you make it any bigger?

14 MRS. STALLINGS: Yes, sir.

15 THE COURT: Can everybody see the board?

16 (WHEREUPON, STATE'S EXHIBIT NUMBER 3 WAS PUBLISHED TO
17 THE JURY. THEREAFTER, DIRECT EXAMINATION CONTINUED AS
18 FOLLOWS:)

19 Q Justin, when did you enter into Colleton County?

20 A Right when you're on Interstate 95, right before the
21 exit, the 68 Exit, there's a bridge. Right before that
22 bridge, it says: Welcome to Colleton County.

23 That's when we crossed into Colleton County.

24 Q Okay.

25 A Off of Interstate I-95, right before the exit.

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 Q As shown up here where the black vehicle turned over,
2 where was that at? How many miles into Colleton County,
3 approximately, if you know?

4 A Six, seven, eight.

5 Q Okay. You described it, at least I thought I heard
6 you on the tape, as a Lincoln. What type of vehicle was
7 it?

8 A It was an Acura, a black Acura.

9 Q A black Acura. Okay.

10 Let me show you this and ask you if you can identify
11 this?

12 A That would be the vehicle.

13 Q Okay.

14 MR. KNIGHT: That would be State's Exhibit Number
15 Four.

16 THE COURT: Have her mark it.

17 (WHEREUPON, State's Exhibit No. 4 was marked for
18 identification only.)

19 Q I show you what's been marked as State's Exhibit
20 Number Four and ask you if you can identify it?

21 A Yes. It's the black Acura.

22 Q Does that vehicle have a sunroof or a moonroof, as
23 it's called?

24 A Yes.

25 Q And that's the vehicle in State's Exhibit Number Four

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 that's shown turned over on the exhibit up here on the
2 wall?

3 A Yes.

4 THE COURT: Exhibit Number Three, for the record.

5 MR. KNIGHT: Exhibit Number Three.

6 THE COURT: Are you offering four into evidence?

7 MR. KNIGHT: Yes, sir.

8 THE COURT: Any objection, Mr. Mathews?

9 MR. MATHEWS: No objection, Your Honor.

10 THE COURT: Ladies and gentlemen of the jury, State's
11 Exhibit Number Four will be admitted into evidence in the
12 trial of this case without objection.

13 (WHEREUPON, State's Exhibit No. 4 was admitted into
14 evidence.)

15 THE COURT: You may publish. Proceed.

16 Q When the vehicle turned over, as shown in State's
17 Exhibit Number Three, what did the occupants of that
18 vehicle do?

19 A They exited.

20 Q They exited the vehicle?

21 A Yes.

22 Q Did you go after either one of the occupants?

23 A At that present time, no.

24 Q Okay. Did you subsequently go after them?

25 A Yes.

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 Q Who did you go after?

2 A The second suspect.

3 Q And who was the second suspect?

4 A It would be Shelly Bronson.

5 Q Is Mr. Bronson in the courtroom today?

6 A Yes.

7 Q Would you point him out to the jury, please?

8 (WHEREUPON, THE WITNESS POINTED.)

9 Q He's seated next to Mr. Mathews?

10 A Yes.

11 Q Okay. Did you arrest Mr. Shelly?

12 A Yes.

13 Q Did you search him, incident to arrest?

14 A Yes.

15 Q I ask you if you can identify this, please, sir?

16 A That is a black holster with a clip to hold a
17 firearm.

18 Q Okay.

19 MR. KNIGHT: This would be Number Five.

20 THE COURT: Let her mark it. Then ask him what it
21 is.

22 (WHEREUPON, State's Exhibit No. 5 was marked for
23 identification only.)

24 Q I show you State's Exhibit Number Five and ask you
25 can you identify it?

1 A Yes. It's a black holster with a clip.

2 Q Where did you discover State's Exhibit Number Five?

3 A In Mr. Bronson's pocket.

4 Q In the defendant's pocket?

5 A Yes.

6 MR. KNIGHT: I would move State's Exhibit Number Five
7 into evidence, without objection.

8 THE COURT: Any objection, Mr. Mathews?

9 MR. MATHEWS: No, Your Honor.

10 THE COURT: Ladies and gentlemen of the jury, State's
11 Exhibit Number Five will be admitted into evidence in the
12 trial of this case without objection. State's Five in
13 evidence.

14 (WHEREUPON, State's Exhibit No. 5 was admitted into
15 evidence.)

16 THE COURT: You may publish.

17 Q Did you search the area surrounding the overturned
18 vehicle, as shown in State's Exhibit Number Three?

19 A No, I did not search it. I just observed what I saw.

20 Q What did you see, sir?

21 A I saw at the time, right after the wreck had
22 occurred, there was a handgun just inside the vehicle.

23 Q I show you this and ask you if you can identify it,
24 sir?

25 A Yes. That's the handgun that I saw.

DIRECT EXAMINATION OF JUSTIN EACHES BY MR. KNIGHT

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1 Q That's on July the 12th of 2011?

2 A Yes.

3 MR. MATHEWS: No objection.

4 MR. KNIGHT: This would be State's Number Six, Your
5 Honor.

6 (WHEREUPON, State's Exhibit No. 6 was marked for
7 identification only.)

8 Q State's Exhibit Number Six, where did you notice that
9 weapon there?

10 A When the two deputies, Corporal Knight and Lieutenant
11 Burnette, were after the first person that exited the
12 vehicle, I stayed back to secure the vehicles, the patrol
13 vehicles, and then secure the crime scene until another
14 unit had arrived with me. That was sitting actually on
15 the roof of the vehicle inside the vehicle.

16 MR. KNIGHT: Move State's -- State's Number Six into
17 evidence without objection.

18 THE COURT: As to State's Six, Mr. Mathews?

19 MR. MATHEWS: No objection, Your Honor.

20 THE COURT: Ladies and gentlemen, State's Exhibit
21 Number Six will be admitted into the trial of this case
22 without objection.

23 (WHEREUPON, State's Exhibit No. 6 was admitted into
24 evidence.)

25 THE COURT: You may publish. Proceed.

1 Q In State's Exhibit Number Three, which is still up
2 there, at some point did you give up the chase and become
3 a second car?

4 A Yes. On Interstate 95.

5 Q Okay. And who took over the chase?

6 A Lieutenant Burnette.

7 Q And he was in the vehicle we saw pull up first?

8 A Yes. He was in the Dodge Magnum.

9 Q Dodge Magnum.

10 A Yes.

11 Q And that is a marked patrol car with Dorchester
12 County Sheriff's Department on it?

13 A Yes, fully marked.

14 Q Did you contact Lieutenant Burnette and ask him to
15 take over?

16 A Yes, I did on the interstate. As I mentioned before,
17 I was driving a spare unit, and it was just a little
18 rougher ride than the normal vehicle that I was issued, so
19 I moved off of the side of the road and let Lieutenant
20 Burnette take over the chase.

21 Q But you continued to -- to, as shown on State's
22 Exhibit Number Three, the chase.

23 A Oh, yes, sir.

24 Q Okay.

25 A I just -- the number one car went to the number two

CROSS-EXAMINATION OF JUSTIN EACHES BY MR. MATHEWS

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1 car.

2 Q Okay.

3 MR. KNIGHT: If the Court would indulge me one
4 moment, Your Honor?

5 Answer any questions Mr. Mathews may have.

6 WITNESS: Yes, sir.

7 THE COURT: Cross-examination?

8 MR. MATHEWS: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. MATHEWS:

11 Q Did you -- were you responsible -- is it corporal?

12 A Corporal Eaches, yes, sir.

13 Q Yeah. Were you responsible for the report of who was
14 on scene?

15 A As in through the whole ---

16 Q Right. I mean, somebody is in charge of saying who
17 all was on the scene; right?

18 A No, sir.

19 Q No? Were you -- you're listed as the lead detective
20 -- lead officer, I guess you're not a detective, the lead
21 officer in the case; correct?

22 A I was the officer that initiated the traffic stop
23 when it began.

24 Q I see.

25 A Yes, sir.

1 Q And you were in Officer Jefferson's car?

2 A Yes. That was a spare vehicle. Officer Jefferson
3 had been issued another vehicle.

4 Q Okay.

5 A And I was using his vehicle. My vehicle was down at
6 the time.

7 Q Okay. Whose vehicle was -- was Officer Jefferson
8 using?

9 A He got issued a patrol Chevy Tahoe.

10 Q Okay.

11 A He was in his Tahoe.

12 Q So Officer Jefferson was on the scene in another car,
13 and you were in his car.

14 A I was in -- which -- the spare car, his old vehicle.
15 Yes. That's the vehicle I was operating.

16 Q Okay. Did you do a -- the -- the dispatch entry, I
17 guess, shows the number of people that were on scene;
18 right?

19 A (NO RESPONSE.)

20 Q Were you aware of that?

21 A No.

22 Q Okay. Burnette would have been the first on the
23 scene; correct?

24 A Correct.

25 Q Okay. At any time, did you see any -- you heard on

CROSS-EXAMINATION OF JUSTIN EACHES BY MR. MATHEWS

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1 the radio that shots were fired; correct?

2 A Correct.

3 Q Okay. You didn't see any shots fired.

4 A Physically see, no.

5 Q Okay. At any point, did you see any shots fired?

6 A No. All I could see is when I came around the curve
7 a person in the sunroof area go back down into the car,
8 and prior to that, the acknowledgment of the passenger
9 doing something.

10 Q Right. You can tell from the -- from the video that
11 at the time you arrived, you pulled up -- and was that
12 Corporal -- was that Lieutenant Burnette with the dog, or
13 was that somebody else with the dog?

14 A Correct.

15 Q So when you drove up, he's -- he's got the dog and
16 they're chasing somebody at that point; right?

17 A He's actually exited his vehicle and the dog had
18 exited his vehicle, coming around the side of ---

19 Q Okay.

20 A --- Lieutenant Burnette.

21 Q All right. And if they were still there, they
22 wouldn't need the dogs; right?

23 A If who was still there?

24 Q If either of the -- if the suspects were both still
25 there, they wouldn't need the dogs. You wouldn't sic the

1 dogs on somebody that's already detained; would you?

2 A No, sir.

3 Q You would never do that.

4 A No, sir.

5 Q Okay. Okay. Was Lieutenant Caudle on the scene?

6 A Lieutenant Caudle?

7 Q Caudle, yes.

8 A I believe I saw him earlier that day, that evening.

9 Q All right. How about -- okay, Jefferson arrived at
10 1903. Did he arrive just before you or just after you?

11 A After.

12 Q Okay. And do y'all log that in? How does --
13 dispatch keeps track of all of that stuff; right?

14 A Correct. I -- I don't keep track of that.

15 Q Okay. But you radio in to say: I'm here.

16 And then they log it in; right?

17 A Yes.

18 Q Okay. So somebody is keeping track of that. You
19 call in and say: I'm here now.

20 And then the dispatcher puts that in there. And then
21 somebody else says: I'm on the scene.

22 And she puts theirs in; right? Right?

23 A I believe so, yes, sir.

24 Q Okay. So, was Officer Rawlins also on the scene?

25 A Yes.

CROSS-EXAMINATION OF JUSTIN EACHES BY MR. MATHEWS

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1 Q Okay. Officer Shearata?

2 A I don't know.

3 Q Okay. How about Corporal Knight?

4 A Yes.

5 Q Okay. Did he arrive before or after you?

6 A After.

7 Q Okay. Was that the car that came around you on that

8 video? You see that car that came around?

9 A No, that's -- that's -- that's going to be PFC

10 Jefferson.

11 Q That's Jefferson.

12 A Uh-huh.

13 Q Okay. So, Jefferson was ---

14 A And then ---

15 Q Okay.

16 A --- Corporal Knight's vehicle was behind mine.

17 Q Okay. All right.

18 So you had the second best view, I guess, of what was

19 going on.

20 A Yes, sir.

21 Q All right. All right.

22 That -- the picture that you identified of the -- of

23 the ---

24 THE COURT: Refer to the exhibit number, for the

25 record.

1 MR. MATHEWS: I'm sorry.

2 Q The ---

3 MR. MATHEWS: Your Honor, may I approach?

4 THE COURT: You may.

5 Q Corporal Eaches, I've handed you an exhibit that
6 you've already identified. What exhibit number is that,
7 please?

8 A Number Four.

9 Q Okay. Number Four. The -- in that picture, the
10 windows are -- the passenger window is down. Were the
11 windows up or down when you approached the car?

12 A After it had been wrecked? Please clarify when
13 you're telling me when I approached it.

14 Q Well, when you saw ---

15 A I approached the vehicle when I attempted to stop it.

16 Q Okay. When you -- when you attempted to stop it,
17 were the -- was the -- were the windows up or down?

18 A Up.

19 Q Okay. And on the scene, were the windows up or down?

20 A They were -- I don't -- I can't recall.

21 Q Okay. All right.

22 Now you wrote a report, I guess, in this case; didn't
23 you?

24 A Correct. Yes.

25 Q Okay. And, obviously, what's the purpose of writing

CROSS-EXAMINATION OF JUSTIN EACHES BY MR. MATHEWS

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1 a report?

2 A To indicate what happened at the incident.

3 Q Okay. You want -- you want to make sure you remember
4 it accurately; correct?

5 A Correct.

6 Q Okay. If you take items into evidence, would you
7 include that within your report, normally? Would that be
8 an important point?

9 A Correct. Yes.

10 Q Okay.

11 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
12 identification only.)

13 MR. MATHEWS: May I approach the witness, Your Honor?

14 THE COURT: You may.

15 Q Corporal, I've handed you what's been marked as
16 Defense Exhibit Number One and ask if you're able to
17 identify that?

18 A Yes. It's an incident report.

19 Q Okay. Would you take a moment to review that and
20 tell me where you indicate that you took State's Exhibit
21 Number Five into evidence?

22 A And Number Five is?

23 Q That's -- that's the holster that you ---

24 A Okay.

25 Q --- previously identified. Could you indicate in the

1 report where you noted taking that into evidence?

2 A That was given to the crime scene personnel. It's
3 not in this report.

4 Q It's not in the report.

5 A No, sir.

6 Q Okay.

7 A They filed it and logged it.

8 Q I understand.

9 What kind of -- what condition was Suspect Number One
10 in when you -- when you next saw him?

11 A Are you referring to Mr. Rivers?

12 Q Right. Later identified -- at the time you first saw
13 him, I think you called him John Doe Number 1; correct?

14 A No. I refer to Suspect One, Suspect Two.

15 Q Suspect One, whatever, but like I said, you didn't
16 know Mr. Rivers. Y'all had never met.

17 A No, sir.

18 Q What condition was he in when you saw him?

19 A At what time?

20 Q When you saw him -- after the -- after they brought
21 him back.

22 A From?

23 Q From the woods.

24 A Okay. I just need you to clarify, because I don't
25 know if you mean it's the condition of when he was driving

CROSS-EXAMINATION OF JUSTIN EACHES BY MR. MATHEWS

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1 or after that.

2 Q Okay. Well, -- okay, when he was driving. I'm glad
3 you brought that up. We'll get back to that.

4 A Okay.

5 Q You say that you were parallel with the car. Were
6 you at a ninety degree angle?

7 A No. I was parallel, side-by-side.

8 Q Side-by-side. Were you nose-to-nose, exactly right
9 next to each other.

10 A I'd say a little less.

11 Q A little less? You were a little behind him then?

12 A Yes, sir.

13 Q Okay. And how fast were you going at that time?

14 A Approximately seventy miles an hour.

15 Q Okay. So at seventy-five -- at seventy miles an
16 hour, you're going. You're a little bit behind him,
17 right, when you approach?

18 A Uh-huh.

19 Q All right. And the windows are up.

20 A Correct.

21 Q Okay. How long did you look over?

22 A Ten -- ten seconds, fifteen seconds.

23 Q Ten -- ten or fifteen seconds at seventy miles an
24 hour with your head turned to the right.

25 A Yes, sir.

1 Q Okay. And you describe, I think, the -- the -- you
2 called in dispatch and gave a description of who was
3 running off; correct, or did you?

4 A No.

5 Q So at that time, you did not give a description of
6 the people ---

7 A At which time? You're questioning me about a car
8 when we're traveling down the road, and then you're ---

9 Q No, no -- no, I'm -- well, at any time did you call
10 in and say -- I mean, obviously, when you pulled up next
11 to them, you didn't know what kind of pants they were
12 wearing; did you?

13 A No.

14 Q Okay. So, I mean, you didn't call in a description.
15 You called in a description of a car; correct?

16 A Correct.

17 Q And at that time, the first time that you described
18 the actual people in the car, when was the first time you
19 described over dispatch the people that were in the car?

20 A I can't recall.

21 Q Okay. All right. Sometime after they had both left;
22 correct?

23 A I can't recall.

24 MR. MATHEWS: I don't have any further questions,
25 Your Honor.

1 THE COURT: Redirect?

2 MR. KNIGHT: No, sir.

3 THE COURT: As to this witness, Solicitor?

4 MR. KNIGHT: May he be excused?

5 THE COURT: Any objection, Mr. Mathews?

6 MR. MATHEWS: No, Your Honor.

7 THE COURT: Mr. Eaches, you may step down. Leave me
8 my exhibits.

9 Mr. Mathews, go get the exhibits you left up there.
10 Give them back to the court reporter.

11 Ronda, tell me when you've got them all.

12 MR. MATHEWS: This is not in evidence, Your Honor, so
13 I'm going to take it back.

14 THE COURT: You'll need to give that to the court
15 reporter. You're not going to use Three again?

16 MR. MATHEWS: No, sir.

17 COURT REPORTER: Your Honor, I need to keep Number
18 One for ID that he took back.

19 THE COURT: Mr. Mathews, you have to bring it back to
20 her since you -- it was ID'd. She has to keep it for ID
21 for the record, even though it wasn't admitted.

22 MR. MATHEWS: Okay.

23 THE COURT: No, that goes -- no, no, no. That comes
24 to Ronda.

25 You got them all?

1 COURT REPORTER: Yes, sir.

2 THE COURT: Call your next witness.

3 Mr. Eaches, you are excused from the trial of this
4 case, without objection. You may leave the courtroom or
5 remain with us, as you desire.

6 WITNESS: Thank you, Your Honor.

7 MR. KNIGHT: Faith Grooms.

8 CLERK: Please come forward and be sworn. Put your
9 left hand on the Bible and raise your right.

10 FAITH GROOMS, after being duly sworn, testified
11 as follows:

12 CLERK: Please have a seat on the witness stand and
13 state your full name for the record.

14 THE COURT: Watch your step on my stairs for me,
15 please. Good morning.

16 WITNESS: Good morning.

17 THE COURT: Have a seat. Pull the chair up. Adjust
18 that microphone.

19 When you tell me you're comfortable and ready, state
20 your full name. Spell your last name for my court
21 reporter.

22 WITNESS: Faith Grooms, G-R-O-O-M-S.

23 THE COURT: Speak up for me, now, Ms. Grooms.

24 Pat, turn it up just a little bit for me.

25 Your witness, Counsel. Direct examination.

DIRECT EXAMINATION OF FAITH GROOMS BY MR. KNIGHT

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DIRECT EXAMINATION

BY MR. KNIGHT:

Q Ms. Grooms, who are you employed with?

A The Dorchester County Sheriff's Office as a dispatcher.

Q Okay. How long have you been employed as a dispatcher with the Dorchester County Sheriff's Office?

A Five years.

Q Were you working on or about July the 12th, 2011, around 7:00 o'clock?

A Yes, sir.

Q You were acting as a dispatcher?

A Yes, sir.

Q Okay. I ask you if you can identify this?

A It's an audio CD from the dispatch center with my initials on it.

Q Okay.

MR. KNIGHT: That would be Number Six or Seven?

COURT REPORTER: Seven.

MR. KNIGHT: Seven.

THE COURT: Let her mark it.

MR. KNIGHT: Yes, sir.

(WHEREUPON, State's Exhibit No. 7 was marked for identification only.)

THE COURT: Ask the witness if she can identify it

1 and offer it.

2 Q Ms. Grooms, I ask you if you can identify State's
3 Exhibit Number Seven?

4 A It's the audio CD from the incident with my initials
5 on it.

6 MR. KNIGHT: I'd move it into evidence, Your Honor,
7 without objection.

8 THE COURT: Any objection, Mr. Mathews?

9 MR. MATHEWS: No, Your Honor.

10 THE COURT: State's Exhibit Number Seven will be
11 admitted into evidence in the trial of this case, without
12 objection.

13 (WHEREUPON, State's Exhibit No. 7 was admitted into
14 evidence.)

15 THE COURT: You may publish.

16 MR. KNIGHT: With the assistance of Mrs. Stallings,
17 Your Honor.

18 (WHEREUPON, STATE'S EXHIBIT NUMBER SEVEN WAS
19 PUBLISHED TO THE JURY.)

20 MR. KNIGHT: That's all I have.

21 THE COURT: Have a seat, Mr. Knight.

22 MR. KNIGHT: I am.

23 THE COURT: Cross-examination?

24 MR. MATHEWS: Thank you, Your Honor.

25 CROSS-EXAMINATION

CROSS-EXAMINATION OF FAITH GROOMS BY MR. MATHEWS

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1 BY MR. MATHEWS:

2 Q I'd like to play ---

3 MR. MATHEWS: Your Honor, may I forward this to Track
4 21 on that?

5 THE COURT: Angela?

6 MR. MATHEWS: Just play Track 21. Yeah.

7 (WHEREUPON, TRACK 21 OF STATE'S EXHIBIT NUMBER 7 WAS
8 PUBLISHED TO THE JURY. THEREAFTER, CROSS-EXAMINATION
9 CONTINUED AS FOLLOWS:)

10 Q Ms. Grooms, how are you today?

11 A I'm good. How are you?

12 Q Not great. You're here. You'd rather be someplace
13 else, I'd bet.

14 How long have you been a dispatcher at Dorchester
15 County?

16 A Five years.

17 Q What -- in addition to taking the -- taking the
18 calls, do you have -- do you have any other duties?

19 A We answer the 911's and then administrative lines and
20 work the radio channels.

21 Q Okay. Do you do a dispatch entry sheet also?

22 A For the CAD record?

23 Q Yes.

24 A Yes, sir.

25 Q Okay.

1 (WHEREUPON, Defendant's Exhibit No. 2 was marked for
2 identification only.)

3 MR. MATHEWS: Your Honor, may I approach the witness?

4 THE COURT: You may.

5 Q Ms. Grooms, I've handed you what's been marked as
6 Defendant's Exhibit Number Two and ask you if you can
7 identify that?

8 A Yes, sir. This is a copy of our CAD record with the
9 comments from the incident.

10 Q Okay. All right.

11 How many cars -- do you know how many cars were on
12 the scene?

13 A Not right off the top of my head. I mean, I could
14 count them.

15 Q Okay. I mean the -- but that's one of the things
16 You report who gets there?

17 A Yes, sir.

18 Q Who was the first person, according to your records,
19 to arrive on the scene?

20 A The first person who called out the call would have
21 been Corporal Eaches. Lieutenant Burnette was the first
22 person on-scene with the incident.

23 Q Okay. Do you have times next to their arrival at the
24 scene?

25 A Yes, sir.

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1 Q What's the time that you have Lieutenant Burnette
2 arriving?

3 A Actually arriving? Well, they initiated the call at
4 1903.

5 Q Okay. You say: Initiated the call.

6 A It's when the chase -- the pursuit started, which
7 would be the on-scene time, the actual on-scene time.

8 Q I see. Okay.

9 A The beginning of the incident.

10 Q I understand. Okay.

11 All right. How many -- so the scene for you is
12 anytime somebody gets involved? It doesn't have to be
13 when you arrive at the wreck site?

14 A Well, if it was just an accident that was called in,
15 it would be when they arrived on it, but because the
16 actual incident started on the interstate, the on-scene
17 would be at 1903 when it was called in.

18 Q I see. I see. Okay.

19 All right. Was EMS also -- were you asked to contact
20 EMS also?

21 A Yes, sir.

22 Q How many times?

23 A Twice.

24 Q Okay. What was the reason for the call?

25 A The initial request for EMS was for a K-9 bite.

1 Q Okay. All right. And did they indicate that it was
2 pretty bad?

3 A No, sir. They don't put that sort of information
4 over the radio, ---

5 Q I see.

6 A --- for HIPPA purposes.

7 Q I see. They just said: There's -- we need -- we've
8 got a dog bite out here. We need EMS.

9 A Yes, sir.

10 Q Okay. And -- and when did you receive that call?

11 A At 1913.

12 Q Okay. At 1913 -- 1913 is when the call for EMS came
13 in?

14 A Yes, sir.

15 Q All right.

16 Now, what -- and when was the initial call from
17 Lieutenant Burnette made? Check your notes.

18 A For the -- for the accident?

19 Q Well, yeah, right. For the -- whatever you've got
20 there. Yes, for the accident.

21 A At 1909.

22 Q At 1909.

23 A Yes, sir.

24 Q Okay. All right.

25 So the call you got was at 1909. There was a wreck.

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1 And then at 1913, a call to EMS, one for a dog bite.

2 A Yes, sir.

3 Q Okay. So about four minutes from the time of the
4 wreck to the time of the EMS call.

5 A Yes, sir.

6 Q When was -- there was another dog bite call; is that
7 correct? Or another EMS call?

8 A Yes, sir, later in the evening.

9 Q Okay. When was that call made?

10 A Mmm, I don't see the second request, just looking at
11 it. At 2004.

12 Q Okay. So just short of an hour later.

13 A Yes, sir.

14 Q Or actually -- yeah. All right. And what was the
15 reason for that call?

16 A Another apprehension by the dog.

17 Q Another dog bite?

18 A Uh-huh.

19 Q Okay. All right.

20 MR. MATHEWS: I don't have anything further, Your
21 Honor.

22 THE COURT: Redirect?

23 MR. KNIGHT: No, sir. May she be excused?

24 THE COURT: Any objection, Mr. Matthews?

25 MR. MATHEWS: No objection, Your Honor.

1 **THE COURT:** Ms. Grooms, you may step down. Just hand
2 that back to the court reporter. Step down. Make
3 yourself -- careful. You're excused from the trial of
4 this case. You may remain with us or leave, as you
5 desire.

6 Counsel, approach.

7 (WHEREUPON, a bench conference was held in the
8 presence of the jury but out of the hearing of the
9 jury. Thereafter, the following proceedings were
10 held on the record in the presence and hearing of the
11 jury:)

12 **THE COURT:** Mr. Foreman, ladies and gentlemen of the
13 jury, I'm going to take my mid-morning break at this
14 point. I'm going to let you stretch your legs, use the
15 restroom, or if you need something to drink.

16 Please do not discuss the case. You have not heard
17 all of the evidence.

18 As soon as I know everybody has had a chance to take
19 a break -- now, if I have any smokers on the jury, smoking
20 is not permitted in the courthouse. You'll have to go
21 with the bailiff outside to smoke.

22 Please don't discuss the case outside. They'll take
23 you outside to smoke and bring you right back.

24 As soon as I know everybody has had a chance to use
25 the restroom, we'll start back with the trial of this

1 case, because I want to get as much accomplished as we
2 possibly can. We're going to work until lunchtime after
3 the break. You may retire to your jury room at this time.

4 Everyone else remain seated while the jury is
5 leaving.

6 (NOVEMBER 14, 2012, 11:15 A.M., WHEREUPON, THE JURY
7 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
8 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

9 THE COURT: All right. I know everybody needs to
10 take a break. Obviously, I'm going to take long enough
11 hopefully that everybody can stretch their legs, use the
12 restroom. I'm going to start back as quick as I can,
13 although it reminds me of the Army, hurry up and wait.
14 I'd like to get going again and try to utilize this time
15 as effectively as possibly.

16 I assume -- Mr. Matthews approached the bench
17 following the Court's initial comments to the jury. Mr.
18 Mathews is probably not aware that I use the Court
19 Administration Professionalism Charge in my initial
20 comments, which contains the words that a trial is a
21 search for the truth.

22 Mr. Mathews objected to my telling the jury that
23 there was a search for the truth at a trial, because he
24 thinks that impermissibly shifts the burden from the State
25 onto someone else. I do not believe that it does

1 impermissibly shift the burden, and I told Mr. Mathews at
2 the bench, and I'm putting on the record now, that his
3 motion as to that is respectfully denied.

4 We'll take ten minutes. Thank you.

5 (WHEREUPON, A BREAK WAS TAKEN. THEREAFTER, THE
6 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF THE
7 PRESENCE OF THE JURY:)

8 THE COURT: Is the State ready to proceed?

9 MR. KNIGHT: Yes, sir.

10 THE COURT: Is the defendant ready to proceed?

11 MR. MATHEWS: Yes, Your Honor.

12 THE COURT: Bring us the jury, please, ma'am.

13 Ronda, I've got seven exhibits for the State.

14 COURT REPORTER: Yes, sir.

15 THE COURT: Two ID's only for the defendant.

16 COURT REPORTER: Yes, sir.

17 THE COURT: Hello, Jackie.

18 WITNESS: Good morning, Your Honor.

19 THE COURT: How are you?

20 WITNESS: Doing well, sir.

21 (NOVEMBER 14, 2012, 11:40 A.M., WHEREUPON, THE JURY
22 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
23 WERE HELD IN THEIR PRESENCE.)

24 THE COURT: All right, Mr. Foreman, ladies and
25 gentlemen of the jury, we'll now continue with the

DIRECT EXAMINATION OF JACKIE LAWSON BY MR. KNIGHT

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1 testimony in the trial of this case.

2 Solicitor, call your next witness.

3 MR. KNIGHT: May it please the Court, Your Honor?

4 The State calls Jackie Lawson.

5 THE COURT: Come around and be sworn by the clerk,
6 please.

7 JACKIE LAWSON, after being duly sworn, testified
8 as follows:

9 CLERK: Please have a seat on the witness stand and
10 state your name for the record.

11 THE COURT: Have a seat for me. Make yourself
12 comfortable. Pull that chair, as best as you can with
13 your equipment, and adjust that microphone. Begin by
14 stating your full name and spelling your last name for the
15 court reporter.

16 WITNESS: Jackie Lyn Lawson, L-A-W-S-O-N.

17 THE COURT: Your witness, Counsel. Direct
18 examination.

19 DIRECT EXAMINATION

20 BY MR. KNIGHT:

21 Q Obviously, Mr. Lawson, you're employed with the --
22 with law enforcement.

23 A Yes, sir, I am.

24 Q And you're employed with who, sir?

25 A Colleton County Sheriff's Office.

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1 Q And how long have you been employed with the
2 Sheriff's Office?

3 A I've been employed with the Sheriff's Office since
4 2004, after retiring twenty-five years on the Highway
5 Patrol.

6 Q Were you on duty on July the 12th, 2011?

7 A Yes, sir, I was.

8 Q Did you have an occasion to go to 5519 Augusta
9 Highway, also known as Highway 61?

10 A Yes, sir.

11 Q And when you got there, what did you observe?

12 A There was an incident that started in Dorchester
13 County that resulted in a vehicle P.I.T. maneuver, and it
14 was an upside down vehicle in the roadway.

15 Q When you observed the upside down vehicle, was that
16 in Colleton County?

17 A Yes, sir, it was.

18 Q Okay.

19 MR. KNIGHT: I have nothing further from Mr. Lawson.

20 MR. MATHEWS: No questions, Your Honor.

21 THE COURT: As to this witness, Solicitor?

22 MR. KNIGHT: May he be excused?

23 THE COURT: Any objection, Mr. Mathews?

24 MR. MATHEWS: No objection.

25 THE COURT: Mr. Lawson, you may step down, and you're

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1 excused from the trial of this case.

2 WITNESS: Thank you, Your Honor.

3 THE COURT: Thank you.

4 Call your next witness.

5 MR. KNIGHT: Lieutenant Joe Burnette.

6 Thank you, Jackie.

7 CLERK: Put your left hand on the Bible and raise
8 your right hand.

9 JOSEPH BURNETTE, II, after being duly sworn,
10 testified as follows:

11 CLERK: Please have a seat on the witness stand and
12 state your name for the record.

13 THE COURT: Good morning.

14 WITNESS: Good morning, sir.

15 THE COURT: Make yourself comfortable. Adjust the
16 microphone.

17 State your full name. Spell your last name for my
18 court reporter, please.

19 WITNESS: Joseph Burnette, II, B-U-R-N-E-T-T-E.

20 MR. KNIGHT: May I approach?

21 THE COURT: Your witness, Counsel.

22 DIRECT EXAMINATION

23 BY MR. KNIGHT:

24 Q Mr. Burnette, who are you employed with?

25 A Dorchester County Sheriff's Office.

1 Q In what capacity are you employed?

2 A I am a lieutenant at the sheriff's office over the
3 K-9 Unit and the ICE Unit.

4 Q Okay. And how long have you been employed with the
5 Sheriff's Department in Dorchester County?

6 A I've been in seventeen years, and all but five of
7 those have been with Dorchester County.

8 Q Okay. Were you on duty on July the 12th of 2011?

9 A Yes, sir, I was.

10 Q What area of Dorchester County were you working?

11 A I-95 around the 74 mile marker, southbound.

12 Q Did you have occasion to receive a call from Justin
13 Eaches?

14 A Yes, sir, I did.

15 Q To assist him?

16 A Yes, sir.

17 Q And did you, in fact, assist him?

18 A I did.

19 Q And I show you this and ask you if you can identify
20 it?

21 A That's going to be a copy of a video that came out of
22 my vehicle. It has my initials on there.

23 Q Okay.

24 MR. MATHEWS: May we approach, Your Honor?

25 THE COURT: Yes, sir.

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1 (WHEREUPON, a bench conference was held in the
2 presence of the jury but out of the hearing of the
3 jury. Thereafter, the following proceedings were
4 held in their presence and hearing:)

5 THE COURT: The objection is sustained. I'll make a
6 record at the appropriate time.

7 And we will proceed, Solicitor. She's going to
8 handle complying with my order.

9 MR. KNIGHT: Yes, sir.

10 Q Lieutenant Burnette, just -- she's checking on
11 something on the tape. Did you give a description of the
12 driver and/or the passenger in this black Acura?

13 A At what point, sir?

14 Q During the course of your chase?

15 A No, sir. I did not during the course of the chase.

16 Q Okay. When the car flipped over, did you give a
17 description of either the driver or the passenger?

18 A Yeah, the best that I could. Yes, sir, I did.

19 Q What description and which person did you describe?

20 A I think, if I remember correctly, they were both
21 dressed very similar. And with everything that was going
22 on at the time, I believe I -- I believe I told them that
23 they had blue jean pants on or blue jeans and a white
24 shirt.

25 Q Okay.

1 A Both black males, I believe.

2 Q Okay. And we're doing this sort of backwards. After
3 the car flipped over, you got out with your K-9?

4 A I did.

5 Q And who, if anybody, did you pursue with your K-9?

6 A At that point, the first one that I could come to was
7 -- was who I was going to get.

8 Q Okay.

9 A They both took off running. I already had a --
10 originally, it would have just been the driver, had
11 circumstances allowed, but in the case where I was being
12 shot at by the passenger also, both of them needed to be
13 apprehended.

14 Q Okay. And did you pursue one of them?

15 A Yes, sir, I did.

16 Q Do you know which one you pursued?

17 A At the time, I did not. They were running away, and
18 they were some distance away. Later, it was determined
19 that it was the driver.

20 Q That you were pursuing?

21 A Yes, sir, that I pursued and had a K-9 apprehension
22 with.

23 Q Okay. From the point that the car rolled over to the
24 point that you apprehended, which you now know is the
25 driver, what was that distance?

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1 A Once I got my car stopped, they got out of their car
2 and started running. I would say he was probably around
3 twenty-five yards away.

4 Q From the overturned ---

5 A From where I was at and the suspects.

6 Q Okay. And how far did you chase the suspect?

7 A Oh, goodness. Probably -- I'd say anywhere between a
8 hundred and twenty-five/hundred and fifty yards.

9 Q Okay. And do you know how long, approximately, it
10 took you to apprehend the suspect?

11 A It took me a little -- a little bit of time to get
12 there. I mean, he was a smaller fellow, so that he ran a
13 lot faster than I did, obviously.

14 There was a lot -- it was where they ran into to
15 start with, it was a wooded area, but it was real sparse
16 with trees, kind of open, had some undergrowth. And then
17 when I lost sight of him, he actually turned, probably I'd
18 say about maybe a hundred yards down into -- to the right
19 into the woods. And it got a little thicker in there,
20 which is where I lost sight of -- of the one that my dog
21 went after at that point.

22 So it took -- it probably took upwards of thirty
23 seconds, forty seconds, to get to him, I would imagine.
24 Somewhere in there.

25 Q Okay. And which way did the person that you were

1 chasing did he go? Left? Right? Forwards?

2 A Both of them took off in the same direction, which
3 would have been from the position of my car left into the
4 woods, and then they both actually turned right into the
5 woods.

6 Q Okay, sir.

7 A If that makes sense.

8 Q Right. Your K-9 you said, anybody else in law
9 enforcement assist you apprehending what we now know is
10 the driver?

11 A Corporal Knight.

12 Q Corporal Knight?

13 A Yes, sir.

14 Q Okay. Do you know how the other suspect, of your own
15 knowledge, was apprehended?

16 A We ended up having a perimeter set up. Charleston
17 County Helo was there. They were overhead. We got the
18 perimeter set up the best we could. Then we made a
19 determination to have one of our interstate units, which
20 is Berkeley County, run a track of the -- the second
21 subject, which we believed was going to be inside the
22 perimeter still.

23 Q Okay. I notice -- or I heard testimony about other
24 law enforcement people from the Dorchester County
25 Sheriff's Department arriving.

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1 A Yes, sir.

2 Q It must have been three, five, six. What was the
3 purpose of them arriving at this scene?

4 A Due to the nature of the incident that took place,
5 mainly they're coming -- we have people coming to back up.

6 Some of the road units that were actually working the
7 road that day come to help, because we had two crime
8 scenes at this point. We needed to start cording that off
9 and treating that as such for crime scene. So we needed
10 as much personnel as we could get there.

11 How many showed up, I don't recall. It was a few.

12 Q Do you know whether or not these additional units
13 that showed up wrote any reports about showing up?

14 A I'm -- I'm not sure if they did nor not.

15 Q It would show up on the call to the dispatcher, Ms.
16 Grooms; would it not?

17 A Um ---

18 Q How many people showed up ---

19 A Yeah, it should. As long as people were checking
20 onto the scene, they would come across dispatch advising
21 if they are there. And then they should log that in that
22 -- showing that they were at that incident.

23 Q But if the other units that are logged in, so to
24 speak, if they did not participate in the apprehension of
25 the defendant or defendants, they wouldn't write any

1 reports.

2 A Most likely not. If they -- if all they were doing
3 was holding a perimeter, ---

4 Q Right.

5 A --- or helping secure a scene, they would not write a
6 report on that, no.

7 Q Okay. But it's not -- is it unusual for that many
8 units to show up?

9 A Not at all, for something like that.

10 Q Okay.

11 A No, sir.

12 Q Okay. When did you start the chase of the black
13 vehicle?

14 A I actually went to back up Corporal Knight. He was
15 on a traffic stop I'd say around the 72 mile marker
16 southbound. As I pulled in behind him, I was getting
17 ready to get out of my car and Corporal Eaches advised me
18 that he had a vehicle that wasn't stopping.

19 At that point, I pulled back onto the interstate.
20 And my intention was to catch up with him, become the
21 second unit in the pursuit, which would be the unit that
22 would give out the descriptions of our speeds, locations,
23 basically put all the responsibility on the second car to
24 call everything so that the first guy can keep his mind on
25 driving, and that's all he's got to worry about.

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1 Q And did you pursue this black vehicle?

2 A I did. As I caught up with Corporal Eaches, I guess
3 he -- he was having problems with his car, couldn't keep
4 up, whatever the case was. He slid over to the right.

5 So at that point, I became the primary unit at that
6 point. And that happened in Dorchester, and then shortly
7 right after that, we went into Colleton County.

8 Q When did you enter Colleton County?

9 A It was not long after I took over the pursuit.
10 There's a -- the county line is right at a bridge right
11 where the river is, and once you go onto that bridge, that
12 is where Colleton County begins.

13 Q What speed did you reach in chasing this black
14 vehicle?

15 A On 95, I believe we were up over a hundred at one
16 point. Once we hit 61, we were probably staying right
17 around ninety to ninety-five miles an hour pretty much the
18 whole way there.

19 Q How did you get this vehicle, this black -- what type
20 of black vehicle was it?

21 A It was an Acura.

22 Q Okay. How did you get this vehicle to stop?

23 A I ended up having to forcefully stop the vehicle. In
24 light of everything that had transpired, it was definitely
25 my opinion that they had to be stopped at that point

1 before they put anybody else in jeopardy.

2 Q Did the vehicle then spin or flip over?

3 A Once I made contact, I used the front of my passenger
4 side bumper or fender and hit their back side of their
5 driver's side fender, and that spun them. As they were
6 spinning, they came in front of me.

7 At that point, I'm trying to stop and keep myself
8 from wrecking at that point also. We were still traveling
9 probably around ninety miles an hour at that time.

10 It was clear. It was open, other than this wooded
11 area on the left. And as they spun around, they started
12 traveling backwards, hit like a little -- some type of
13 tree, went up on the tree, and then the car rolled over on
14 its top.

15 Q As you were chasing this black Acura on Highway 61
16 here in Colleton County, did you observe an individual
17 come up through the sunroof?

18 A I did. During the pursuit, you can -- I could see
19 that the passenger was making some type of movement, and
20 it was actually up towards the roof of the car. I wasn't
21 sure what he was doing at the time. I radioed that in,
22 and then I saw him moving around in his seat after he had
23 messed with something up on the roof, move around in his
24 seat.

25 I radioed that in to Corporal Eaches, letting him

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1 know that if these guys bailed out that if he could, stay
2 with the passenger, because at the time I had no idea what
3 he was doing, but I could tell he was doing something. I
4 didn't know if he was retrieving something, trying to hide
5 something, conceal something. I had no idea, but I just
6 told him if they bailed out and he does run, just try to
7 stay with him the best he could.

8 Shortly right after that we were coming into a curve.
9 Once we hit the straightaway, it became very apparent what
10 the passenger was doing with the ceiling, which was
11 obviously open, the sunroof or moonroof, whatever you want
12 to call it. And then at that point he came from the
13 passenger seat up and started shooting at me, probably
14 maybe four -- five or six -- excuse me, five or six rounds
15 I think were fired.

16 At that point, I slowed. I just took my foot off the
17 gas, slowed down, tried to get into the other lane to get
18 out of the line of fire. I heard one of the rounds strike
19 my vehicle.

20 He then submerged back into the car into the
21 passenger side. I then called out that shots had been
22 fired. I then proceeded to pick up my speed, because at
23 that point I determined that they were going to have to be
24 stopped.

25 As I was coming up to them, the passenger was turned

1 around in his seat. I'm not saying he was facing me as
2 far as completely, but he had twisted his torso, and he
3 was watching me as I was coming up to him, and I was
4 watching him very intently, because he had already shot at
5 me. So I wanted to make sure he wasn't going to try to
6 pop up the closer I got, because this was going to be a
7 bad situation, obviously, if he had pulled out another
8 gun.

9 So I really was watching him, and as he was watching
10 me, and then right before we made contact, the driver
11 abruptly hit his brakes. At that point, I had to dip into
12 him, and that's when I hit him and they spun around.

13 And then as they were wrecking, as I was coming to a
14 stop and they were still in motion -- they were actually
15 still in motion while I was stopping and starting to get
16 out of my car. And I heard like my glass on -- if you're
17 sitting in your car, where your VIN plate is, I heard the
18 glass in this area and saw it shatter at that point.

19 And getting out of the car, I didn't think anything
20 about it right then. I just wanted to get out and hurry
21 up and get drawn down on them just in case they came out
22 with weapons and get my dog out and have him prep'd and
23 ready to go, if we needed him.

24 And at that point, that's when they -- I challenged
25 the car, gave them commands. I couldn't see anybody at

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1 that point. It was on its top. I couldn't see anybody,
2 which was pretty scary at the time.

3 But then I saw a subject run to the rear of the car
4 that was wrecked, which was into the woods. And just, you
5 know, two second, three seconds later, the other subject
6 was running behind him.

7 And then that's when I directed my dog to go after
8 either one of them. Which ever one he could get to first
9 was fine with me.

10 Q Did you have your service revolver with you?

11 A I did. I had it drawn.

12 Q Did you fire it?

13 A No, sir, I didn't. Neither one of them at the time,
14 that I could tell, had a weapon in their hand.

15 Q Was Justin Eaches in close proximity to you?

16 A He was behind me.

17 Q Do you know whether or not he fired his weapon?

18 A I don't believe any deputies at all fired their
19 weapons.

20 Q Okay, sir.

21 THE COURT: You may approach, Mr. Knight.

22 MR. KNIGHT: May I approach? I'm sorry.

23 THE COURT: Yes.

24 Q I ask you if you can identify these two photographs,
25 please.

1 **A** These are -- the first one is my patrol vehicle. The
2 second one is the damage sustained from the contact.

3 **THE COURT:** Mark them first, Mr. Knight.

4 **MR. KNIGHT:** Okay, sir.

5 (WHEREUPON, State's Exhibit No. 8 was marked for
6 identification only.)

7 (WHEREUPON, State's Exhibit No. 9 was marked for
8 identification only.)

9 **THE COURT:** Then show them to counsel.

10 **MR. KNIGHT:** State would move State's Exhibit Number
11 Eight and State's Exhibit Number Nine into evidence,
12 without objection, Your Honor.

13 **THE COURT:** What numbers?

14 **MR. KNIGHT:** Eight and nine.

15 **THE COURT:** Eight and nine. Have him identify which
16 is which for the record.

17 **Q** State's Exhibit Number Eight, what is that?

18 **A** Exhibit number eight is going to be basically an
19 overall view of my car from the front passenger side.

20 **Q** State's Exhibit Number Nine?

21 **A** Number nine is basically a closer view of the front
22 fender where contact was made.

23 **Q** In State's Exhibit Number Eight right there, is that
24 contact?

25 **A** That is part of contact from the suspect vehicle.

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1 **MR. KNIGHT:** May I publish to the jury, Your Honor?

2 **THE COURT:** Any objection, Mr. Mathews?

3 **MR. MATHEWS:** No, sir.

4 **THE COURT:** Ladies and gentlemen of the jury, State's
5 Exhibits Eight and Nine will be admitted into evidence in
6 the trial of this case without objection. You may
7 publish.

8 (WHEREUPON, State's Exhibit No. 8 was admitted into
9 evidence.)

10 (WHEREUPON, State's Exhibit No. 9 was admitted into
11 evidence.)

12 **MR. KNIGHT:** Excuse me, Your Honor. May I approach?

13 **THE COURT:** You may.

14 **Q** I show you several photographs and ask you if you can
15 identify them, and then I'll have them marked as exhibits.

16 **A** All these are photos of my car where the two rounds
17 had struck. One struck the bumper of my car, and the
18 other one struck the windshield of the car.

19 **MR. KNIGHT:** May I ask the court reporter to mark
20 them?

21 **THE COURT:** One exhibit or several?

22 **MR. KNIGHT:** I think one would be sufficient.

23 **THE COURT:** Ronda, do you want to do 10(a), (b), (c).

24 **COURT REPORTER:** Yes, sir.

25 **THE COURT:** Tell me how many once you finish.

1 Let her mark them. It's going to take a minute.

2 (WHEREUPON, State's Exhibit Nos. 10 A-D were marked
3 for identification only.)

4 THE COURT: Counsel, approach.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury but out of the hearing of the
7 jury.)

8 THE COURT: Have you finished, Ronda?

9 COURT REPORTER: Yes, sir.

10 THE COURT: Give them to Steve.

11 Steve, show them to him.

12 10(a) through what?

13 COURT REPORTER: 10 (a) through (d).

14 THE COURT: (a) through (c)?

15 COURT REPORTER: (d). There are four of them.

16 MR. MATHEWS: No objection.

17 MR. KNIGHT: The State would offer into evidence
18 State's Exhibit 10(a), 10(b), (c), and (d).

19 THE COURT: Any objection, Mr. Mathews?

20 MR. MATHEWS: No, Your Honor.

21 THE COURT: Let the witness identify them for the
22 record.

23 10(a), (b), (c), and (d) will be admitted into
24 evidence in the trial of this case without objection.

25

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1 (WHEREUPON, State's Exhibit Nos. 10 A-D were admitted
2 into evidence.)

3 THE COURT: Please identify each one for the record.

4 WITNESS: Yes, sir. 10(a) is going to be a picture
5 of a round that struck my windshield on the driver's side.
6 10(b) will be just a closer up view of that picture
7 previous.

8 10(c) is an up close view of the round that struck my
9 bumper. And then 10(d) is the same picture, just pulled
10 back, of that round that struck my bumper.

11 MR. KNIGHT: May I publish, Your Honor?

12 THE COURT: You may. They're in evidence, without
13 objection.

14 MR. KNIGHT: Your Honor, the only thing I'm waiting
15 for now would be Mrs. Stallings to come back. With your
16 permission, can I go and see if she's ready or send
17 someone else?

18 THE COURT: I'm sending someone right now.

19 MS. HUDSON: She's coming in, Judge.

20 THE COURT: All right.

21 You ready?

22 Come up here, Mr. Mathews.

23 (WHEREUPON, a bench conference was held in the
24 presence of the jury but out of the hearing of the
25 jury.)

1 **THE COURT:** Let's proceed.

2 **MR. KNIGHT:** May I approach the witness, Your Honor?

3 **THE COURT:** You may.

4 **Q** Lieutenant Burnette, I'd ask you if you could
5 identify this, please?

6 **A** This is going to be a copy of the video from my car.
7 It has my initials.

8 (WHEREUPON, State's Exhibit No. 11 was marked for
9 identification only.)

10 **MR. KNIGHT:** State would move State's Exhibit Number
11 Eleven into evidence, without objection.

12 **THE COURT:** Mr. Mathews?

13 **MR. MATHEWS:** No objection, Your Honor.

14 **MR. KNIGHT:** Your Honor, with the assistance of Mrs.
15 Stallings, we'd like to publish it to the jury.

16 **THE COURT:** Consistent with my ruling, which Mrs.
17 Stallings is aware of, State's Exhibit Number Eleven will
18 be admitted into evidence, consistent with the ruling I've
19 made at the bench pursuant to Mr. Mathews' objection.

20 (WHEREUPON, State's Exhibit No. 11 was admitted into
21 evidence.)

22 **THE COURT:** You may publish, consistent with that
23 ruling, State's Exhibit Number Eleven, which is now in
24 evidence.

25 **WITNESS:** Mrs. Stallings, you may have to try the --

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1 try the viewer instead of the player, just to see if that
2 will work when you open it. Now -- now, do -- there you
3 go.

4 (WHEREUPON, STATE'S EXHIBIT NUMBER ELEVEN WAS
5 PUBLISHED TO THE JURY. THE AUDIO ON THE DVD WAS MUTED
6 FROM 19:15:02 THROUGH 19:15:43.)

7 MR. KNIGHT: I think that shows everything the State
8 wanted to show, Your Honor.

9 Answer any questions Mr. Mathews may have.

10 Thank you, Mrs. Stallings.

11 MR. MATHEWS: May it please the Court?

12 THE COURT: Proceed. Cross-examination.

13 CROSS-EXAMINATION

14 BY MR. MATHEWS:

15 Q All right. Lieutenant Burnette, you said you didn't
16 -- weren't able to identify anybody until they actually
17 were out of the car; is that correct?

18 A Not necessarily, no. I'm not sure what you're
19 talking about there.

20 Q Well, what I'm saying ---

21 A I could see the passenger as I was coming back up to
22 the car, right before I made contact with them.

23 Q Okay.

24 A Which I stated earlier.

25 Q You -- you indicate that you were following a black

1 Lincoln?

2 A No, sir.

3 Q You didn't say that?

4 A No. It was a black Acura.

5 Q Okay. All right. I thought I heard that in the
6 tape. I must be mistaken.

7 And you -- I think you indicated that somehow -- I
8 think later on in the tape, you indicate that somehow they
9 must have shot at me. Didn't you say that at -- didn't
10 you say that at 19:17:35 on the tape?

11 A I don't know what you're referring to.

12 Q What I'm saying is, you didn't see anybody shooting.
13 You said: Somehow they must have shot.

14 A Oh, absolutely not. I saw the passenger shooting
15 out. I don't know where you're getting that information,
16 but I witnessed him shooting.

17 Q Okay.

18 MR. MATHEWS: Your Honor, if we could just keep
19 rolling the tape?

20 THE COURT: Have you got a section that you want to
21 publish, since it's in evidence, Mr. Mathews?

22 MR. MATHEWS: Your Honor, I'll give him an
23 opportunity and ask specific, and then we can do that.

24 THE COURT: Don't make a statement. Just give me a
25 section you want to publish. This isn't argument.

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1 MR. MATHEWS: Okay. 19:23:58.

2 THE COURT: Angela?

3 19:23:58, Mr. Mathews?

4 MR. MATHEWS: Yes, sir.

5 THE COURT: Very well. For the record, Mr. Mathews,
6 this is State's Exhibit Eleven that you're requesting.

7 MR. MATHEWS: Go a few seconds before.

8 (WHEREUPON, PORTIONS OF STATE'S EXHIBIT NUMBER ELEVEN
9 WERE PUBLISHED TO THE JURY.)

10 MR. MATHEWS: Go back a little bit.

11 MRS. STALLINGS: 23:58?

12 MR. MATHEWS: Go back a little more. Go back a
13 little bit more.

14 MRS. STALLINGS: 23:20?

15 MR. MATHEWS: That's good.

16 (WHEREUPON, PORTIONS OF STATE'S EXHIBIT NUMBER ELEVEN
17 WERE PUBLISHED TO THE JURY.)

18 Q Well, you can't hear it. Okay.

19 And you indicate I think earlier that the first thing
20 that you said that you came out to assist Officer
21 Jefferson's car; is that correct?

22 A No.

23 Q You didn't say that?

24 A No.

25 Q You didn't testify to that?

1 A No, sir.

2 Q I note then you were corrected, and it was Eaches.

3 How about at -- did you call in earlier and say: The
4 passenger is moving around. They probably have something
5 on them. I can't tell what it is, though.

6 Right before you said: Shots fired, dispatch. Shots
7 fired.

8 A Something to that effect, yes.

9 Q Okay. So at that point, you indicate the shots were
10 fired, but you couldn't tell what the passenger was doing.
11 Did you hear it, or did you see it?

12 A Both.

13 Q You heard and saw it.

14 A Yes.

15 Q Okay. And I think you testified that you weren't
16 sure after you saw them get out whether they were wearing
17 jeans or shorts; is that correct?

18 A I don't recall. I gave the best description I could
19 once they started running.

20 Q And ---

21 A Had a lot going on right then.

22 Q It happened -- it happened quickly; didn't it?

23 A It did.

24 Q All right. What condition was the first suspect when
25 you got him back?

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1 A What do you mean by that?

2 Q He was eaten up pretty good; wasn't he?

3 A I don't know what the extent of his injuries were at
4 the time.

5 Q Okay. Were you -- did he have his scrotum attacked?

6 A Afterwards -- after he got to the hospital, we found
7 out that's where he was engaged, yes.

8 Q Okay. All right. And did the other one require
9 something like thirty stitches or staples to his face?

10 A I couldn't -- I couldn't answer that.

11 Q Did he have a big gash along his neck from about here
12 to here?

13 A I couldn't answer that for you. I don't know how
14 long it was. I know he was apprehended by a K-9. That's
15 all I know.

16 Q Okay. All right. All right. And I think you
17 indicate that there was one shooter; is that correct?

18 A Yes.

19 MR. MATHEWS: One moment, Your Honor.

20 No further questions, Your Honor.

21 THE COURT: Redirect?

22 MR. KNIGHT: No, sir.

23 THE COURT: As to this witness?

24 MR. KNIGHT: May he be excused, Your Honor?

25 THE COURT: Any objection, Mr. Mathews?

1 **MR. MATHEWS:** No, sir.

2 **THE COURT:** Lieutenant, you may step down, and you're
3 excused from the trial of this case. You may remain with
4 us, as you so desire.

5 **WITNESS:** Yes, sir. Thank you.

6 **THE COURT:** Thank you.

7 Counsel, approach.

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury but out of the hearing of the
10 jury.)

11 **MR. KNIGHT:** Oh, I've got to get the exhibit out of
12 the machine.

13 **THE COURT:** Have you got State's Eleven?

14 **COURT REPORTER:** Yes, sir.

15 **THE COURT:** Mr. Foreman and ladies and gentlemen of
16 the jury, your lunch is going to arrive in just a moment
17 and because of that because I don't want you to have cold
18 food, it isn't here yet but it's enroute, because of that,
19 I'm going to stop at this point so that you can get lunch
20 and the spectators also can get lunch. I want to start
21 back as soon as I know you've been fed.

22 They had planned on it arriving in about six or seven
23 minutes, and rather than break a witness's testimony where
24 we don't complete it and have to stop and come back after
25 lunch, we're going to stop at this point for lunch so you

1 can have lunch.

2 Please during the lunch break do not discuss this
3 case. I'll be back with you immediately following lunch.

4 I realize that your lunch might not be here for a few
5 minutes. And for the people who are waiting, it's 12:38,
6 12:39, somewhere in there. I will start back no sooner
7 than 1:45, which would be approximately an hour and five
8 minutes from now, so that the other folks can also get
9 lunch during the break that are here for the trial.

10 If I have any smokers, you understand what will have
11 to be done, but please do not discuss this case with
12 anyone. And I'll be back with you just as soon as I can.
13 Hope you have a pleasant lunch.

14 You can leave the exhibits right on the railing. You
15 will have those ultimately with you in your jury room
16 during your deliberations. You may retire to your jury
17 room at this time.

18 (NOVEMBER 14, 2012, 12:38 P.M., WHEREUPON, THE JURY
19 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
20 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

21 THE COURT: All right. Let the record reflect that
22 when Lieutenant Burnette took the witness stand, counsel
23 for the State sought to introduce what has now been
24 introduced into evidence as State's Exhibit Number Eleven.
25 Obviously, it is a video and audio recording from what has

1 been told to the Court is Lieutenant Burnette's camera in
2 his car.

3 Mr. Mathews objected to a portion of the video which
4 contained questions, or at least a question or questions
5 to the codefendant, who is not being tried, Mr. Rivers.
6 And although there was some discussion at the bench about
7 whether you could even hear the response on the audio
8 portion of the tape, I sustained the objection, Mr.
9 Mathews.

10 And by agreement, I called Mrs. Stallings to the
11 bench. She agreed to edit that portion that Mr. Mathews
12 objected to. So when State's Exhibit Number Eleven was
13 published to the jury during the Lieutenant's testimony,
14 the portion that Mr. Mathews objected to was omitted from
15 the jury.

16 This of course also means, Counsel, that when the
17 jury retires for deliberation, that exhibit will be kept
18 in this courtroom, and if the jury chooses to view it
19 again, it will have to be done under the exact same
20 circumstances that it was admitted into evidence during
21 the trial of this case.

22 Now, for those of you who are waiting, so you'll
23 know, we'll trying to move it as quickly as we can. I
24 know many of you have schedules. So do I.

25 And I want you to get lunch, but I want you back here

1 at 1:45. If I know that everybody on that jury has eaten
2 their lunch and is ready to go, I'll expect you to be
3 ready to go.

4 The reason we didn't take another witness is Mr.
5 Knight, who is in his case, didn't want to break the
6 witness's testimony, which would have meant the witness
7 could not have discussed their testimony with Mr. Knight
8 during the break. I advised him of that fact, because we
9 had lunch being delivered here at 12:45 for the jury. He
10 chose, because of that, and I would have done the same
11 thing for Mr. Mathews had he asked me, not to break his
12 case. And that's the reason we're taking lunch at this
13 time. So if anybody's got any complaint about it, blame
14 me, because I made the decision.

15 Hope everybody has a pleasant lunch. I'll see you
16 back here no sooner than 1:45. We're in recess until then
17 for lunch.

18 (WHEREUPON, A LUNCH BREAK WAS TAKEN. THEREAFTER, THE
19 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF
20 THE PRESENCE OF THE JURY:)

21 THE COURT: Is the State ready to proceed?

22 MR. KNIGHT: Yes, sir.

23 THE COURT: Defendant ready to proceed?

24 MR. MATHEWS: Yes, Your Honor.

25 THE COURT: Very well. Would you bring us the jury,

1 please?

2 (NOVEMBER 14, 2012, 2:08 P.M., WHEREUPON, THE JURY
3 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
4 WERE HELD IN THEIR PRESENCE.)

5 THE COURT: Are they taking good care of you back
6 there?

7 FOREPERSON: Yes, sir, they are.

8 THE COURT: Okay. All right, ladies and gentlemen,
9 we'll now continue with testimony in the trial of this
10 case.

11 Solicitor, you may call your next witness.

12 MR. KNIGHT: Thank you, Your Honor. James Ethridge.

13 CLERK: Please come forward and be sworn. Place your
14 left hand on the Bible and raise your right.

15 JAMES W. ETHRIDGE, after being duly sworn,
16 testified as follows:

17 CLERK: Please have a seat on the witness stand, and
18 state your full name for the record.

19 THE COURT: Good afternoon.

20 WITNESS: Good afternoon, Your Honor.

21 THE COURT: Have a seat. Make yourself comfortable.
22 Adjust the chair and adjust the microphone. You tell me
23 when you're ready and you've got it like you want it.

24 WITNESS: Yes, sir.

25 THE COURT: State your full name, and spell your last

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1 name for Ronda.

2 WITNESS: I'm James William Ethridge,
3 E-T-H-R-I-D-G-E.

4 THE COURT: Your witness, Counsel.

5 MR. KNIGHT: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. KNIGHT:

8 Q Mr. Ethridge, who are you employed with, sir?

9 A At the current time, I'm employed with the Orangeburg
10 County Sheriff's Office.

11 Q And July the 12th, 13th, or 14th, of 2011, who were
12 you employed with?

13 A Dorchester County Sheriff's Office.

14 Q In what capacity were you?

15 A I was attached to the Crime Scene Unit.

16 Q Crime Scene Unit. Did you have an occasion to go to
17 -- to come to Colleton County on that day?

18 A Yes, sir, I did.

19 Q Approximately what time did you arrive? Do you
20 remember?

21 A I arrived around 2200 hours. That would be -- no,
22 I'm sorry, 2000 hours.

23 Q 2000 hours.

24 A It would be 8:00 o'clock in the afternoon.

25 Q In common sense language, that's 8:00 o'clock?

1 A 8:00 o'clock in the afternoon. Yes, sir.

2 Q Okay. Thank you, sir.

3 I show you what's been marked State's Exhibit Number
4 Five. Do you recognize that, sir?

5 A Yes, sir.

6 Q Where did you get that from?

7 A From Deputy Eaches.

8 Q And what did you do with it once you got it from
9 Eaches?

10 A I collected it, and we always do an Evidence Log
11 Sheet where he turned custody to me, and then that's when
12 I secured it.

13 Q And once you secured it, what ultimately did you do
14 with it?

15 A What do you mean?

16 Q Did you put it in the evidence vault or locker?

17 A Right. Yes, sir. It's secured in the evidence --
18 all the evidence was sealed in a box and then sealed in a
19 vault.

20 Q Okay, sir.

21 MR. KNIGHT: Your Honor, we've put security items on
22 this.

23 THE COURT: Okay.

24 MR. KNIGHT: I'm going to leave it in the box.

25 THE COURT: It's secured?

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1 MR. KNIGHT: Yes, sir. It's secured.

2 THE COURT: All right.

3 Q I ask you if you can identify what's in this box,
4 sir?

5 A It's a .38 caliber revolver, Taurus. May I look at
6 my notes?

7 Q Yes, sir.

8 A Serial Number H, Hotel; C, Charlie; 26805.

9 Q Where did you seize that piece of evidence?

10 A This -- this actual weapon was located at the scene
11 that day. That was the one where the vehicle was actually
12 rolled over, because it was on its top as you can see in
13 the pictures. When that vehicle was rolled over, this
14 weapon was underneath the vehicle. This one here was
15 located there.

16 Q I ask you if you can identify this, sir?

17 A Yes, sir. This is the picture that I took that day
18 of the weapon on the ground.

19 Q By the vehicle?

20 A Yes, sir. It was actually -- when you rolled the
21 vehicle over, this is where it would be laying.

22 THE COURT: Mark it and show it to counsel.

23 (WHEREUPON, State's Exhibit No. 12 was marked for
24 identification only.)

25 THE COURT: Twelve?

1 MR. KNIGHT: Number Twelve.

2 THE COURT: Show it to counsel.

3 MR. KNIGHT: The State would move this into evidence
4 as State's Exhibit Number Twelve.

5 THE COURT: Any objection, Mr. Mathews?

6 MR. MATHEWS: No, Your Honor.

7 THE COURT: Ladies and gentlemen of the jury, State's
8 Exhibit Number Twelve will be admitted into evidence,
9 without objection.

10 (WHEREUPON, State's Exhibit No. 12 was admitted into
11 evidence.)

12 THE COURT: You may publish to the jury.

13 MR. KNIGHT: Your Honor, I'm going to put this -- I'm
14 going to leave it in the box.

15 THE COURT: That's fine, as long as it's secure.

16 MR. KNIGHT: Yes, sir, it is secure.

17 THE COURT: Just put the tag on the box, then.

18 (WHEREUPON, State's Exhibit No. 13 was marked for
19 identification only.)

20 THE COURT: Show it to Mr. Mathews.

21 MR. KNIGHT: Yes, sir.

22 THE COURT: This will be thirteen?

23 MR. KNIGHT: Yes, sir.

24 Without objection?

25 MR. MATHEWS: It's not -- you're not seeking to

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1 introduce it at this point; are you?

2 MR. KNIGHT: Yes.

3 MR. MATHEWS: No objection.

4 THE COURT: Have him -- for the record, now since we
5 went to another exhibit, have him identify what is marked
6 as thirteen.

7 Q Can you identify what is marked as State's Exhibit
8 Number Thirteen?

9 A Yes, sir. This is the same weapon as I described,
10 the one that was located on the scene.

11 Q What is it?

12 A It's a -- it's going to actually be a Taurus .38
13 caliber revolver.

14 Q Thank you, sir.

15 MR. KNIGHT: State would ---

16 THE COURT: You're offering it?

17 MR. KNIGHT: Yes, sir. State's Number Thirteen.

18 THE COURT: Without objection, Mr. Mathews?

19 MR. MATHEWS: Without objection, Your Honor.

20 THE COURT: Ladies and gentlemen, State's Exhibit
21 Number Thirteen will be admitted into evidence in the
22 trial of this case, without objection.

23 (WHEREUPON, State's Exhibit No. 13 was admitted into
24 evidence.)

25 THE COURT: Ladies and gentlemen, State's Exhibit

1 Thirteen is a weapon, a revolver. The weapon has been
2 secured. It is incapable of being fired. I want you to
3 know that.

4 The way -- it's secured, as long as the method on it
5 is secure. So please, if you're examining this, be
6 careful, but it's done for security purposes located in
7 the box.

8 You may proceed.

9 MR. KNIGHT: May I approach, Your Honor?

10 THE COURT: Yes, you may.

11 MR. KNIGHT: Again, this weapon is also secured, Your
12 Honor.

13 THE COURT: Yep.

14 Q Can you identify this, please, sir?

15 A Yes, sir. This is a Bursa .380 caliber. It's an
16 automatic pistol. It's going to be Serial Number 823145.

17 THE COURT: Have her mark it.

18 MR. KNIGHT: Yes, Your Honor.

19 (WHEREUPON, State's Exhibit No. 14 was marked for
20 identification only.)

21 MR. KNIGHT: That's State's Exhibit Number Fourteen,
22 Your Honor.

23 MR. MATHEWS: No objection.

24 MR. KNIGHT: State would move State's Exhibit Number
25 Fourteen into evidence.

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1 **THE COURT:** Any objection, Mr. Mathews?

2 **MR. MATHEWS:** No, Your Honor.

3 **THE COURT:** State's Exhibit Number Fourteen will be
4 admitted into evidence in the trial of this case, without
5 objection.

6 (WHEREUPON, State's Exhibit No. 14 was admitted into
7 evidence.)

8 **THE COURT:** State's Fourteen now in evidence. Once
9 again, ladies and gentlemen, it is a weapon, a revolver --
10 or an automatic. Excuse me.

11 **WITNESS:** Automatic.

12 **THE COURT:** Automatic. And it has been secured with
13 plastic tape, so that the method of securing it makes it
14 incapable of being fired.

15 **FOREPERSON:** (RAISED HAND.)

16 **THE COURT:** Yes, sir?

17 **JUROR PEER:** I'm sorry. I just feel like I need to

18 ---

19 **THE COURT:** You feel ill?

20 **JUROR PEER:** Yes.

21 **THE COURT:** All right, Bill, take her with you.

22 **JUROR PEER:** I'm sorry.

23 **THE COURT:** Counsel, approach.

24 (WHEREUPON, a bench conference was held in the
25 presence of the jury but out of the hearing of the

1 jury.)

2 THE COURT: Please proceed. I'll make a record at
3 the appropriate time.

4 State's Fourteen is now in evidence.

5 Q State's Number Fourteen, again, would you identify
6 it?

7 A Yes, sir. It's a Bursa .380 caliber pistol,
8 automatic.

9 Q Where did you seize State's Number Fourteen?

10 A Okay. This -- this weapon was actually still inside
11 the vehicle. You could see it in plain view. It would
12 actually be sitting on the top of the roof, because the
13 vehicle was actually turned upside downwards. And you
14 could visibly see it just looking into the vehicle.

15 Q I show you State's Exhibit Number Six and ask you if
16 that's what you're describing.

17 A Yes, sir.

18 Q Okay.

19 MR. KNIGHT: Again, this is another weapon, Your
20 Honor. It's been secured.

21 Q Mr. Etheridge, I ask you if you can identify what's
22 in that box?

23 A Yes, sir. This is a Colt .45 automatic caliber.
24 Serial Number is 58886B, Bravo, 70.

25 THE COURT: Mark it.

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1 MR. KNIGHT: Yes, sir.

2 THE COURT: Fifteen, Ronda?

3 COURT REPORTER: Yes, sir.

4 (WHEREUPON, State's Exhibit No. 15 was marked for
5 identification only.)

6 THE COURT: Show it to counsel.

7 MR. MATHEWS: No objection, Your Honor.

8 THE COURT: Ladies and gentlemen, State's Exhibit
9 Number Fifteen will be admitted into evidence in the trial
10 of this case, without objection. State's Fifteen is now
11 in evidence.

12 (WHEREUPON, State's Exhibit No. 15 was admitted into
13 evidence.)

14 MR. KNIGHT: May I approach, Your Honor?

15 THE COURT: You may.

16 Q State's Exhibit Number Fifteen, where did you seize
17 this weapon from?

18 A All right. A second -- a search warrant was
19 conducted on the black in color Acura, and this weapon was
20 actually located in the glove box of that Acura.

21 Q Okay.

22 MR. KNIGHT: Would you indulge me one moment, please?

23 BAILIFF: May I approach?

24 (WHEREUPON, a bench conference was held in the
25 presence of the jury but out of the hearing of the

1 jury.)

2 MR. KNIGHT: May I approach, Your Honor?

3 THE COURT: You may.

4 Q I ask if you can identify this, sir?

5 A Yes, sir.

6 Q And what are these?

7 A These are -- actually, they are five shell casings.

8 They were actually located on the roadside at the scene.

9 Q Okay, sir. I ask if you can identify this, sir?

10 A Yeah. These were -- it's two small projectiles,
11 copper. One's a small piece. One is a little bit bigger.

12 These were actually located at the scene around the
13 vehicle, where the vehicle was located.

14 Q Okay.

15 (WHEREUPON, State's Exhibit No. 16 was marked for
16 identification only.)

17 (WHEREUPON, State's Exhibit No. 17 was marked for
18 identification only.)

19 MR. KNIGHT: State's Exhibit Number Sixteen and
20 State's Exhibit Number Seventeen, State moves them into
21 evidence, without objection.

22 THE COURT: Then have him identify which is which for
23 the record now that you've marked them.

24 Q State's Exhibit Number Sixteen, will you identify
25 please, sir?

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1 **A** Sixteen is going to be the five shell casings.

2 **MR. KNIGHT:** State would move that into evidence,
3 number sixteen.

4 **THE COURT:** Any objection, Mr. Mathews?

5 **MR. MATHEWS:** No, Your Honor.

6 **THE COURT:** Sixteen is in evidence, without
7 objection.

8 (WHEREUPON, State's Exhibit No. 16 was admitted into
9 evidence.)

10 **Q** I show you State's Exhibit Number Seventeen.

11 **A** Okay. Seventeen is going to be the two -- the copper
12 pieces that were located at the scene.

13 **MR. KNIGHT:** I would move State's Number Seventeen
14 into evidence.

15 **THE COURT:** As to State's Seventeen, Mr. Mathews?

16 **MR. MATHEWS:** No objection, Your Honor.

17 **THE COURT:** State's Exhibit Number Seventeen is
18 admitted into evidence in the trial of this case, without
19 objection also.

20 (WHEREUPON, State's Exhibit No. 17 was admitted into
21 evidence.)

22 **THE COURT:** Very well. Proceed. You may publish
23 sixteen and seventeen to the jury.

24 **Q** Where did you seize the items that are in State's
25 Exhibit Number Sixteen from?

1 A Those were on the roadside.

2 Q I'll ask you if you can identify ---

3 MR. KNIGHT: I'm going to just make it one exhibit,
4 Your Honor.

5 THE COURT: How many are there?

6 MR. KNIGHT: I think it's four or five, maybe
7 several.

8 A Yeah, these are the pictures from the scene where the
9 casings were located. They were marked with number
10 placards, marked one, two -- each -- each one of them was
11 marked separately as to where they were actually located
12 on the side of the road.

13 Q Who took those photographs?

14 A I took these photographs.

15 THE COURT: One exhibit?

16 MR. KNIGHT: Yes, sir, I think so.

17 THE COURT: That will be eighteen, Ronda?

18 COURT REPORTER: Yes, sir.

19 THE COURT: Show it to counsel. How many photos;
20 eight?

21 MR. KNIGHT: Eight.

22 THE COURT: Counsel, I'm going to have him bring them
23 to you. You just sit right there, Mr. Mathews.

24 MR. KNIGHT: If the Court would indulge the court
25 reporter one moment, Your Honor?

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1 **THE COURT:** All right.

2 (WHEREUPON, State's Exhibits Nos. 18 A - H were
3 marked for identification only.)

4 **COURT REPORTER:** Your Honor, it's 18(a) through
5 18(h).

6 **THE COURT:** (a) through (h)?

7 **COURT REPORTER:** Yes, sir.

8 **THE COURT:** Mr. Mathews, counsel is bringing you
9 proposed exhibits 18(a) through 18(h), inclusive. Please
10 review and tell me if you have any objection.

11 **MR. MATHEWS:** No objection, Your Honor.

12 **THE COURT:** All right. Have him identify, since the
13 court reporter has done it (a), (b), (c), what each one is
14 for the record. I understand there's no objection. You
15 may approach.

16 **MR. KNIGHT:** Thank you, Your Honor.

17 **Q** Would you identify each one of those?

18 **THE COURT:** Please give the exhibit numbers, since
19 she's marked them 18(a), (b), (c), and (d).

20 **A** Yes, sir. 18(a) would be the shell casing marked
21 with Placard 1. 18(b) would be a shell casing marked with
22 Placard 2. 18(c), shell casing marked with Placard 3.
23 18(d) would be shell casing marked with Placard 4. 18(e)
24 is again, just a closer shot of shell casing with Placard
25 4. 18(f) would be a shell casing marked with Placard 5.

1 18(g) is one of the projectiles, the copper casing --
2 the copper pieces marked exhibit -- Placard 7. And 18(h)
3 is going to be the other copper jacket piece there, marked
4 exhibit with Placard 6.

5 MR. KNIGHT: May I approach, Your Honor?

6 THE COURT: Yes, you may.

7 Ladies and gentlemen of the jury, State's Exhibits
8 18(a) through 18(h), inclusive, are admitted into evidence
9 in the trial of this case, without objection.

10 (WHEREUPON, State's Exhibits Nos. 18 A - H were
11 admitted into evidence.)

12 THE COURT: You may publish 18(a) through 18(h) to
13 the jury.

14 Q 18(g) and 18(h), those are what's identified in
15 State's Exhibit Number 17?

16 A Yes, sir.

17 Q And those were found on the ground area?

18 A Correct. Near where the vehicle was located.

19 Q Which vehicle?

20 A The black in color Acura.

21 Q Okay. Once you secured State's Exhibit Number
22 Fifteen, Fourteen, and Thirteen, together with State's
23 Exhibit Number Seventeen and State's Exhibit Number
24 Sixteen, what did you do with those items?

25 A They were secured in the boxes, taped up, and then

1 that's when I secured them in the vault, personally
2 myself, and they were logged into evidence.

3 Q When you say secured the boxes, what do you mean?

4 A Right. Tape the boxes up. They were secured. They
5 were taped up.

6 If you see the little white boxes there, they
7 actually have evidence tape on them, and I actually
8 initialed them and dated them. That's -- that's my
9 handwriting on those boxes. The red -- the red. S.L.E.D.
10 uses yellow and blue usually.

11 Q I show you State's Exhibit Number Seventeen.

12 A Right.

13 Q You say you initialed that. Where did you initial
14 that?

15 A It's on the -- on the yellow -- on the red tape right
16 here. You see my initials, JWE.

17 Q All right, sir.

18 A Here where it's taped. And that seals the box where
19 it's not to be broken.

20 Q Okay. And would the same be true on State's Exhibit

21 ---

22 A All those, yes, sir.

23 Q --- Number Sixteen?

24 A All of those.

25 Q Okay.

1 A Now the weapon boxes were sealed with tape.

2 Q What did you do with State's Exhibit Number Sixteen
3 and Seventeen? Where did you -- where did you put those?

4 A Okay. What do you mean?

5 Q Did you put them inside this box, or do you recall?

6 A I don't -- I don't recall if I put them inside that
7 box, because they were located separate than the weapons.
8 I don't recall those being in the boxes.

9 Q Okay. But these were sealed.

10 A Correct. They were sealed in those individual boxes.

11 Q These being ---

12 THE COURT: Refer to the exhibit number, not "these"
13 for the record.

14 MR. KNIGHT: I know.

15 Q State's Exhibit Number Sixteen and State's Exhibit
16 Number Seventeen were sealed boxes.

17 A Correct.

18 Q Okay. And thirteen, fourteen, and fifteen, State's
19 exhibits, and State's Exhibit Sixteen and Seventeen, you
20 turned in to the vault.

21 A Yes, sir. They were all sealed into the vault, and
22 we actually -- I logged them into a what we call is a
23 S.L.E.D. bin, and that's where they would be stored at
24 that point in time.

25 Q I ask you if you can identify this please, sir?

DIRECT EXAMINATION OF JAMES ETHRIDGE BY MR. KNIGHT

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1 **A** Yes, sir. It's a box of Federal ammunition
2 sitting -- that's going to be in the black Acura.

3 **Q** Who took that photograph?

4 **A** I took this photograph.

5 **THE COURT:** Go ahead and mark them, if you're going
6 to do both of them.

7 **MR. KNIGHT:** Okay.

8 **THE COURT:** Mark them now.

9 (WHEREUPON, State's Exhibit No. 19 was marked for
10 identification only.)

11 (WHEREUPON, State's Exhibit No. 20 was marked for
12 identification only.)

13 **Q** I ask you if you can identify this photo?

14 **A** It's going to be the actual -- the box open. It has,
15 I looks like one, two, three, four, five bullets still in
16 that box.

17 **Q** Okay.

18 **A** And I took this picture.

19 **MR. KNIGHT:** I'll show them to Mr. Mathews, Your
20 Honor.

21 **Q** If you can identify State's Exhibit Number Nineteen
22 and State's Exhibit Number Twenty, please?

23 **A** Okay. Number nineteen is a picture of the Federal
24 ammunition box, and number twenty would be that same box
25 but it's open where you can see the five bullets exposed.

1 That's exhibit twenty.

2 MR. KNIGHT: At this time, Your Honor, the State
3 would move State's Exhibit Number Nineteen and State's
4 Exhibit Number Twenty into evidence.

5 THE COURT: As to State's Nineteen and Twenty, Mr.
6 Mathews?

7 MR. MATHEWS: Without objection, Your Honor.

8 THE COURT: Ladies and gentlemen of the jury, State's
9 Exhibit Nineteen and Twenty will be admitted into evidence
10 in the trial of this case, without objection.

11 (WHEREUPON, State's Exhibit No. 19 was admitted into
12 evidence.)

13 (WHEREUPON, State's Exhibit No. 20 was admitted into
14 evidence.)

15 THE COURT: You may publish to the jury, Solicitor.

16 Q Did you collect any other evidence in this case?

17 A Yes, sir.

18 Q What evidence, if any, did you collect?

19 A On that scene, besides what you have here with the
20 weapons and the shell casings, there was one pair of white
21 in color Gucci shoes, size 10; one pair of black in color
22 Nike shoes, size 10; and obviously, we collected the black
23 Acura, because I had it towed back to my impound lot to be
24 further processed and did a search warrant on it.

25 Q And you turned all that in to evidence?

CROSS-EXAMINATION OF JAMES ETHRIDGE BY MR. MATHEWS

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1 A Yes, sir.

2 Q Did you collect any other evidence in this case from
3 any other investigator?

4 A Besides -- yes, the videos, the audios. All of that
5 was turned in to me and logged into evidence and placed in
6 the same vault with all the other evidence.

7 MR. KNIGHT: If the Court would indulge me one
8 moment?

9 That's all I have at this time, Your Honor.

10 THE COURT: Cross-examination?

11 MR. MATHEWS: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MATHEWS:

14 Q Officer Ethridge, what's your grade? What's your
15 title?

16 A Grade?

17 Q What's your rank?

18 A Oh, I'm now a sergeant.

19 Q Okay.

20 A Yes, sir.

21 Q What were you at the time?

22 A A detective in crime scene.

23 Q You got those copper jackets, I guess those are
24 bullets, I guess the slugs; you collected those?

25 A The ---

1 Q Exhibits number -- the projectiles reflected in
2 number seventeen, exhibit number seventeen.

3 A Just to clarify, can you show me which ---

4 MR. MATHEWS: May I approach the witness, Your Honor?

5 THE COURT: You may.

6 A Just to make sure.

7 THE COURT: Hand him the exhibit, Counsel.

8 A Yes, sir, I collected these. This is exhibit
9 seventeen.

10 Q Right. And those exhibits, you got those from the
11 ground?

12 A The ground around where the Acura was at. Yes, sir.

13 Q Okay. When you say around -- you took a wide view, I
14 guess, of where all you got these, too; right? The
15 picture where the placards were located relative to each
16 other and all that.

17 A Correct.

18 Q How far from the Acura were those slugs, for want of
19 a better word, were those found?

20 A Where were these found?

21 Q Yes, sir.

22 A I couldn't give you exact. It was just right in that
23 same vicinity of where the vehicle was located. I can't
24 give you a distance.

25 Q You wouldn't think that would be an important thing

CROSS-EXAMINATION OF JAMES ETHRIDGE BY MR. MATHEWS

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1 to know?

2 A Well, it may be depicted in some other pictures.

3 Q But I mean, you were the one that collected those.

4 A Correct.

5 Q And you took pictures of them.

6 A Of these two, yes, sir.

7 Q Okay. Was it fifty feet from the car?

8 A No, it was not fifty feet.

9 Q Maybe five?

10 A It was right in the same vicinity. When the car was
11 -- the car was on its side -- when the car was turned back
12 over on its tires, that's when this -- these were located,
13 the weapon was located. So more than likely, if you want
14 me to guesstimate, when I flipped the car over, these were
15 under the car.

16 Q Okay.

17 A Where it was lying on its top.

18 Q I see. Okay.

19 A So very, very close to the proximity. Could it have
20 fallen out of the car? I don't know.

21 Q Okay. All right. So the two -- and those were the
22 only two slugs that were recovered. They were underneath
23 the car.

24 A These are actually pieces now. I wouldn't classify
25 these as actual whole slugs.

1 Q Okay. Okay. Were there any other projectiles
2 collected from the scene, to your knowledge?

3 A No, sir.

4 Q Were there any projectiles -- there were a couple of
5 holes. I think we've seen a picture of Lieutenant
6 Burnette's car, and they've got a couple of holes in
7 there. Were there any projectiles?

8 A No, sir. I checked.

9 Q Okay.

10 A I didn't see any. None were located.

11 Q Okay. You also -- you collected all of the evidence
12 that was sent to S.L.E.D. and otherwise; is that correct?

13 A Correct. Yes, sir.

14 Q Okay. So if Dorchester County collected it in this
15 case, you took it in.

16 A Correct. Yes, sir.

17 Q All right. Among the other things that you
18 collected, did you also collect two gunshot residue kits?

19 A Did I -- no, I did not collect them from the
20 defendants, but they were put into evidence.

21 Q I understand. You weren't the one that did the test,

22 ---

23 A Correct.

24 Q --- but you took -- a test was done, and you took it
25 into evidence.

CROSS-EXAMINATION OF JAMES ETHRIDGE BY MR. MATHEWS

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1 A I'm pretty sure. I'd have to look at the sheet to
2 make sure.

3 Q Okay. Well, do you have your sheets with you?

4 A They're actually in the -- they're in a folder.
5 They're actually -- it would be an envelope with all those
6 evidence sheets.

7 Q Okay.

8 MR. MATHEWS: Your Honor, if we could take a moment
9 to collect these things?

10 THE COURT: Yes, sir.

11 MR. MATHEWS: Your Honor, may I approach?

12 THE COURT: You may.

13 COURT REPORTER: Your Honor, this will be number
14 five, because he had two premarked.

15 (WHEREUPON, Defendant's Exhibit No. 5 was marked for
16 identification only.)

17 Q Do you prefer detective, or do you prefer sergeant?

18 A You can call me James Etheridge. That's fine with
19 me.

20 Q Okay.

21 A The title doesn't mean anything.

22 Q Well, how about officer? Does that work?

23 A That's fine, too. Whatever is comfortable with you.

24 Q Officer Etheridge, I'm handing you what has been
25 marked as Defendant's Exhibit Number Three or Four? What

1 are we on now?

2 THE COURT: Five.

3 A Five.

4 THE COURT: For identification only.

5 MR. MATHEWS: For identification.

6 Q After reviewing it, are you familiar with that?

7 A Yes, sir.

8 Q What is that?

9 A This is the evidence sheet transferring custody of
10 GSR kits from Investigator Martin to me.

11 Q Okay. What's a GSR kit?

12 A Gunshot residue kit.

13 Q Okay. And you got those from John Doe Number One and
14 John Doe Number Two?

15 A That's what they're marked.

16 Q Okay. In addition to that, did you also receive
17 swabs taken from the -- from the triggers of a couple of
18 those guns?

19 A I took those swabs, so I wouldn't have received them.
20 I did them myself.

21 Q Okay. All right. You took swabs from the trigger of
22 the Bursa and from the Taurus; is that correct?

23 A Yes, sir.

24 Q What's the purpose in taking swabs?

25 A Evidentiary purposes, possibility there may -- if

CROSS-EXAMINATION OF JAMES ETHRIDGE BY MR. MATHEWS

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1 there's DNA on the weapons.

2 Q Okay. So you took the swab to collect as evidence on
3 the triggers of both the Bursa and the .38.

4 A Correct.

5 Q Okay. And you took that into evidence, and at that
6 point, it wasn't your decision what to do with it.

7 A I logged it into evidence at that point in time.

8 Q Okay. So it was available ---

9 A If needed to be at any other time, yes.

10 Q Do you have any indication of whether that was ever
11 sent to S.L.E.D.?

12 A To my knowledge, it wasn't.

13 Q It was not. Okay. All right.

14 MR. MATHEWS: I have no further questions, Your
15 Honor.

16 THE COURT: Very well.

17 Redirect?

18 MR. KNIGHT: No, sir. That's all I have.

19 THE COURT: As to this witness?

20 MR. KNIGHT: May he be excused, Your Honor?

21 THE COURT: Any objection to him being excused, Mr.
22 Mathews?

23 MR. MATHEWS: No, sir.

24 THE COURT: You may step down, and you are -- if
25 you'll leave my exhibits here.

1 WITNESS: Yes, sir.

2 THE COURT: You can take your file, but leave me my
3 exhibits.

4 Call your next witness.

5 MR. KNIGHT: Earl Asbell.

6 CLERK: Please come forward to be sworn in. Place
7 your left hand on the Bible and raise your right.

8 EARL V. ASBELL, JR., after being duly sworn,
9 testified as follows:

10 CLERK: Please have a seat in the witness chair, and
11 state your full name for the record.

12 THE COURT: Good afternoon.

13 WITNESS: Good afternoon, Your Honor.

14 THE COURT: Have a seat and make yourself
15 comfortable. Adjust that seat. The microphone, it's
16 going to amplify your voice. State your full name and
17 spell your last name for my court reporter, please.

18 WITNESS: Earl Vincent Asbell, Jr., A-S-B-E-L-L.

19 THE COURT: Your witness, Counsel. Direct
20 examination.

21 DIRECT EXAMINATION

22 BY MR. KNIGHT:

23 Q Mr. Asbell, who are you employed with?

24 A Dorchester County Sheriff's Office.

25 Q In what capacity?

DIRECT EXAMINATION OF EARL ASBELL BY MR. KNIGHT

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- 1 A I'm a lieutenant over the Crime Scene Unit.
- 2 Q How long have you been there?
- 3 A Twenty-four and a half years.
- 4 Q Were you involved in the securing of the evidence in
- 5 this case?
- 6 A No, I wasn't. I was only responsible for
- 7 transporting it to S.L.E.D.
- 8 Q Okay.
- 9 MR. KNIGHT: Instead of picking them up, Judge, to
- 10 save some time, I'm just going to call out the numbers.
- 11 Q State's Exhibit Number Fifteen, State's Exhibit
- 12 Number Fourteen, which is another weapon, ---
- 13 A Yes, sir.
- 14 Q --- and I believe it's State's Exhibit Number
- 15 Thirteen, which is another weapon.
- 16 A Correct.
- 17 Q And State's Exhibit Number Sixteen -- or Seventeen
- 18 and Sixteen, do you recognize these items?
- 19 A They were in an envelope when I transported them.
- 20 Q Okay. When you transported those items I just
- 21 mentioned, thirteen, fourteen, fifteen, sixteen,
- 22 seventeen, were they sealed?
- 23 A Everything was sealed when I -- it was in the
- 24 S.L.E.D. bin, and all I did was pick up the package, along
- 25 with this paperwork, and transport it to S.L.E.D.

1 Q Okay. Who did you deliver it to at S.L.E.D.?

2 A Selena Kinard.

3 Q And when you delivered it to Ms. Kinard, they were
4 all sealed?

5 A Yes, sir.

6 Q Would S.L.E.D. have accepted them if they had not
7 been sealed?

8 A No, sir.

9 Q Okay. Ultimately, did you go back to S.L.E.D. and
10 pick them up?

11 A Yes, sir, I did. I retrieved them from S.L.E.D. from
12 Nikki Hughes on September the 9th at 10:09 a.m. that
13 morning.

14 Q Okay.

15 MR. KNIGHT: If the Court would indulge me one
16 moment?

17 Mr. Asbell, would you please answer any questions Mr.
18 Mathews may have?

19 MR. MATHEWS: Please the Court?

20 THE COURT: Cross-examination.

21 MR. MATHEWS: Thank you.

22 CROSS-EXAMINATION

23 BY MR. MATHEWS:

24 Q Detective Asbell, you -- you -- what all did you take
25 to S.L.E.D.?

CROSS-EXAMINATION OF EARL ASBELL BY MR. MATHEWS

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1 **A** I have a list here. We took a GSR kit on John Doe
2 Number One, later discovered to be Maurio Rivers; GSR kit
3 on suspect John Doe Number Two, later discovered to be
4 Shelly Bronson; Taurus .38 special revolver, serial number
5 HC26905; cartridge casings; three RP .38 special casings,
6 these items are in an envelope inside the box for the
7 Taurus, which was Item Three; cartridge casings; two
8 Winchester .38 special spent casings, these items are in
9 an envelope inside the box with the Taurus, which was Item
10 Number Three; handgun, Bursa Firestorm .380 caliber
11 automatic pistol and magazine, serial number 823145;
12 cartridge casings, five Federal .380 auto spent casings
13 individually boxed and marked with Item One through Five;
14 Item Number Eight was a fired bullet, one projectile;
15 Number Nine, fired bullet, a piece of a projectile. Those
16 are the items that I transported.

17 **Q** Okay. So you did not transport any swabs.

18 **A** No, sir, I didn't.

19 **Q** Okay. And you picked back up all of those items?

20 **A** Yes, sir. I picked them all back up on September the
21 9th.

22 **Q** Okay.

23 **MR. MATHEWS:** No further questions, Your Honor.

24 **THE COURT:** Redirect?

25 **MR. KNIGHT:** No, sir. May he be excused?

1 THE COURT: Any objection, Mr. Mathews?

2 MR. MATHEWS: No, Your Honor.

3 THE COURT: All right, Mr. Asbell, you may step down,
4 and you're excused from the trial of this case.

5 WITNESS: Thank you, Your Honor.

6 THE COURT: Call your next witness.

7 MR. KNIGHT: Stephen Bellew.

8 CLERK: Come forward and be sworn.

9 STEPHEN H. BELLEW, after being duly sworn,
10 testified as follows:

11 CLERK: Please have a seat on the witness stand and
12 state your full name for the record.

13 THE COURT: Good afternoon.

14 WITNESS: How are you, Your Honor?

15 THE COURT: I'm fine. Have a seat. Hope you are.
16 Adjust that chair and adjust the microphone to your
17 height. Tell me when you're ready. State your full name
18 and spell your last name for the court reporter.

19 WITNESS: My name is Stephen Howard Bellew. The
20 spelling on my last name is B-E-L-L-E-W.

21 DIRECT EXAMINATION

22 BY MR. KNIGHT:

23 Q Mr. Bellew, who are you employed with, sir?

24 A Colleton County Fire Rescue.

25 Q And how long have you been employed with the Colleton

DIRECT EXAMINATION OF STEPHEN BELLEW BY MR. KNIGHT

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1 County Fire Rescue?

2 A Since October 2010.

3 Q In what capacity?

4 A Firefighter/paramedic, and I'm also a field training
5 officer.

6 Q Did you have an occasion on July the 12th of 2011 to
7 go to 5519 Augusta Highway?

8 A Yes, sir.

9 Q Is that here in Colleton County?

10 A Yes, sir.

11 Q And upon arrival what, if anything, did you do?

12 A Upon arrival we found a vehicle on its roof that had
13 been involved in an accident. There were several
14 sheriff's deputies' vehicles around it, and there was a
15 patient sitting at the front of the vehicle that we
16 treated for transport.

17 Q Okay. Did you talk to that patient?

18 A Yes, sir, I did.

19 Q What, if anything, did he tell you?

20 A The patient told me that -- I had asked him what his
21 location in the vehicle was so that I would understand the
22 mechanism of injury that he would have sustained. And the
23 patient that I treated said that he was the driver of the
24 vehicle.

25 And I asked him also if he was able to get out of the

1 vehicle on his own or if he was ejected from the vehicle.

2 And he stated that he exited the vehicle under his own
3 power.

4 And he also had puncture wounds to the head and neck
5 and facial area from a K-9, and he stated that that was
6 from the police K-9.

7 Q Okay. I notice in your report you didn't mention
8 what the patient told you about whether he was the driver
9 or the passenger.

10 A He stated that he was the driver.

11 Q He was the driver.

12 A Yes, sir.

13 Q And he wasn't the passenger.

14 A Correct, sir.

15 Q And he had what type of wounds?

16 A He had dog bites to the face and head. Let me get my
17 notes. Let's see. He had face and head puncture wounds.
18 He also complained of neck and back pain and right rib
19 pain, which I found crepitation, which is a grinding of
20 the bones which meant that there was a broken bone.

21 Q Did he tell you whether or not he fled from the scene
22 from the car?

23 A Yes, sir, he did.

24 Q What did he say?

25 A I asked him if he was ejected from the vehicle or he

CROSS-EXAMINATION OF STEPHEN BELLEW BY MR. MATHEWS

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1 exited under his own power. He said that he exited under
2 his own power and fled the scene, and that's when he was
3 subdued by a K-9.

4 Q Thank you, sir. Answer any questions of Mr. Mathews.

5 A Yes, sir.

6 MR. MATHEWS: May it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. MATHEWS:

10 Q Officer Bellew, you were the second E.M.S. car on the
11 scene; is that correct?

12 A Yes, sir.

13 Q And the -- the patient that you were treating, you
14 later learned was Mr. Shelly?

15 A No, sir. I don't know.

16 Q You don't know who it was.

17 A No, sir.

18 Q But it was the second person on the scene.

19 A Correct.

20 Q Okay. And about what time did you arrive?

21 A We arrived on scene at 8:26.

22 Q 8:26.

23 A Yes.

24 Q Okay. All right. And did he have also a -- did he
25 have a slash along his neck or bites along his neck?

1 A Yes, sir. The facial area. That would include the
2 neck area.

3 Q Okay. All right. And you referred to -- that was
4 referred to as John Doe Number Two?

5 A I just referred to him as John Doe. That was the
6 only patient that I had.

7 Q Okay. All right.

8 MR. MATHEWS: Nothing further, Your Honor.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION

11 BY MR. KNIGHT:

12 Q Were you requested to put gloves on this patient's
13 hands?

14 A I do not recall.

15 Q Okay.

16 THE COURT: Just a moment. Do you want to approach
17 the witness?

18 MR. KNIGHT: May I approach, Your Honor?

19 THE COURT: You may.

20 MR. KNIGHT: Okay.

21 Q I ask if you can identify this?

22 A This would be a copy of a run report and my
23 narrative.

24 Q In your narrative, do you say in there that the
25 person you treated was the driver?

RE CROSS-EXAMINATION OF STEPHEN BELLEW BY MR. MATHEWS

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1 A Correct.

2 Q It's in there?

3 A Yes, sir.

4 Q Where?

5 A It says that patient was the unrestrained driver of
6 the vehicle.

7 Q Where is that at?

8 A It should be the second and third line.

9 Q Okay. I gotcha. Thank you, sir.

10 A Yes, sir.

11 MR. KNIGHT: That's all I have. May he be excused,
12 Your Honor?

13 THE COURT: Recross, limited to redirect?

14 RE CROSS-EXAMINATION

15 BY MR. MATHEWS:

16 Q This was the second person that was treated at the
17 scene?

18 A Correct.

19 MR. MATHEWS: No further questions.

20 THE COURT: As to the witness now, Solicitor?

21 MR. KNIGHT: May he be excused, Your Honor?

22 THE COURT: Any objection, Mr. Mathews?

23 MR. MATHEWS: No, sir.

24 THE COURT: You may step down, and you're excused
25 from the trial of this case.

1 WITNESS: Thank you, sir.

2 THE COURT: Call your next witness.

3 MR. KNIGHT: Amy Stephens.

4 CLERK: Please come forward to be sworn.

5 AMY E. STEPHENS, after being duly sworn,
6 testified as follows:

7 CLERK: Please have a seat on the witness stand and
8 state your name for the record.

9 WITNESS: Thank you.

10 THE COURT: Good afternoon.

11 WITNESS: Good afternoon.

12 THE COURT: How are you doing?

13 WITNESS: Good. How are you?

14 THE COURT: You know what to do.

15 WITNESS: Amy -- I'm sorry. Go ahead.

16 THE COURT: Go ahead. I want to make sure you pull
17 that chair up, because they push it back and then
18 everybody needs to adjust it. Go ahead.

19 WITNESS: Amy Elizabeth Stephens, S-T-E-P-H-E-N-S.

20 THE COURT: Your witness, Counsel. Direct
21 examination.

22 MR. KNIGHT: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. KNIGHT:

25 Q Ms. Stephens, who are you employed with?

DIRECT EXAMINATION OF AMY STEPHENS BY MR. KNIGHT

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1 A I'm employed with the South Carolina Law Enforcement
2 Division, also known as S.L.E.D.

3 Q In what capacity?

4 A I'm a forensic technician in the Evidence Control
5 Department.

6 Q Did you have an occasion on 7/22 to receive some
7 evidence in reference to this case?

8 A Yes, I did, on July 22nd, 2011.

9 Q Do you recall what you received?

10 A According to my chain of custody. Would you like me
11 to read each item?

12 Q Please.

13 A According to my chain of custody, I received S.L.E.D.
14 Item Number Three, which is a handgun described as a
15 Taurus .38 special revolver, serial number HC26905.

16 I received S.L.E.D. Item Number Four, which is
17 cartridge cases described as three RP .380 special spent
18 casings. These items are in an envelope inside the box
19 with the Taurus, which is Item Number Three.

20 I received S.L.E.D. Item Number Five, which is
21 cartridge cases, described as two Winchester .38 special
22 spent casings. These items are in an envelope inside the
23 box with the Taurus, which is Item Number Three.

24 I received S.L.E.D. Item Number Six, which is a
25 handgun, described as a Bursa Firestorm .380 caliber

1 automatic pistol and magazine, serial number 823145.

2 I received S.L.E.D. Item Number Seven, which is a
3 cartridge case -- cartridge cases, described as five
4 Federal .380 auto spent casings individually boxed and
5 marked with Item Numbers One through Five.

6 I also received S.L.E.D. Item Number Eight, which was
7 a projectile, and S.L.E.D. Item Number Nine, which was
8 also a projectile.

9 Q Ms. Stephens, when you received those items, and I
10 show you State's Exhibit Number Fifteen ---

11 MR. KNIGHT: May I approach, Your Honor?

12 THE COURT: You may.

13 A I did not receive this item.

14 Q You did not receive that item?

15 A No, sir. It doesn't have our label on it, nor our
16 S.L.E.D. evidence tape.

17 Q Okay. I show you State's Exhibit Number Fourteen.

18 A State's Exhibit Number Fourteen is S.L.E.D.'s Item
19 Number Six, which was the Bursa Firestorm .380.

20 Q Now when you received State's ---

21 MR. KNIGHT: May I approach, Your Honor?

22 THE COURT: You may.

23 Q --- State's Exhibit Number Fourteen, was the box
24 sealed?

25 A Yes, it was.

DIRECT EXAMINATION OF AMY STEPHENS BY MR. KNIGHT

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1 Q And what did you do with State's Exhibit Number
2 Fourteen?

3 A I retrieved it from our firearms evidence intake
4 storage in our evidence room, and I transferred the
5 evidence to Michelle Eichenmiller, a forensic scientist in
6 the Firearms Department.

7 MR. KNIGHT: May I approach, Your Honor?

8 THE COURT: You may.

9 Q I show you State's Exhibit Number Thirteen.

10 A State's Exhibit Number Thirteen corresponds with my
11 chain of custody for S.L.E.D. Item Number Three, which was
12 a Taurus handgun, the three RP .380 special spent casings,
13 and the two Winchester .38 special spent casings. And I
14 also retrieved these from our firearms evidence intake
15 storage and transferred them to Michelle Eichenmiller.

16 Q Okay. When you received State's Exhibit Number
17 Thirteen ---

18 MR. KNIGHT: May I approach, Your Honor?

19 THE COURT: You may.

20 Q --- was this box sealed?

21 A Yes, it was.

22 MR. KNIGHT: That's all I have. Answer any questions
23 Mr. Mathews may have.

24 THE COURT: Cross examination?

25 MR. MATHEWS: No questions, Your Honor.

1 THE COURT: As to this witness, Solicitor?

2 MR. KNIGHT: May she be excused?

3 THE COURT: Any objection, Mr. Mathews?

4 MR. MATHEWS: No objection.

5 THE COURT: Ms. Stephens, you may step down and
6 you're excused from the trial of this case.

7 WITNESS: Thank you.

8 THE COURT: You may leave the courtroom.

9 Call your next witness.

10 MR. KNIGHT: Michelle Eichenmiller.

11 CLERK: Please come forward to be sworn.

12 MICHELLE EICHENMILLER, after being duly sworn,
13 testified as follows:

14 CLERK: Please have a seat on the witness stand and
15 state your name for the record.

16 THE COURT: Good afternoon.

17 WITNESS: Good afternoon.

18 THE COURT: Make yourself comfortable. Pull the
19 chair up. Adjust the microphone. State your full name.
20 Spell your last for the court reporter.

21 WITNESS: My name is Michelle Eichenmiller. The last
22 name is E-I-C-H-E-N-M-I-L-L-E-R.

23 DIRECT EXAMINATION

24 BY MR. KNIGHT:

25 Q Ms. -- Ms. Eichenmiller, what is your occupation?

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MR. KNIGHT
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1 A I work at the State Law Enforcement Division,
2 commonly known as S.L.E.D., in the Forensic Department --
3 or in the Forensic Laboratory and the Firearms Department.

4 Q How long have you been employed with S.L.E.D.?

5 A Approximately six years.

6 Q What is firearms identification?

7 A Firearms identification is the branch of forensic
8 science that's primary concern is fired ammunition
9 components and the firearms that fired them. We attempt
10 to match fired bullets and fired cartridge cases back to
11 the firearm that fired them. We also do other
12 examinations, such as serial number restoration and tool
13 mark identification.

14 Q What makes such identification possible?

15 A When a bullet or a cartridge case is fired out of a
16 firearm, the bullet will receive marks as it goes down the
17 barrel, and the cartridge case will receive marks from the
18 chamber. And those marks are unique to each firearm.
19 They're based on the wear and tear that the firearm goes
20 through and the manufacturing process.

21 So it's my job to put those known specimens that I
22 get from a firearm with evidence that's collected from the
23 scene to see if that firearm fired those components.

24 Q What specialized training have you had in your
25 present work?

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MR. KNIGHT
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1 A I've completed the S.L.E.D. in-house training program
2 of Firearms Identification. It's approximately a three to
3 five-year program where I sat in court qualified
4 examiners' offices and learned how they do their job, as
5 well as prep cases for them, as well as reading on my own,
6 doing different exams that they have.

7 At the end of the training, you have to go through a
8 comprehensive exam and a mock court. And once I was
9 deemed competent, I was deemed competent to do casework on
10 my own.

11 Q Have you testified previously in the field of
12 firearms identification?

13 A I have.

14 Q In circuit court?

15 A Yes.

16 Q General Sessions?

17 A Yes, sir.

18 Q On how many occasions?

19 A Approximately eleven.

20 Q Have you been qualified as an expert?

21 A I have.

22 MR. KNIGHT: Your Honor, I would submit Ms.
23 Eichenburg -- Eichenmiller as an expert in firearms
24 identification.

25 THE COURT: Any objection as to qualifications?

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MR. KNIGHT

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1 MR. MATHEWS: No, sir.

2 THE COURT: Ladies and gentlemen of the jury,
3 normally the law does not permit witnesses to get on the
4 witness stand and testify as to opinions or conclusions.
5 Normally you must testify to what you actually saw with
6 your senses or smelled or felt.

7 There is an exception for the opinion rule for those
8 witnesses whom we call expert witnesses, who if qualified
9 by the court by virtue of training/experience, are
10 permitted to give their opinions. In this case, the
11 witness is qualified in firearms identification, without
12 objection.

13 You're not bound by an expert's opinion. You give it
14 the weight, if any, to which you deem it should be
15 entitled.

16 The witness is qualified, without objection. You may
17 proceed, Counsel.

18 MR. KNIGHT: May I approach, Your Honor?

19 THE COURT: You may.

20 Q I show you State's Exhibit Number Thirteen. Have you
21 seen State's Exhibit Number Thirteen before?

22 A Whenever I receive evidence, I take pictures and
23 document the condition I receive it in. I then write my
24 name, my initials, the item number and the lab number on
25 the firearm or the fired components. These are the items

1 I received.

2 Q Did you make an examination of State's Exhibit Number
3 Thirteen?

4 A I did.

5 Q What did you find?

6 A If I may consult my notes?

7 Q Certainly.

8 A State's Exhibit Thirteen was S.L.E.D. Item Number
9 Three. I examined it. I test-fired it, found it to be in
10 working order.

11 Q How about S.L.E.D. Item Number Four and Five?

12 A S.L.E.D. Item Four and Five, per our current
13 submission guidelines, since they were removed from the
14 revolver, we didn't conduct any examination on them.

15 Q Okay.

16 MR. KNIGHT: May I approach, Your Honor?

17 THE COURT: You may.

18 Q I show you State's Exhibit Number Seventeen. Have
19 you had an occasion to come into contact with State's
20 Exhibit Number Seventeen?

21 A I have.

22 Q Did you perform an examination State's Exhibit Number
23 Seventeen?

24 A I did.

25 Q And what were your findings?

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MR. KNIGHT

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1 A State's Exhibit Seventeen is actually two different
2 pieces of a fired bullet jacket. One is a large fragment,
3 and one is a small fragment.

4 The larger fragment is S.L.E.D. Item Number Eight,
5 and I concluded that Item Eight was fired by the Item
6 Three Bursa, which is State's Exhibit Thirteen -- or I'm
7 sorry, the Taurus.

8 Q Okay. So State's Exhibit Number ---

9 MR. KNIGHT: May I approach, Your Honor?

10 THE COURT: You may.

11 Q --- Seventeen was fired by State's Exhibit Number
12 Thirteen, the .38 Taurus?

13 A Yes. The larger fragment was fired by the Taurus.

14 Q Okay.

15 MR. KNIGHT: May I approach, Your Honor?

16 THE COURT: You may.

17 Q I ask you if you can identify State's Exhibit Number
18 Fourteen?

19 A Without removing it from the box, since it's zip-tied
20 in there, it appears to be the firearm I examined. My
21 initials are in the inside of the box.

22 Q Okay. Did you perform an examination on that weapon?

23 A I did.

24 Q What type of examination did you perform?

25 A I examined it. I test-fired it. It was just --

1 examined it means I documented if the safety worked, what
2 kind of firearm it is. I documented the serial number,
3 what kind of model it is, who made it. I test-fired it
4 using the magazine that was submitted with it and then
5 found it to be in working order.

6 MR. KNIGHT: May I approach, Your Honor?

7 THE COURT: You may.

8 Q I show you what's been marked as State's Exhibit
9 Number Sixteen.

10 A State's Exhibit Sixteen is my Item S.L.E.D. Number
11 Seven. It's five fired .380 auto caliber cartridge cases.

12 Q Did you perform an examination on State's Exhibit
13 Number Sixteen?

14 A Yes, I did. We take pictures of how we receive them.
15 I examine them. I write down what kind of head-stamp it
16 has, which is the make, the caliber, document all of that.

17 I compare them to each other to see if they were all
18 fired from one firearm. And then if I receive a firearm,
19 as I did in this case, I'll compare those from test-fires
20 from that firearm.

21 Q And what were your conclusions on State's Exhibit
22 Number ---

23 MR. KNIGHT: Excuse me. May I approach, Your Honor?

24 THE COURT: You may.

25 MR. KNIGHT: I can't see from there.

CROSS-EXAMINATION OF MICHELLE EICHENMILLER BY MR. MATHEWS

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1 A Sixteen.

2 Q --- Sixteen and ---

3 A Fourteen.

4 Q --- Fourteen?

5 A State's Exhibit Sixteen, all five of those fired
6 cartridge cases, were fired by State's Exhibit Fourteen,
7 the Bursa.

8 MR. KNIGHT: May I approach, Your Honor?

9 THE COURT: You may.

10 MR. KNIGHT: Answer any questions Mr. Mathews may
11 have.

12 THE COURT: Cross-examination?

13 MR. MATHEWS: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. MATHEWS:

16 Q Agent Eichenmiller, where did you go to
17 undergraduate?

18 A Case Western Reserve University.

19 Q That's in Tennessee?

20 A (NODDED IN THE NEGATIVE.)

21 Q No? Where is that?

22 A Cleveland, Ohio.

23 Q Oh. Okay. What brought you south?

24 A A job.

25 Q A Bursa is an automatic?

1 A It's a semi-automatic pistol, yes.

2 Q Okay. So that means you just pull the trigger one
3 time, or do you pull it a number of times to -- to -- to
4 make it go?

5 A The firearm will keep firing as long as there is
6 ammunition in the magazine and you keep -- with each pull
7 of the trigger, it will fire.

8 Q Okay. All right.

9 And you don't know -- the bullets you have, or the
10 two fragments that you have and the casings you have, you
11 don't know where they came from. You just examined them,
12 compared to the guns you got.

13 A Correct.

14 Q Okay.

15 MR. MATHEWS: I don't have anything further, Your
16 Honor.

17 THE COURT: Redirect?

18 MR. KNIGHT: No, sir.

19 May she be excused?

20 THE COURT: Any objection, Mr. Mathews?

21 MR. MATHEWS: No, sir.

22 THE COURT: You may step down, and you are excused
23 from the trial of this case.

24 Call your next witness.

25 MR. KNIGHT: Tim Knight.

DIRECT EXAMINATION OF PAUL KNIGHT BY MR. KNIGHT

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1 CLERK: Please come forward to be sworn.

2 PAUL TIMOTHY KNIGHT, after being duly sworn,
3 testified as follows:

4 CLERK: Please have a seat on the witness stand and
5 state your name for the record.

6 THE COURT: Good afternoon.

7 WITNESS: Your Honor, how are you?

8 THE COURT: I'm fine. How are you?

9 Make yourself comfortable. Adjust the seat.

10 State your full name. Spell your last name for my
11 court reporter.

12 WITNESS: Paul Timothy Knight, K-N-I-G-H-T.

13 THE COURT: It's Paul Timothy?

14 WITNESS: Yes, sir.

15 THE COURT: You related to L. C.?

16 WITNESS: Yes, sir.

17 THE COURT: All right. I wanted to make sure it's
18 K-N-I; right?

19 WITNESS: Yes, sir.

20 THE COURT: Your witness, Counsel.

21 MR. KNIGHT: Your Honor, since you asked the
22 question; are you related to me?

23 WITNESS: I'm sure we are.

24 MR. KNIGHT: Unfortunate for you.

25 DIRECT EXAMINATION

1 BY MR. KNIGHT:

2 Q Who are you employed with ---

3 THE COURT: Mr. Mathews, come on up here.

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury but out of the hearing of the
6 jury.)

7 THE COURT: All right. Direct examination.

8 Q May I call you Tim?

9 A You sure can.

10 Q Okay. You are employed with who?

11 A The Dorchester County Sheriff's Office.

12 Q In what capacity, sir?

13 A I'm a detective.

14 Q Detective. Were you working on or about July the
15 12th, 2011?

16 A Yes, sir.

17 Q In what capacity?

18 A I was a member of the K-9 Unit.

19 Q Did you have an occasion to go out to the scene at
20 5519 Augusta Highway here in Colleton County?

21 A Yes, sir.

22 Q Tell me how you got there.

23 A I was -- as Corporal Eaches initiated his traffic
24 stop with the defendant and the codefendant, I was at the
25 time on a traffic stop on I-95 South around the 72 mile

DIRECT EXAMINATION OF PAUL KNIGHT BY MR. KNIGHT

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1 marker. Lieutenant Burnette had pulled up to assist me on
2 my traffic stop.

3 Once the vehicle pursuit began with Corporal Eaches,
4 Lieutenant Burnette left me from where I was at and joined
5 the pursuit. And I, within about ten/fifteen seconds,
6 left my location and joined in the pursuit as well.

7 Q Okay. You say: Joined in the pursuit.

8 Where did you go? You were on I-95 South?

9 A I was on I-95 South. Yes, sir.

10 Q Where did you go?

11 A South.

12 Q South.

13 A Continued south, yes, and joined the pursuit.

14 Q Did you exit off of I-95 South?

15 A Yes, I did.

16 Q And what road did you get on?

17 A Highway 61.

18 Q Were you behind Lieutenant Burnette?

19 A No, sir. I was behind Corporal Eaches.

20 Q So you would have been the third law enforcement
21 vehicle?

22 A Third, yes, sir.

23 Q Okay. When you got to the location that the black
24 Acura had overturned, what did you do?

25 A I exited my patrol vehicle, and I began a foot

1 pursuit of one of the suspects that left the vehicle,
2 along with Lieutenant Burnette. So I joined Lieutenant
3 Burnette in a foot pursuit.

4 Q And did you apprehend that person that you were in
5 foot pursuit of?

6 A Yes, we did.

7 Q Who was that person? Do you know?

8 A Yes, sir.

9 Q Who was it?

10 A Mr. Rivers.

11 Q Mr. Rivers. Okay.

12 So how far behind Officer Eaches were you in your
13 vehicle?

14 A The closest that I got to Corporal Eaches was maybe a
15 couple hundred yards.

16 Q A couple hundred yards?

17 A Yes, sir.

18 MR. KNIGHT: If the Court would indulge me one
19 moment?

20 Q And is your -- did your vehicle have a what we call a
21 L-3 video in it?

22 A It was -- it was equipped with a video system. Yes,
23 sir.

24 Q Was it working?

25 A Yes, sir.

DIRECT EXAMINATION OF PAUL KNIGHT BY MR. KNIGHT

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1 Q Would it -- you've been in the courtroom all day
2 today?

3 A Yes, sir.

4 Q Would it have shown anything different than what we
5 saw up on the screen twice today?

6 A No, sir.

7 Q Did you pull your service revolver and shoot it?

8 A Did I pull it and shoot it?

9 Q Yes, sir.

10 A No, sir.

11 Q Do you know if anyone at the scene shot their service
12 revolver?

13 A I do not believe so, no, sir.

14 Q There were other deputies and investigators from the
15 Dorchester County Sheriff's Department that arrived; is
16 that correct?

17 A Yes, sir.

18 Q Do you know of your own knowledge what they did, what
19 their purpose was there?

20 A After we had taken the suspect into custody?

21 Q Correct.

22 A As Lieutenant Burnette has testified, exactly -- I
23 would say the exact same thing. They assisted the
24 deputies on-scene. They assisted on the perimeter. They
25 were there in a support role.

1 Q And -- and, excuse me. In a support role, do you
2 write a report?

3 A You can, yes, sir.

4 Q Do you know if there was a report written in this
5 case by the support people?

6 A Yes, sir.

7 Q There were or were not?

8 A I'm sure there was.

9 Q Okay.

10 MR. KNIGHT: Indulge me one moment, Your Honor.

11 Q You assisted Lieutenant Burnette in apprehending
12 Maurio Rivers?

13 A Yes, sir.

14 Q And he was identified as the driver?

15 A Yes, sir.

16 Q Who identified him as the driver? Do you know of
17 your own knowledge?

18 A No, I do not.

19 MR. KNIGHT: That's all I have. Answer any questions
20 Mr. Mathews may have.

21 THE COURT: Cross-examination?

22 MR. MATHEWS: Thank you.

23 CROSS-EXAMINATION

24 BY MR. MATHEWS:

25 Q Officer Knight, so you -- you apprehended the first

CROSS-EXAMINATION OF PAUL KNIGHT BY MR. MATHEWS

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1 person that went to E.M.S.; is that correct?

2 A Yes, sir.

3 Q And that was Mr. Rivers.

4 A Yes, sir.

5 Q Not Mr. Shelly.

6 A Correct.

7 Q Okay. And -- okay. And about an hour later, Mr.
8 Shelly was -- was taken into custody, to your knowledge?

9 A To my knowledge, yes.

10 Q Okay. All right.

11 So this would be John Doe Number Two, the second
12 person treated. That would be Mr. Shelly.

13 A Yes, sir.

14 Q And the person that you apprehended that you
15 understood was the driver, but don't -- you don't know,
16 but that's what you had heard; correct?

17 A Yes, sir.

18 Q Okay. Did he -- did he make any statements as to who
19 was driving, the person that you apprehended?

20 A I do not believe so.

21 Q Okay. Okay.

22 MR. MATHEWS: No further questions.

23 THE COURT: Redirect?

24 MR. KNIGHT: May he be excused, Your Honor?

25 THE COURT: Any objection, Mr. Mathews?

1 MR. MATHEWS: None, Your Honor.

2 THE COURT: You may step down, and you're excused
3 from the trial of this case.

4 WITNESS: Thank you, Your Honor.

5 THE COURT: Thank you.

6 MR. KNIGHT: May I approach, Your Honor?

7 THE COURT: Counsel, approach.

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury but out of the hearing of the
10 jury.)

11 THE COURT: Mr. Foreman, and ladies and gentlemen of
12 the jury, so you'll know, the young lady who became ill,
13 I've excused from jury service. She became actively sick,
14 and we've taken care of her. We have her home. Hopefully
15 she'll have a speedy recovery.

16 I'm going to take my mid-afternoon break at this
17 point. Please do not discuss the case.

18 They'll have something for you to drink. You can
19 stretch your legs, use the restroom. I'll be back with
20 you just as quickly as I can, ladies and gentlemen, but
21 please don't talk about the case while you're in the jury
22 room until I instruct you to do so.

23 Thank you. You may retire to your jury room at this
24 time.

25 Everyone else remain seated while the jury is

1 leaving.

2 (NOVEMBER 14, 2012, AT 3:19 P.M., WHEREUPON, THE JURY
3 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
4 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

5 THE COURT: All right, Counsel, this will be our one
6 and only mid-afternoon break.

7 I'm advised that the solicitor is considering closing
8 his case shortly, Mr. Mathews. So you'll need to,
9 obviously during the break, confer about what evidence, if
10 any, you wish to put up. I will also, of course, be
11 expecting you to prepare your client because I will be
12 examining him under oath about his right to testify in
13 connection with this trial. You understand?

14 MR. MATHEWS: I do, Your Honor.

15 THE COURT: Very well.

16 All right, ladies and gentlemen, this will be my one
17 and only mid-afternoon break. Let's take about ten
18 minutes at this time.

19 (WHEREUPON, A BREAK WAS TAKEN. THEREAFTER, THE
20 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF THE
21 PRESENCE AND HEARING OF THE JURY:)

22 THE COURT: Mr. Mathews, I'm advised by the court
23 reporter at the bench during one of the breaks in this
24 trial that you handed her and asked her to pre-mark
25 certain exhibits for the defendant, which she did. They

1 were marked, premarked, as three and four.

2 Is that right?

3 COURT REPORTER: Yes, Your Honor.

4 THE COURT: Defendant's Three and Four. You never
5 used them, and you've advised me at the bench that it's
6 your intention now not to present these exhibits, and you
7 are requesting that they be withdrawn from the court
8 reporter, because you do not intend to use Defendant's
9 proposed Exhibits Three and Four; is that correct?

10 MR. MATHEWS: That's correct, Your Honor.

11 THE COURT: Very well.

12 You can return Defendant's Three and Four, Mr.
13 Mathews.

14 But you will keep, because they were identified,
15 Defendant's One, Two, and Five. Do you understand?

16 COURT REPORTER: Yes, sir.

17 THE COURT: Very well.

18 All right, Mr. Mathews, I'm advised by the solicitor
19 that the State will rest when we come back. I would ask
20 that you and your client come around and have your client
21 sworn by the Clerk of Court, please.

22 Patricia?

23 CLERK: Yes, sir?

24 THE COURT: Would you swear him for me?

25 CLERK: Yes, sir, I will.

1 Please raise your right hand. Do you swear the
2 testimony you give the Court shall be the truth, the whole
3 truth, and nothing but the truth, so help you God?

4 DEFENDANT, MR. SHELLEY: (NO RESPONSE.)

5 MR. MATHEWS: You can affirm.

6 DEFENDANT, MR. SHELLEY: Why affirm?

7 CLERK: Do you affirm that you will tell the truth,
8 the whole truth, and nothing but the truth?

9 DEFENDANT, MR. SHELLEY: Why am I being sworn in?

10 MR. MATHEWS: To find out whether you're going to
11 testify. The judge wants to ask you questions to satisfy
12 himself if you do or do not want to testify, because it's
13 your choice.

14 DEFENDANT, MR. SHELLEY: Okay.

15 CLERK: Do you affirm?

16 DEFENDANT, MR. SHELLEY: Yes.

17 CLERK: Okay. Thank you.

18 BRONSON SHELLEY, after being duly sworn,
19 testified as follows:

20 THE COURT: All right. You've accepted the oath now,
21 Mr. Shelley? You understand?

22 DEFENDANT, MR. SHELLEY: Yes, Your Honor.

23 THE COURT: State your full name for the record.

24 DEFENDANT, MR. SHELLEY: Bronson Shelley.

25 THE COURT: Speak up.

1 **DEFENDANT, MR. SHELLEY:** Bronson Shelley.

2 **THE COURT:** Mr. Shelley, at this time I'm going to
3 explain to you certain of your rights. If you do not
4 understand anything that I say, please let me know. If
5 you want me to explain anything in further detail, please
6 let me know. Do you understand?

7 **DEFENDANT, MR. SHELLEY:** Yes, Your Honor.

8 **THE COURT:** All right. We've now reached the stage
9 in just a moment, because the State tells me they're going
10 to rest when the jury returns.

11 We've reached the stage of the trial where you may
12 present your defense. You have the right to testify in
13 your own behalf; however, no one, no one, not this Court
14 or anyone, can make you testify. In the event you have a
15 criminal record for any conviction involving dishonesty or
16 false statement or for a crime punishable by imprisonment
17 for more than one year and this Court determines that the
18 probative value of admitting this evidence outweighs its
19 prejudicial effect to you as a matter of law, the
20 solicitor, or assistant solicitor, would be able to
21 introduce your criminal record for impeachment purposes to
22 try to attack your credibility or your believability with
23 the jury.

24 If you elect not to take the witness stand, I will
25 charge the jury that they are not to give the fact that

1 you did not testify any consideration whatsoever, and
2 there is to be absolutely no prejudice to you because you
3 did not testify. You have the constitutional right to
4 remain silent.

5 The decision as to whether you will testify will be
6 left entirely up to you. You may talk with your attorney,
7 but it is not your attorney's decision. The ultimate
8 decision as to whether or not you testify during the trial
9 of this case is yours and yours alone. Do you understand
10 that, Mr. Shelley?

11 DEFENDANT, MR. SHELLEY: Yes, Your Honor.

12 THE COURT: Have you understood everything I've just
13 told you?

14 DEFENDANT, MR. SHELLEY: Yes, Your Honor.

15 THE COURT: Would you like a minute to talk to your
16 lawyer?

17 DEFENDANT, MR. SHELLEY: No.

18 THE COURT: You're ready to make a decision as to
19 whether or not you wish to testify at the trial of this
20 case?

21 DEFENDANT, MR. SHELLEY: Yes, Your Honor.

22 THE COURT: And it is your decision and not anybody
23 else's.

24 DEFENDANT, MR. SHELLEY: Yes, Your Honor.

25 THE COURT: And nobody is forcing you into that

1 decision.

2 DEFENDANT, MR. SHELLEY: No, Your Honor.

3 THE COURT: Nobody has promised you or threatened you
4 in any way in order to get you to reach this decision.

5 DEFENDANT, MR. SHELLEY: No, Your Honor.

6 THE COURT: So it is entirely your decision and not
7 Mr. Mathews' or anyone else's; is that correct?

8 DEFENDANT, MR. SHELLEY: Yes, Your Honor.

9 THE COURT: And what is your decision as to whether
10 or not you wish to testify?

11 DEFENDANT, MR. SHELLEY: That I do not wish to
12 testify.

13 THE COURT: You do not wish to testify.

14 Is that your understanding as well, Mr. Mathews?

15 MR. MATHEWS: Yes, sir.

16 THE COURT: Very well. You may return to your seat.

17 DEFENDANT, MR. SHELLEY: Thank you, Your Honor.

18 THE COURT: All right. I realize that it is fifteen
19 until 4:00, and if I did argument and charge, depending on
20 what happens in the defense's case, since the State is
21 resting, the jury would get the case after 5:00 o'clock,
22 and I don't give juries cases after 5:00 o'clock. We'll
23 finish this trial first thing in the morning.

24 I've found, so that everyone knows why, because when
25 judges give juries cases after 5:00 o'clock in the

1 afternoon, that's how long it would take if we did
2 argument and charge, it would be after 5:00, juries have a
3 tendency to want to get home rather than go through the
4 evidence, and I prefer that their minds be bright and
5 fresh. We will resume the conclusion of this trial at
6 9:30 in the morning.

7 I will, however, expect the lawyers to hand up any
8 Requests to Charge by 5:00 o'clock this afternoon. I
9 advised you of that earlier. I'll be happy to have a
10 charge conference with my lawyers, once we finish the
11 testimony, but we will conclude the trial at 9:30 in the
12 morning.

13 Anything further from the State before I bring the
14 jury?

15 MR. KNIGHT: No, sir.

16 THE COURT: Anything further from the defendant
17 before I bring the jury?

18 MR. MATHEWS: No, Your Honor.

19 THE COURT: Bring us the jury, please, ma'am.

20 (NOVEMBER 14, 2012, AT 3:46 P.M., WHEREUPON, THE JURY
21 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
22 WERE HELD IN THEIR PRESENCE.)

23 THE COURT: Everyone else okay back there? No one
24 else is ill?

25 (NO RESPONSE.)

1 **THE COURT:** All right. Ladies and gentlemen, we will
2 now continue with the testimony in the trial of this case.

3 Solicitor, you may call your next witness.

4 **MR. KNIGHT:** The State rests, Your Honor.

5 **THE COURT:** Very well.

6 You've heard the evidence now from the State of South
7 Carolina. We will now hear from the defendant.

8 **MR. MATHEWS:** The defense rests, Your Honor.

9 **THE COURT:** All right, Mr. Foreman and ladies and
10 gentlemen of the jury, you've heard all the evidence in
11 this case, and it's about twelve minutes before 4:00
12 o'clock. Because it would take after 5:00 to do argument
13 and charge, we will conclude the case the first thing in
14 the morning at 9:30.

15 I told you I would get you home early this week.
16 I'll keep my word. We will finish the case the first
17 thing in the morning. I don't like to keep you here,
18 particularly where the weather forecast is that it's going
19 to start raining later on, after that late. Some of you
20 have to drive some distance to get home. I have jurors
21 who come as far as Edisto, and that's a forty-five minute
22 drive from here. I don't necessarily have one on here,
23 but I like to get you home in a timely fashion because it
24 gets dark earlier now. And I'm aware of that, and I try
25 to be mindful of your time. So it's my decision, and I

1 don't want to keep you here late where you would be going
2 home after dark.

3 Please be in your jury room in the morning before
4 9:30. I can assure you I'm going to start at 9:30 in the
5 morning, and we will complete the trial promptly first
6 thing in the morning.

7 Over the overnight recess, as I have instructed you
8 throughout the trial, please don't read the newspaper,
9 watch television, listen to the radio. Don't discuss the
10 case with anyone.

11 You have not heard the final arguments of the
12 attorneys. You have not heard my charge on the law, which
13 I will be working on tonight.

14 So I ask that you please not discuss the case with
15 anyone until I instruct you to do so. And when you do
16 discuss it, discuss it only in your jury room with your
17 fellow jurors.

18 I can assure you, we will conclude the trial first
19 thing in the morning. I want to thank you for your
20 patience. I want to thank you for your service. I'll be
21 right back with you at 9:30 in the morning. I hope
22 everyone has a pleasant evening.

23 Please report to your jury room in the morning.
24 Please do not come to the courtroom, and be here prior to
25 9:30.

1 You may leave the courtroom at this time. You are
2 excused for the balance of the day. Everyone else remain
3 seated while the jury is leaving.

4 (NOVEMBER 14, 2012, 3:50 P.M., WHEREUPON, THE JURY
5 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
6 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

7 **THE COURT:** All right. Mr. Mathews and Mr. Knight,
8 earlier, because I didn't want to bring the jury out but
9 one time and send them back, we had a discussion during
10 the last break in the afternoon and Mr. Knight advised me
11 that he wanted time to meet with his representatives in
12 his office to determine whether he had all of his evidence
13 in. I told Mr. Mathews I would be inquiring of his client
14 early, before the State rested, to make sure that his
15 client understood his right not to testify and about what
16 I would charge the jury if he didn't testify.

17 Mr. Mathews then said: Judge, I need also to make a
18 motion as a matter of law.

19 And I told him rather than send the jury back out the
20 second time after the State announced that they were
21 resting in the presence of the jury, that I would mark
22 that motion as if being heard at the close of the State's
23 case. Mr. Knight agreed to do that so that we wouldn't
24 have to send the jury out more than once.

25 Is that correct, Mr. Knight?

1 **MR. KNIGHT:** Yes, sir.

2 **THE COURT:** Is that correct, Mr. Mathews?

3 **MR. MATHEWS:** Yes, sir.

4 **THE COURT:** Mr. Mathews, I will now hear your motion,
5 as if made at the close of the State's case, on behalf of
6 the defendant.

7 **MR. MATHEWS:** Thank you, Your Honor. Your Honor, the
8 defense moves for a directed verdict of acquittal, that
9 the evidence taken in the light most favorable to the
10 State doesn't show an intent to kill. I think there's a
11 dispute as to who fired the shots. I don't think there's
12 any indication of a specific intent to kill.

13 And I've presented the case of State versus Sutton.
14 It's a 2000 case, back before attempted murder was the law
15 of the land. It is now the law of the land, and I would
16 submit, Your Honor, the defense would submit that State
17 versus Sutton in outlining what attempted murder is and
18 the level of intent necessary ---

19 **THE COURT:** Now, the statute on attempted murder from
20 Sutton was decided in 2000. The statute hadn't been
21 passed.

22 **MR. MATHEWS:** That's correct, Your Honor. It had
23 not.

24 And, Your Honor, I would just -- the defense would
25 contend that in passing it, the General Assembly would

1 have been aware of the Supreme Court's prior decision as
2 to what attempted murder would be, and the language of the
3 attempted murder case is consistent with the language in
4 State versus Sutton, that you would have to consciously
5 intend a completed act in attempt.

6 In general, attempt is a specific intent crime. The
7 act constituting the attempt must be done with the intent
8 to commit that particular crime. To constitute an
9 attempt, there must be an intent to commit a particular
10 crime. Although a murder may be committed without an
11 intent to kill, an attempt to commit murder requires a
12 specific intent to kill. In the context of an attempt
13 crime, specific intent means that the defendant
14 consciously intended the completion of acts comprising the
15 choate -- choate -- I don't know how to say that, offense.
16 In other words, the completion of such acts is the
17 defendant's purpose.

18 So, Your Honor, I would submit that there is no
19 evidence from the State for a specific purpose of either
20 party, either defendant, certainly not Mr. Shelley, a
21 specific intent to kill.

22 **THE COURT:** Solicitor?

23 **MR. KNIGHT:** Your Honor, I go back to another case,
24 State versus Foust.

25 **THE COURT:** Yes, sir. I'm very aware. 1996, 479

1 S.E.2d 50.

2 MR. KNIGHT: In that case, it says specific intent is
3 not required to commit assault and battery with intent to
4 kill. It's the same thing we've got here.

5 THE COURT: Well, for the offense of assault and
6 battery with intent to kill, a specific intent to kill was
7 not required.

8 MR. KNIGHT: That's correct.

9 THE COURT: Mr. Mathews is arguing -- we're not
10 dealing with the old common law offense or statutory
11 offense, we're dealing with 16-3-29, which is the
12 definition of attempted murder by statute. And that is a
13 person, who with intent to kill, attempts to kill another
14 person with malice aforethought, either express or
15 implied, commits the offense of attempted murder.

16 Now, Mr. Mathews is arguing to me -- he argues the
17 2000 case. I'm not sure -- I don't have the date the
18 statute was passed. When was it?

19 MR. MATHEWS: 2010, I think, Your Honor.

20 THE COURT: I think it was 2010, too. He argues a
21 2000 case. Well, back then, we didn't have the statutory
22 offense when Sutton was decided, but we still had the
23 offense of attempted murder, but it was not a statutory
24 offense. And in the Sutton case, they went into defining
25 attempt, and they said an attempt is a specific intent

1 crime. And they say that back then, in 2000, attempted
2 murder would require the specific intent to kill.

3 Well, this statute says: A person, who with intent
4 to kill attempts to kill another person with malice
5 aforethought, either express or implied.

6 Now, what he's arguing is that you have not -- that
7 you haven't produced any evidence for the directed verdict
8 stage to support that charge, because of the requirement
9 that Mr. Mathews believes -- Mr. Mathews, you tell me if
10 I'm quoting you correctly, of your belief, arguably, that
11 there is a specific intent to kill required for this
12 statutory offense. Have I summarized it correctly?

13 MR. MATHEWS: Yes, sir.

14 THE COURT: Now, having said that, Mr. Knight, I'll
15 be happy to hear from you.

16 MR. KNIGHT: Your Honor, I think what we're talking
17 about is the use of the weapon, fired some ten times,
18 there is an intent by the use of that weapon, either
19 express or implied.

20 THE COURT: That's malice.

21 MR. KNIGHT: That's malice.

22 THE COURT: Which is also -- malice can be express or
23 implied.

24 MR. KNIGHT: Exactly.

25 THE COURT: And for this offense, a person who with

1 intent to kill attempts to kill another person with malice
2 aforethought, either express or implied.

3 Now tell me, do you believe there has been evidence
4 in this trial of intent to kill?

5 MR. KNIGHT: Yes, sir.

6 THE COURT: All right.

7 MR. KNIGHT: The use of the weapon.

8 THE COURT: Well, I don't know that the use of a
9 weapon, in and of itself, but it could be evidence of
10 intent to kill.

11 MR. KNIGHT: And ---

12 THE COURT: Yes, sir?

13 MR. KNIGHT: --- at this stage, it's the existence or
14 non-existence of evidence. That's all we have to show,
15 and I think we've shown that.

16 THE COURT: There is evidence that more than one
17 round was fired from the cartridges that were recovered.
18 There is evidence, direct evidence, from a witness that
19 the defendant was the person he identified as firing the
20 rounds, and there was circumstantial evidence concerning
21 the number of rounds that may have been fired from what
22 was covered, from an evidentiary standpoint.

23 Mr. Mathews, I understand your motion, but I think at
24 this stage taking it, as you know the standard I'm
25 required to take it at the directed verdict stage, your

1 motion is respectfully denied. I will agree with you, Mr.
2 Mathews, that a person must have the intent to kill for
3 purposes of attempted murder under the 2010 statute, which
4 is not analogous to what the solicitor attempted to argue,
5 which was assault and battery with intent to kill, which
6 did not require a specific intent to kill, but we're
7 talking about two separate offenses. And I think there is
8 sufficient evidence to submit it to the jury.

9 Now, Mr. Mathews, because you rested and because the
10 State rested simultaneously, I will now allow you to make
11 a motion, as if made at the close of all the evidence in
12 this case.

13 MR. MATHEWS: Thank you, Your Honor. And, Your
14 Honor, I appreciate that, and I would just renew it on the
15 same grounds, and I fully expect it will be denied on the
16 same.

17 THE COURT: Yes, sir. For the reasons I just
18 enumerated, I think the standard requires that this is a
19 jury issue, and I'm going to submit it to the jury;
20 however, I will charge the complete wording of the
21 statute, and I will define "attempt" for the jury so that
22 they have, hopefully, a clear understanding of what burden
23 of proof the State must meet beyond a reasonable doubt in
24 order to convict your client of the offense for which he
25 was indicted.

1 Now, Solicitor, does the State have any Requests to
2 Charge?

3 **MR. KNIGHT:** Not any specific requests. Your general
4 charges.

5 **THE COURT:** Mr. Mathews, does the defendant have any
6 Requests to Charge?

7 **MR. MATHEWS:** Yes, sir, Your Honor. They would be
8 the same. It would be in the context of an attempt crime,
9 specific intent needs -- the defendant consciously
10 intended the completion. In other words, the completion
11 of such acts as the defendant's purpose. And so I would
12 ask for a definition of intent to kill, being a conscious
13 purpose, as in the language used in State versus Sutton.

14 **THE COURT:** Well, I actually think the law in Sutton
15 was talking about a different offense; however -- when I
16 say different, it was talking about attempted murder, but
17 not the statutory. I intend to charge the jury the same
18 thing, Mr. Mathews, and that is intended means intending
19 the result which actually occurs, not accidentally or
20 involuntarily.

21 But Mr. Knight is correct, too, that intent may be
22 shown by acts and conduct of the defendant from which the
23 jury could infer intent, just as they can infer malice,
24 although we call it express or implied now. But I will
25 charge the jury that an attempt includes a specific intent

1 to do a criminal act, and I will also charge the jury,
2 along with an act falling short of the act intended. But
3 I will charge them that for this offense, a person, who
4 with the intent to kill attempts to kill another person
5 with malice aforethought, either express or implied,
6 commits the offense of attempted murder. And I think that
7 that is the correct definition of attempt, as well as
8 giving the jury the fact that this statutory offense of
9 attempted murder requires that a person must have the
10 intent to kill.

11 However, the jury has to know that the act falls
12 short of the act, or the attempt does, even though it
13 includes a specific intent to do a particular criminal
14 act, along with an act falling short of the act intended.
15 And I think they need to be told that, and I intend to
16 charge that, but I'll go over that with you in my charge
17 conference.

18 Other than that charge, because I intend to define
19 attempt and define the statute, Mr. Mathews, are there any
20 other requests by the defendant as Requests to Charge?

21 **MR. MATHEWS:** No, sir.

22 **THE COURT:** All right, with that, ladies and
23 gentlemen, it is now about five after 4:00. I'm going to
24 adjourn -- I'm going to meet the lawyers in chambers. I'm
25 going to go over the verdict form and the entire charge so

1 that they can prepare their arguments overnight.

2 We will resume the conclusion of this trial at 9:30
3 a.m. in the morning with closing argument by each of the
4 attorneys, and then my charge on the law. I'll be happy
5 for you to join us in the morning for the conclusion of
6 the trial, which will start at 9:30.

7 The defendant is in custody. This court is adjourned
8 until 9:30 a.m. tomorrow morning.

9 Counsel, I'll see all my lawyers in chambers.

10 (WHEREUPON, THIS CASE WAS RECESSED. THEREAFTER, ON
11 NOVEMBER 15, 2012, AT 9:36 A.M., THE FOLLOWING PROCEEDINGS
12 WERE HELD ON THE RECORD OUT OF THE PRESENCE AND HEARING OF
13 THE JURY:)

14 THE COURT: Is the State ready to proceed?

15 MR. KNIGHT: Yes, sir.

16 THE COURT: Is the defendant ready to proceed?

17 MR. MATHEWS: Yes, Your Honor.

18 THE COURT: Mr. Mathews, I was advised by my law
19 clerk that you, of course, take issue with the charge. Of
20 course, you'll have the opportunity, as you know, -- I
21 will give you the opportunity after the charge to take
22 exception or make objection to anything that I charge.

23 Let the record reflect, Ronda, that last night I met
24 with the solicitor, Mr. Knight, and Mr. Mathews. I went
25 over my entire charge with them. I also went over the

1 verdict form with them. Both of them are completely aware
2 of everything that I'm going to charge, and they both
3 agree to the verdict form.

4 Mr. Mathews takes exception, although I'm charging
5 the exact wording of the new attempted murder statute.
6 Mr. Mathews wants me to add some additional wording, and
7 we discussed it yesterday on the record. I think my
8 charge adequately covers it, and I told him that.

9 I am going to define general intent. I'm going to
10 define "attempt" since it is a word in the statute.

11 Mr. Mathews cited to me a 2000 case. That case was
12 decided under -- it was for the offense of attempted
13 murder, but that case was decided prior to the passage of
14 the statutory offense that we have now of attempted
15 murder. And, of course, the Legislature defined attempted
16 murder when they passed that statute in 2010. And for
17 that reason, I was hesitant to use language from a case
18 dealing with an offense, which is not the statutory
19 offense for which the defendant is charged.

20 Have I accurately stated what occurred in chambers,
21 as far as the State is concerned?

22 MR. KNIGHT: Yes, sir.

23 THE COURT: Insofar as the defendant is concerned?

24 MR. MATHEWS: Yes, Your Honor.

25 THE COURT: All right.

1 Now, we also agreed on the order of argument.
2 Because the defendant did not present any evidence in the
3 trial of this case, the defendant has closing argument
4 now, which means the State will argue first, followed by
5 the defendant. They've each asked me for thirty minutes,
6 and that's fine. If you go twenty-five minutes, you will
7 hear the familiar what?

8 MR. KNIGHT: Boom, boom, boom.

9 THE COURT: That's right.

10 (WHEREUPON, THE COURT TAPPED ON THE BENCH.)

11 THE COURT: The tap, to let you know you've got five
12 more minutes to bring it to a conclusion. Very often,
13 some of my lawyers get up and get so fascinated with what
14 they're saying that they lose a little track of time. So
15 I try to remind you. My law clerk will not get a hook and
16 pull you down or anything like that, but I'd like for you
17 to try to keep it -- one of the reasons is, I've just been
18 informed by Cameron Ray Taylor, that I've got six visitors
19 that needed his assistance to help them find their way to
20 the Colleton Courthouse that were summoned for jury duty.
21 So I'm going to be dealing with them later on this
22 morning. Also, Ashley needs to know for transportation
23 purposes, because she's got she says about fifteen matters
24 that she wants me to handle before the close of business
25 today, so I'd like to stay on track with the trial, if we

1 could. The solicitor, therefore, will argue first,
2 followed by the defendant.

3 Have I accurately stated what occurred insofar as the
4 order of closing argument, from the State?

5 MR. KNIGHT: Yes, sir.

6 THE COURT: Mr. Mathews, from the defendant?

7 MR. MATHEWS: Yes, Your Honor.

8 THE COURT: Very well.

9 I think that covers everything that we discussed last
10 night in chambers. With that, I think we're ready to
11 proceed.

12 Ma'am, would you bring us the jury, please?

13 (NOVEMBER 15, 2012, 9:40 A.M., WHEREUPON, THE JURY
14 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
15 WERE HELD IN THEIR PRESENCE.)

16 THE COURT: Good morning, Mr. Foreman.

17 FOREMAN: Good morning, Your Honor.

18 THE COURT: Good morning. All right, ladies and
19 gentlemen, thank you for your patience. I had a couple
20 matters of law that I had to take up last night and
21 briefly this morning.

22 You've heard the evidence in this case. You will now
23 hear the closing arguments of the attorneys, followed by
24 my charge to you on the law. I ask that you give the
25 attorneys your careful consideration.

1 Mr. Knight?

2 MR. KNIGHT: May it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 MR. KNIGHT: Mr. Foreman and ladies and gentlemen of
5 the jury, I'm going to discuss with you briefly the issues
6 of law that as I understand the Court will charge you.
7 One thing about the law the Judge will charge you, you
8 must accept it, whether you like it or not, because the
9 judge is in charge of the law. So whatever he tells you
10 the law is, you have to accept it. During the course of
11 your deliberations, you must abide by that.

12 Now, we have attempted murder. Attempted murder, as
13 I understand it, is a person who, with intent to kill,
14 attempts to kill another person with malice aforethought,
15 either expressed or implied.

16 That's what I understand attempted murder is. Again,
17 His Honor will charge you, much more so than I can.

18 Then another issue as to the issue of law is the
19 credibility of the witnesses. What is the credibility of
20 the witnesses?

21 Well, as I understand it, it is the believability of
22 a witness or witnesses. In other words, you can believe a
23 portion of a witness's statement, discount the rest. You
24 can believe all of a witness's statements, discount
25 another witness's statement. You can judge that witness's

1 demeanor on the stand, how he testifies, his bias or
2 prejudice, and you can judge that by looking at that
3 witness while he's on the witness stand. That's called
4 the credibility of the witness.

5 Then we have another principle of law. It's called
6 the hand of one is the hand of all.

7 As I understand the hand of one is the hand of all,
8 and I'll just have to give you an example. Two people in
9 a car, and they're going to rob a store. One guy gets
10 out. He goes into the store with a gun. The other guy is
11 behind the wheel of that car with the car running.

12 The guy that drives the car is just as guilty as the
13 man that went into the store with the weapon and robbed.
14 Both are guilty of armed robbery.

15 Another example I can give you, you know, I'm trying
16 to explain what the hand of one, the hand of all is, you
17 go to rob a store. One guy goes in. The other guy stands
18 outside as a lookout. You know, what does this mean?

19 This means that the guy outside on the lookout and the guy
20 that's driving the car, or the guy comes in with a gun and
21 robs the store is aiding him, assisting him in the
22 commission of this, in my example, armed robbery. That's
23 the hand of one is the hand of all.

24 Now there's another principle involved in that that's
25 called the mere presence. In other words, if you're just

1 there, you know, I mean, you know what's going on, you're
2 not guilty of anything just because you're there. But
3 your actions, you're assisting the person who perpetrates
4 the crime, makes you as guilty as the person that actually
5 does the crime. My example was an armed robbery.

6 Another principle of law that His Honor will charge
7 you is the intent, a person's intent, to commit an act or
8 attempt to commit an act. What is intent? Well, intent
9 is something that's in their head. We can't look in
10 somebody's head and tell what their intent is, whether
11 their intent is to speak or not speak, or to move or not
12 to move. But what we can do as an element in determining
13 what his or her intent is, is what is their actions? What
14 did they do that shows you what their plan is, their
15 intent in this atmosphere of, in my example was armed
16 robbery, in this case driving a car and shooting out of a
17 car at two police officers. So, that's what I understand
18 are the elements in the law that His Honor will charge
19 you.

20 There's also another charge that's called possession
21 of a weapon in the commission of a violent offense. The
22 South Carolina Legislature has determined that attempted
23 murder is a violent offense. So you've got weapons in
24 possession during the course of this offense, which makes
25 it a possession of a weapon during the commission of a

1 violent offense.

2 That's what I understand the law. And, again, I'll
3 repeat myself. You must accept the law as His Honor
4 charges you, whether you like it or not.

5 Now, on July the 12th of 2011 at about 7:00 o'clock,
6 Officer Eaches, with the Dorchester County Sheriff's
7 Department, was working stationary to the median on I-95.
8 He observed a black vehicle, who he thought originally was
9 a Linx, I think, or a Lincoln, make an improper lane
10 change. And he pulled up -- pulled out, pulled up next to
11 that vehicle, parallel. His blue light went on.

12 He looked at who the driver was, and a unique thing he
13 noticed about the driver was that he had what we call
14 dreadlocks hanging down. You'll have a photograph that
15 you can take to the jury room, and you can look at the
16 person that Eaches defined as the driver, a fellow by the
17 name of Maurio Rivers. No question in his mind.

18 He chased them. You saw the video. You saw two
19 videos. You saw the chase speed up to a hundred miles an
20 hour off of I-95 going down and coming into Colleton
21 County. Once you cross Exit -- I think it's 68, you enter
22 into Colleton County. And you saw both cars just flying.
23 You know? Ninety/hundred miles an hour. That's amazing.

24 You also saw -- fortunately, Lieutenant Burnette was
25 able to stop the vehicle by bumping it twice, I think, and

1 forcing it to turn over. Without that, who knows if they
2 would have ever got caught? But that's, you know, only
3 for you to decide.

4 Officer Burnette, Lieutenant Burnette, I apologize,
5 at about I would say 1908, because it was on the video,
6 the audio, you could hear it on the replay of the audio
7 that he noticed the passenger moving around, making some
8 kind of movements inside the vehicle. And at 190848, that
9 means forty-eight second later after he noticed the
10 passenger moving around, shots were fired to his vehicle,
11 and obviously, Deputy Eaches, just forty-eight seconds
12 later.

13 Then, of course he bumped the car, he being
14 Lieutenant Burnette, bumped the car, and it rolled over.
15 Lieutenant Burnette, I think his testimony was this: I am
16 one hundred percent positive who the driver was, which is
17 Maurio Rivers. I'm also one hundred percent positive who
18 the passenger was who did the shooting, Shelley Bronson,
19 Bronson Shelley.

20 That was his testimony. It was right on the tape.
21 You can listen to it again, if you would like.

22 The most amazing thing of all of this is they had
23 three guns in the car, plenty of other ammo. I think
24 Deputy Ethridge secured somewhere in the neighborhood of
25 nine or ten cases that were found at this scene.

1 Those were sent off to S.L.E.D., and you heard Agent
2 Eichenmiller testify that she tested the guns, two guns,
3 the .380 and the .38, and those casings were fired by the
4 .380 and by the .38.

5 Two guns. There were two people in that car, weren't
6 there, and two guns?

7 That's amazing, absolutely amazing that no one got
8 hurt, thank goodness. Actually, we have three guns. We
9 have a reserve weapon. I think it was a Colt .45 in the
10 glove compartment. These fellows were prepared.

11 Now, you may ask yourself, and only you can answer
12 this question, why would you fail to stop for a blue
13 light? Only you can answer that. You get up to speeds of
14 up to a hundred miles an hour. Why would you fail to
15 stop?

16 And then, more importantly, the shooting is over, the
17 car is flipped over, and you run up into the woods. Why
18 would you do that? Flight is an inference of something.
19 What is it? And only you can answer that question. Why
20 would you not want to be apprehended? Why? Flight is an
21 inference of guilt. It's amazing. It's absolutely
22 amazing.

23 These people don't know each other. Lieutenant
24 Burnette, Deputy Justin Eaches do not know this defendant,
25 nor Maurio Rivers, the driver. They were just out doing

1 their duty on July the 12th of 2000, marked patrol cars,
2 uniforms, the whole thing, doing their job and this
3 occasion occurred.

4 I think the video speaks a thousand words when you
5 look at it. It tells you what happened on this frantic
6 afternoon.

7 And remember, in July at 7:00 o'clock, it's still
8 light. It's not dark, so people can see.

9 Now, there were other deputies who showed up after
10 the incident. They were called, I think, perimeter people
11 that just rode around making sure the perimeter was
12 secure, no one was coming or going inside the area where
13 the car was or where the two people that were arrested
14 were. They had no information, no probative evidence that
15 would have assisted you in making the decision in the
16 determination -- in determining the guilt or innocence of
17 this defendant.

18 Tim Knight testified that he was the third vehicle, I
19 think. Lieutenant Burnette was first, Jason Eaches was
20 second, he was third. He saw the whole thing, and there
21 were no other people that jumped out of that car, other
22 than two people, Rivers and the defendant, Bronson
23 Shelley.

24 Another thing, no deputy from the Dorchester County
25 Sheriff's Department fired his or her weapon, none. All

1 the firing came out of the black Acura by two different
2 weapons, no one else.

3 Now you've got all the evidence over there. You can
4 take it back to the jury room. You can go through it,
5 look at it. You've got the weapons, the casings, the
6 videos, the audios. If you want to look at them again,
7 His Honor will give you that opportunity.

8 If I said something or say something that is not the
9 way you understand it, I don't do it intentionally. So
10 you can rely upon your opportunity, if you see fit, to go
11 back and listen and look at all the things that have been
12 put into evidence.

13 Think about this, the facts in this case and the
14 videos which you saw very clearly, there were two weapons
15 that were used, two people in the car, and there was
16 shooting from that car. I submit to you, ladies and
17 gentlemen of the jury, that we have proved beyond a
18 reasonable doubt that the defendant, Bronson Shelley, is
19 guilty of two counts of attempted murder and one count of
20 possession of a weapon during the commission of a violent
21 offense. Thank you.

22 Thank you, Your Honor.

23 **THE COURT:** Mr. Mathews?

24 **MR. MATHEWS:** Thank you, Your Honor.

25 Mr. Knight.

1 Mr. Foreman, ladies and gentlemen of the jury, I
2 first will briefly respond to some of the things that Mr.
3 Knight argued to you. First of all, there is nothing
4 obvious about the guilt of Mr. Shelley at all in this
5 case. The State spent the lion share of its time proving
6 that the passenger fired shots at Lieutenant Burnette.

7 Now, I don't even know why anybody is charged with
8 shooting at Deputy Eaches. You had a chance to see his
9 videotape. It said Jefferson, but he said that was him.
10 He switched cars with Jefferson, and Jefferson had another
11 car, but his had a tape thing, too, but don't know whose
12 it is, but in any event, you had a chance to see his
13 video. He wasn't even in sight of this. Nobody was
14 shooting at him, nobody.

15 He only -- he didn't see anybody shoot. He didn't
16 hear anybody shoot. What he heard was over the radio. He
17 heard Lieutenant Burnette say: Shots fired.

18 So he's not a victim. That's just crazy, and you can
19 learn a lot about the State's case from looking at that.

20 If they charge Bronson Shelley with shooting at
21 somebody that wasn't even within sight, didn't even know
22 shots were fired, except he heard it over the radio, what
23 does that say about the rest of this case? There is
24 absolutely -- nobody did anything to Deputy Eaches,
25 nobody.

1 They spent the lion share of their case talking about
2 who was the passenger and who was the driver. That was
3 important to them, and Lieutenant Burnette did say: I'm a
4 hundred percent sure that the passenger is the one that
5 shot at me.

6 I don't know if he said I'm a hundred percent sure of
7 who was the passenger or who was the driver, but he said:
8 I'm a hundred percent sure it is the passenger who shot.

9 He saw movement, and you know, maybe that's so.
10 Maybe.

11 Now, the interesting thing is, the one slug that they
12 took out, I guess the projectile, the piece of a
13 projectile, the one projectile they found, wasn't taken
14 from Lieutenant Burnette's car. You've got pictures back
15 there of a couple of holes in his car, one down at the
16 bumper and then the other at the windshield. The
17 windshield, it maybe didn't go through. I can understand
18 why there wouldn't be a slug there. I don't understand
19 why there wouldn't be a slug in the bumper, but there
20 wasn't.

21 Where did the slug come from? It came from under the
22 Acura when it was flipped over. That's what -- that's
23 what the testimony was, and that's also where the .38 was
24 found. The projectile from the .38 was found near the .38
25 underneath the car. That's the only evidence.

1 In terms of the shells that were found, my
2 understanding of Agent Eichenmiller's testimony is that
3 she didn't test the shells that were in the revolver. So
4 as far as .38 shells, anything fired from the .38, she
5 said as a matter of policy, she didn't test those. She
6 took them out, and she didn't examine them.

7 She examined -- the shells that she examined were
8 from the Bursa. And, interesting, we've got pictures of
9 placards next to shells. None of the shells were found
10 inside of the Acura or under the Acura, which, again,
11 that's you talk about -- I think Lieutenant Burnette also
12 said he's a hundred percent sure that he didn't describe
13 the car as a Lincoln, but he did, and it's on Track 21 --
14 Track 1 through 5 on that 911 tape, if you want to listen
15 to that. And he denied it. I don't know why he did.

16 I think minds are tricky. Eyewitness testimony is
17 tricky. One thing that is not tricky is forensic
18 evidence. That's one thing Agent Eichenmiller says: I
19 can't say where these came from. I can't say where it was
20 fired. I can say it's part of -- she found -- she didn't
21 know, but we had testimony that it was taken from
22 underneath the Acura.

23 She says this came from this gun. I can say that.
24 We have no reason to doubt that that's true.

25 Now whether it was -- you know, why is it right next

1 to them, because they're both underneath there? I don't
2 know, but if you want to learn something about intent,
3 that's something about intent.

4 Did it accidentally go off? I don't know. I don't
5 know the trigger pull you need to do that, whether -- but
6 I can tell you that if it's in the ground next to the
7 thing, it wasn't fired at an officer.

8 It's -- eyewitness testimony is notoriously
9 unreliable. And if you want to -- on the stand,
10 Lieutenant Burnette is very sure, but listen to Track 21
11 on the EMS tape again. The State played the first five, I
12 think, or six tracks on that, and I asked them to please
13 play also Track 21, and they did.

14 And in that he said: We've got one suspect in
15 custody and he's got dreads. I think the other one may
16 have dreads, may have dreads, maybe a little shorter.

17 And he said: I think he was wearing jeans or shorts.

18 Jeans or shorts? That's not a little mistake.
19 That's -- but, you know what, that's not -- that is not a
20 lie. That's -- that's -- things happen quickly, and
21 because things happen quickly, you don't take it all in.
22 And let's -- these are two, you have the pictures, two
23 similar looking black males, both wearing white t-shirts,
24 both have braided hair or dreads.

25 And as far as Deputy Eaches' testimony, he's

1 overreaching. This is too much. He says first of all
2 that he was traveling at seventy miles an hour and he got
3 parallel to the Acura, which he also thought was a
4 Lincoln, and he said at seventy miles an hour he looked
5 for ten to fifteen seconds.

6 Now, if you're driving on the interstate at seventy
7 miles an hour and you've got your head turned that way for
8 ten to fifteen seconds, you're going to wreck. Okay?
9 There is absolutely not a chance in this world that he
10 looked at that car for anything like -- a second would be
11 a pretty long time. Like that.

12 Go back and count. Go back there and everybody be
13 quiet when you get back there, and you count to fifteen
14 and picture him on the interstate looking for fifteen
15 seconds. At sixty miles an hour, that's a quarter of a
16 mile. Running parallel to somebody for a quarter of a
17 mile? Really? That didn't happen.

18 But see, when things are happening fast, maybe you
19 feel like that's true, but that's the problem with
20 eyewitness testimony. It's just not reliable.

21 And then he said: I was a little back behind it.

22 Now, if he was a little back behind it, what he saw
23 was the back of the driver's head, or some -- some portion
24 of it. From that distance, you might be able to tell
25 there are dreads, but these are tinted windows. You've

1 got the picture back there. And the windows he said were
2 up.

3 So we're asked to believe that he was able to
4 identify the driver and the passenger through tinted
5 windows on the interstate a little bit behind. That did
6 not happen. It could not have happened. It's ridiculous.
7 It is an absurd thing, and the fact that you would be
8 asked to believe that is an insult to your intelligence.
9 That's crazy. That didn't happen.

10 Now, I have no doubt that when they -- when they
11 pulled them in, they got them -- I mean, these two people
12 were in the car, there's no question about that, but as
13 far as who did what, what reliable evidence do we have?

14 Well, one thing, some reliable evidence that we could
15 have is we could have DNA from the triggers. Swabs were
16 taken. They were not even sent to S.L.E.D. This isn't a
17 matter of -- and you sit back there and say, well,
18 resources and that sort of stuff, but they spent a lot of
19 time with a ballistic expert. They went through the same
20 -- all that, to establish what? That a bullet was fired
21 apparently into the ground underneath the Lexus next to
22 the .38 and that some shells that were found somewhere
23 outside of the Lexus.

24 Now if the windows are up when it's being fired,
25 again, I have a hard time understanding why, even if

1 they're expelled, why they wouldn't be inside the car, but
2 they weren't. We don't know where they were, because we
3 don't have any diagrams. We don't have any pictures
4 showing relationships between objects.

5 Mr. Knight has said: Well, there's no evidence that
6 the sheriff's office fired guns.

7 I wonder why that keeps getting mentioned? I wonder
8 why?

9 In any event, there's no indication that any of the
10 bullets or shells or whatever were found were intended --
11 anyway -- you jump out of the car, you don't take your gun
12 with you. You're scared. You're trying to get away.
13 You're trying to get away. Why are you trying to get
14 away?

15 Well, they found out. The dogs got ahold of them
16 pretty good, tore them up. An ambulance had to be sent
17 for both of them. Okay?

18 And what the order was is important, too, because
19 they assumed, Lieutenant Burnette assumed, Officer Knight
20 assumed, they all assumed that the first guy they had was
21 the driver. They assumed that, based on Eaches' testimony
22 or the call over the thing.

23 He's the only person that apparently could have seen
24 that early on, and he couldn't have from that angle. It's
25 not possible. There's no way he could see the passenger.

1 He probably barely saw the driver.

2 After they got out, maybe he made some assumptions,
3 and that's what happened. That's got to be the driver
4 right there. We've got the driver.

5 But he wasn't the driver. They didn't get any
6 testimony from him. They didn't ask him: Were you
7 driving the car?

8 He didn't tell them he was driving the car. There's
9 no testimony that Eaches was the driver -- that Maurio
10 Rivers was the driver. They assumed that.

11 Knight says: I assumed it, because somebody told me.

12 That's what he said. And based on that assumption,
13 then the next guy they got, John Doe Number Two, must have
14 been the guy that did the shooting, must have been,
15 because he's the only guy that's left.

16 And if you're driving, you're not shooting; right?
17 Obviously, if you're driving, you're not shooting, so it
18 had to be the passenger. And since we assume that this
19 first guy is the driver, the next guy we get, which is
20 Bronson Shelley, John Doe Number Two, he must have been
21 the one who did the firing. And then they go back and
22 they work all this stuff backwards. That's the
23 assumption.

24 But you know what? The EMS driver, who is only there
25 to treat, Steven Bellew, EMT Bellew, he testified that he

1 took -- he asked -- he asked -- the other one was
2 unconscious, I guess, at that point.

3 I don't know, but I know that Bellew said: I took a
4 history, and you do that in order to treat, not in order
5 to convict. How can we best treat you? We need to know
6 the mechanics of what's going on.

7 What's the history that was presented to you? An
8 unrestrained driver.

9 Mr. Knight asked, I think, three times and three
10 times he got the same answer: Was it in your report?

11 It was.

12 Who was the driver? It wasn't Maurio Rivers. This
13 was the driver. Bronson Shelley was the driver. He told
14 that to the EMT, not to law enforcement. Just so he could
15 be treated properly, you want to give a proper -- you want
16 to say what's going on so you can be treated properly.
17 That's the evidence that we have as to who was driving.

18 Now, as far as who was firing, we've got some
19 inferences, I guess, this way or that or whatever, I don't
20 know, but we could have solid evidence. We could have
21 DNA.

22 You know what? Maybe they ran it. Maybe they didn't
23 have anything usable. We'll never know, because they
24 didn't send it.

25 We know they did send gunshot residue taken from the

1 hands of both Mr. Rivers and Mr. Shelley, but did you hear
2 a result? No. They didn't present it. It was sent to
3 S.L.E.D. Was a report done? There's no evidence. But if
4 it was done and it implicated Bronson Shelley, you can bet
5 that you would have heard about it. You can bet.

6 The evidence is, there's no evidence -- no credible
7 evidence. I'm sorry. There's no credible evidence. The
8 credible evidence would have been the forensic evidence,
9 which they did count on when they did ballistics, but they
10 didn't when it didn't suit them.

11 The DNA that they didn't even bother to test and the
12 gunshot residue, which maybe they tested, but you don't
13 know the result. So that's what we've got. That's what
14 we're dealing with.

15 As far as a common scheme or plan or whatever, you're
16 driving the car. Your job is to drive the car; this isn't
17 a planned armed robbery. You're driving down the road.

18 Well, why didn't they stop? I don't know. There
19 wasn't any evidence.

20 So see, here's the thing. In a criminal case, the
21 State has to prove what's happening. It doesn't leave it
22 to your imagination to fill in the gaps.

23 Why do you suppose they ran? Well, I tell you what,
24 based on how they got caught, if I knew those dogs were
25 going to get me, I think I would have run, too.

1 Now, why didn't they pull over? I don't know.
2 You're driving up there and you see a police car behind
3 you and then you see a couple police cars up. You start
4 to pull over. Look at the tape if you need to. You start
5 to pull over and you see all those other cars down there.
6 Something's up. Something's up. We're not -- I'm -- I'm
7 -- I don't know these people. Something's up. I'm not --
8 I don't know what's going down, but I'm not stopping.

9 He got back -- he started to pull over. He got back,
10 when he saw those other cars, he got back and then he took
11 off. I don't know why, but there wasn't any plan to do
12 anything. I'm just driving.

13 The State has to prove this, and they've come way
14 short of doing that. You don't have to fill in the gaps.
15 You can't, and if you do, Mr. Shelley, the evidence not
16 only doesn't indicate that he was likely the passenger, it
17 indicates that he was likely the driver. And the
18 passenger maybe did shoot. At whom and for why? I don't
19 know, because there's no evidence -- this is not --
20 there's no evidence of an intent to kill, but certainly no
21 evidence that Mr. Shelley even fired a gun, had any plan
22 or scheme with anybody. And the State has come way short.

23 And as far as Eaches, take a -- why? Look at the
24 videos. Look how far back he was. It's absurd.

25 Please look at all -- take all the time you need.

1 Look at all the evidence you need, but don't -- don't
2 chase red herrings. Don't look at shells that didn't go
3 -- slugs that didn't go into a police car. Don't look at
4 shells that you don't -- you look at them, but why weren't
5 they inside the car? Why don't we know where they were?

6 Mr. Shelley is not guilty. Please consider this
7 carefully, and have a great day.

8 **THE COURT:** All right, Mr. Foreman and ladies and
9 gentlemen of the jury, it's now my duty to charge you on
10 the law of this case.

11 The State has charged the defendant, Bronson Shelley,
12 with two counts of attempted murder; in Indictment
13 2011-552, charging the defendant, Bronson Shelley, with
14 the attempted murder of Deputy J. Burnette; in Indictment
15 2011-GS-15-553, the State charges the defendant, Bronson
16 Shelley, with attempted murder of Deputy J. Eaches, that's
17 E-A-C-H-E-S. In Indictment 2011-554, the State charges
18 the defendant, Bronson Shelley, with possession of a
19 weapon during the commission of a violent crime.

20 I remind you that the fact that the defendant was
21 arrested, charged, and indicted in this case is not
22 evidence in this case, nor does it create any presumption
23 or inference of guilt. The indictments are simply the
24 formal, written instruments by which the charges were made
25 against the defendant, and they contain the charges made

1 against the defendant. The indictments are the formal
2 documents by which the case is brought into the Court of
3 General Sessions.

4 Now to the indictments, the defendant, Bronson
5 Shelley, has pled not guilty. And that plea of not guilty
6 puts the burden on the State of South Carolina to prove
7 the defendant guilty beyond a reasonable doubt.

8 A person charged with committing a criminal offense
9 in South Carolina is never required to prove himself
10 innocent. I charge you, ladies and gentlemen of the jury,
11 that it is an important rule of the law that a defendant
12 in a criminal trial, no matter what the seriousness of the
13 charge may be, will always be presumed to be innocent of
14 the crime for which the indictment was issued, unless
15 guilt has been proven by evidence satisfying you of that
16 guilt beyond a reasonable doubt.

17 The presumption of innocence does not end when you
18 begin your deliberations, but it accompanies the defendant
19 throughout the trial until you reach a verdict of guilt
20 based on evidence satisfying you of that guilt beyond a
21 reasonable doubt.

22 The presumption of innocence is not just a legal
23 theory. It's not just a legal phrase. It is a
24 substantial right, to which every defendant is entitled
25 unless you, the jury, are satisfied from the evidence of

1 the defendant's guilt beyond a reasonable doubt.

2 What is a reasonable doubt in the law? A reasonable
3 doubt is the kind of doubt that would cause a reasonable
4 person to hesitate to act. The State has the burden of
5 proving the defendant guilty beyond a reasonable doubt.

6 Some of you may have served as jurors in a civil case
7 where we tell the jury in a civil case, such as a contract
8 case, that it is only necessary to prove that a fact is
9 more likely true than not true. We call that burden of
10 proof in a civil case by the greater weight or
11 preponderance of the evidence.

12 In a criminal case, such as the case here, the
13 State's proof must be more than that. It must be beyond a
14 reasonable doubt. Proof beyond a reasonable doubt, ladies
15 and gentlemen of the jury, is proof that leaves you firmly
16 convinced of the defendant's guilt.

17 There are very few things in this world that any of
18 us know with absolute certainty, and in criminal cases,
19 the law does not require the State to produce proof that
20 overcomes every possible doubt. If based on your
21 consideration of the evidence you are firmly convinced
22 that the defendant is guilty of the crime charged, you
23 must find the defendant guilty.

24 On the other hand, if you think there's a real
25 possibility that the defendant is not guilty, you must

1 give the defendant the benefit of the doubt and find the
2 defendant not guilty.

3 I remind you, ladies and gentlemen, that you and I
4 during this trial have had certain duties to perform. As
5 the trial judge, it has been my responsibility to preside
6 over the trial of this case, and I also have the duty to
7 rule on the admissibility of the evidence that was offered
8 during the trial of the case. You are to consider only
9 the competent evidence before you.

10 If there was any testimony ordered stricken from the
11 record in this case during this trial, you must disregard
12 that testimony. You are to consider only the testimony
13 which has been presented from the witness stand, any
14 exhibits which have been introduced into evidence during
15 the trial of this case, and if there were any stipulations
16 or agreements of counsel concerning any facts of the case.

17 Now as the trial judge, I also have the additional
18 duty to charge you the law that applies to this case. As
19 the presiding judge, I am the sole judge of the law of
20 this case, and it is your duty as jurors to accept and to
21 apply the law as I now state it to you.

22 If any of you already have any ideas, if any of you
23 have any opinions, about what you think the law is or what
24 you feel the law ought to be and it does not agree with
25 what I now tell you the law is, you took an oath. You

1 swore you would accept the law. You must abandon any of
2 your preconceived ideas or opinions, because you are sworn
3 to accept the law and apply the law exactly as I now state
4 it to you.

5 In every case tried in this courtroom before a jury,
6 the jury becomes the sole and the exclusive judges of the
7 facts in the case. A trial judge, such as myself, cannot
8 intimate, a trial judge cannot comment, state, or make any
9 kind of inference or statement to a trial jury about the
10 facts in a case.

11 Since you, ladies and gentlemen of the jury, are the
12 sole judges of the facts in this case, you are not to
13 infer from what I have said during the progress of this
14 trial in ruling upon the admissibility of evidence or
15 otherwise, or anything that I say now during the course of
16 this instruction to you, that I have any opinion
17 whatsoever about the facts in this case. The law does not
18 allow me to have an opinion about the facts in this case.
19 This is a matter solely for you, the jury, to determine.
20 As jurors, it is your duty under your oath to determine
21 the effect, the value, the weight, and ultimately the
22 truth of the evidence that's been presented during the
23 trial of this case.

24 Now there are two types of evidence which are
25 generally presented in a trial, and like many things in

1 the law, ladies and gentlemen, we have names for those two
2 general types of evidence. We call the two general types
3 of evidence direct evidence and circumstantial evidence.
4 I'll explain to you the difference.

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

9 Circumstantial evidence, as contrasted with direct
10 evidence, is proof of a chain of facts and circumstances
11 indicating the existence of a fact. Circumstantial
12 evidence is evidence which immediately establishes
13 collateral facts from which the main fact may or may not
14 be inferred. Obviously, circumstantial evidence is based
15 on inference and not on personal knowledge or personal
16 observation.

17 The law makes absolutely no distinction between the
18 weight or the value to be given to either direct evidence
19 or circumstantial evidence, nor is a greater degree of
20 certainty required of circumstantial evidence than of
21 direct evidence. Ladies and gentlemen of the jury, you as
22 the jury, should weigh and consider all of the evidence in
23 this case, both direct and circumstantial.

24 After considering and weighing all of the evidence,
25 if you're not convinced of the guilt of the defendant

1 beyond a reasonable doubt, you must find the defendant not
2 guilty. On the other hand, after weighing all the
3 evidence in this case, both direct and circumstantial, if
4 you're convinced of the guilt of the defendant beyond a
5 reasonable doubt, you must find the defendant guilty.

6 Necessarily, you must determine the credibility or
7 the believability of the witnesses who have testified in
8 this case. It becomes your duty as jurors to analyze. It
9 becomes your duty to evaluate the evidence and determine
10 which evidence convinces you of its truth.

11 In determining the believability of the witnesses who
12 have testified in this case, you may believe one witness
13 over several witnesses or several witnesses over one
14 witness. You may believe a part of the testimony of a
15 witness and reject the remaining part of the testimony of
16 that same witness.

17 You may believe the testimony of a witness in its
18 entirety, or you may reject the testimony of a witness in
19 its entirety. You may consider whether any witness has
20 exhibited to you any interest, any bias, any prejudice or
21 other motive in this case.

22 You may also consider, as I told you at the outset,
23 the appearance, the manner of the witness while the
24 witness is on the witness stand. We call that the
25 demeanor of the witness.

1 Anything that is in evidence, you as a jury have the
2 right to consider in weighing and considering the
3 credibility or the believability of the witnesses who have
4 testified during the trial of this case.

5 Now as I instructed you during the trial, the Rules
6 of Evidence ordinarily do not permit the witness to take
7 the oath, sit down on that witness stand and say: My
8 opinion about what happened is this.

9 We have rules against offering opinions or
10 conclusions to things to which someone did not observe.
11 An exception to the opinion rule exists for those
12 witnesses we call expert witnesses. A witness, who by
13 education, training, or experience claims to have become
14 an expert in some art, science, or profession may give an
15 opinion as to the subject the witness claims to be an
16 expert in and may give the reason for his or her opinion,
17 if found to be qualified by the Court.

18 You should consider any expert opinion given by a
19 witness, and like any other evidence, you give it the
20 weight as a jury you think it deserves. If you think that
21 an expert witness opinion is not based on sufficient
22 education and experience, or if you decide that the
23 reasons given in support of the opinion are not sound or
24 that the opinion is outweighed by other evidence, you may
25 disregard the opinion entirely. An expert witness's

1 opinion testimony is to be given no greater weight than
2 that of other witnesses, simply because the witness is an
3 expert.

4 Now, I charge you, ladies and gentlemen, that the
5 fact that the defendant in this case did not testify is
6 not a factor to be considered by you in any way in your
7 deliberations and in your consideration on the question of
8 the guilt or the innocence of the defendant. It must not
9 be considered by you in any manner whatsoever.

10 A defendant has the constitutional right to remain
11 silent, and the assertion of this right must not be
12 considered by you in your deliberations. I repeat, and
13 under that oath which each of you took, you are to draw no
14 conclusion, whatsoever, from the fact that the defendant
15 in this case did not testify. The fact the defendant did
16 not testify should not be discussed in your jury room.

17 The burden of proof, as I have stated to you, is on
18 the State of South Carolina. The defendant is not
19 required to prove his innocence. The burden of proof
20 remains on the State to prove guilt beyond a reasonable
21 doubt.

22 I charge you, ladies and gentlemen, that an issue in
23 this case is the identification of the defendant as the
24 person who committed the crime charged. The State has the
25 burden of proving identity beyond a reasonable doubt.

1 You must be satisfied beyond a reasonable doubt of
2 the accuracy of the identification of the defendant before
3 you may convict the defendant. Identification testimony,
4 ladies and gentlemen, is an expression of belief or
5 impression by a witness.

6 You, as the jury, must determine the accuracy of the
7 identification of the defendant. You must consider the
8 believability of each identification witness in the same
9 way as any other witness.

10 You may consider whether the witness had an adequate
11 opportunity to observe the defendant at the time of the
12 offense. This could be affected by things such as how
13 long or short a time was available, how far or close the
14 witness was, the lighting condition, whether the witness
15 has the chance to see, or whether the witness had the
16 chance to know the person.

17 Once again, I instruct you that the burden of proof
18 is on the State. It extends to every element of the crime
19 charged, and this specifically includes the burden of
20 proving beyond a reasonable doubt the identity of the
21 defendant as the person who committed the crime.

22 I charge you, ladies and gentlemen, that if a crime
23 is committed by two or more people who are acting together
24 in committing a crime, the act of one is the act of all.
25 A person who joins with another to commit an unlawful act

1 is criminally responsible for everything done by the other
2 person which happens as a probable or natural consequence
3 of the acts done in carrying out a common plan and
4 purpose.

5 For example, two people can be guilty of killing
6 another person when only one of the two had a gun, there
7 was only one bullet and only one of the two fired the shot
8 that caused the death. If two or more people are
9 together, acting together, assisting each other in
10 committing the offense, the act of one is the act of all,
11 or as it is sometimes said, the hand of one is the hand of
12 all.

13 Prior knowledge that a crime is going to be
14 committed, without more, is not sufficient to make a
15 person guilty of that crime. Mere knowledge that another
16 person is going to commit a crime, even if the defendant
17 is present when the crime is committed, is not sufficient
18 to convict the defendant as a principle.

19 Guilt as a principle is shown by actual or
20 constructive presence at the scene as a result of prior
21 arrangement. Therefore, a finding of a prior plan or
22 scheme is necessary for a finding of guilt as a principle.

23 The State must prove beyond a reasonable doubt by
24 competent evidence the theory of the hand of one is the
25 hand of all.

1 A principle in a crime, ladies and gentlemen, is one
2 who actually commits the crime or who is present, aiding,
3 abetting, or assisting in committing the crime. When a
4 person does an act in the presence of and with the
5 assistance of another, the act is done by both.

6 Where two or more are acting with a common plan or
7 intent or present at the commission of a crime, it does
8 not matter who actually commits the crime. All are
9 guilty. The hand of one is the hand of all.

10 Present at the commission of the crime means to be
11 sufficiently near to aid and abet and assist in the
12 commission of the crime; however, mere presence at the
13 scene of a crime is not sufficient to convict one as a
14 principle on the theory aiding and abetting. Intent is
15 also a necessary element, for there must have been a
16 common design or intent to commit the crime, and the crime
17 must have been committed pursuant thereto with the person
18 aiding and abetting by some overt act.

19 Intent means intending the result which actually
20 occurs, not accidentally or involuntarily. Intent may be
21 shown by acts and conduct of the defendant and other
22 circumstances from which you may naturally and reasonably
23 infer intent from evidence introduced during the trial of
24 the case. The State must prove these elements beyond a
25 reasonable doubt.

1 Now, mere presence at the scene of a crime is not
2 sufficient to prove someone guilty of a crime. A
3 defendant's presence where a crime is being committed, or
4 mere association with a person who commits a crime, does
5 not make a defendant an accomplice as an -- or an aider
6 and abettor of the person committing the crime.

7 The burden is on the State to prove every element of
8 the crime charged. If you find, after reviewing all of
9 the evidence, that the State has proved the defendant was
10 only present at the scene of the crime, and they have not
11 proved beyond a reasonable doubt any other participation
12 to the crime, then you must find the defendant not guilty.
13 The law is that a proof of a mere presence at the scene is
14 not sufficient to prove someone guilty.

15 Now, I talked to you a moment ago about intent. In
16 order to establish criminal liability or criminal
17 responsibility, criminal intent is required.

18 Now let me give you some examples. For example, if
19 we're talking about the mental state required to be proved
20 by the State for any particular crime -- and let me just
21 give you general examples of criminal intent. Examples of
22 criminal intent would be purpose, intent. It might be
23 knowledge, recklessness. It might even be criminal
24 negligence. Those are just examples of criminal intent.

25 Criminal intent must be proven by the State beyond a

1 reasonable doubt. Criminal intent is always a matter that
2 must be determined by the jury from the circumstances
3 surrounding the situation, based on evidence introduced
4 during the trial of the case.

5 Ladies and gentlemen, there is no way to prove intent
6 to a mathematical certainty. There is no way, ladies and
7 gentlemen, that medical science can dissect a person's
8 brain and determine what that person had in mind, so the
9 law says, ladies and gentlemen, that criminal intent may
10 be inferred from the circumstances shown to have existed,
11 based on evidence introduced during the trial of the case.

12 This is how you, as a juror, make a determination of
13 whether or not any element in any crime requiring intent
14 was present. It is not necessary to establish intent by
15 direct or positive evidence, but intent may be established
16 by inference, in the same way as any other fact, by taking
17 into consideration the acts of the parties and all the
18 facts and circumstances of the case, based on evidence
19 introduced during the trial of the case.

20 Criminal intent is a mental state. It is a conscious
21 wrongdoing. It is up to you, ladies and gentlemen, from
22 the evidence introduced during the trial of the case, to
23 determine what the defendant intended to do, based on the
24 circumstances shown to have existed from evidence
25 introduced during the trial of the case.

1 Now, ladies and gentlemen, I have told you, and I'm
2 going to go over the verdict form with you, Mr. Foreman,
3 as I promised, and I'm handing the indictments to my law
4 clerk, Camden Hodge, because he's going to get your
5 signature and whatever you write on here on the
6 indictments. I will tell you, since there are two
7 offenses in this case, first of all, there is a
8 relationship between the offense of possession of a weapon
9 during the commission of a violent crime and attempted
10 murder.

11 If you find ^(P)the defendant guilty of attempted murder,
12 either one or both in this case, then you can also find
13 the defendant either guilty or not guilty of possession of
14 a weapon during the commission of a violent crime. If you
15 find the defendant not guilty of attempted murder, then
16 you may not find the defendant guilty of possession of a
17 weapon during the commission of a violent crime. You have
18 to write a separate verdict of guilty or not guilty for
19 each charge, following the instructions which I have
20 written to you on your verdict form.

21 Now I will define the offenses for you in this case.
22 Let's start with attempted murder. An attempt is an
23 effort to accomplish a crime which does not succeed. An
24 attempt is an effort to accomplish a crime which does not
25 succeed.

1 An attempt includes a specific intent to do a
2 particular criminal act, along with that act falling short
3 of the act intended. The State must show more than mere
4 preparation, an intent. There must be some overt act
5 committed in the effort to commit the crime.

6 Intent means intending the result which actually
7 occurs, not accidentally or not involuntarily. Intent, as I
8 have already instructed you, may be shown by the acts and
9 conduct of the defendant and other circumstances from
10 which you may naturally and reasonably infer intent, based
11 on evidence introduced during the trial of the case.

12 Now I charge you that the defendant is charged in two
13 separate indictments, now that I've defined attempt, with
14 the offense of attempted murder. Attempted murder is in
15 South Carolina Code Section 16-3-29, and it states -- the
16 two offenses, and I have them on your verdict form, would
17 be attempted murder of Deputy J. Burnette and attempted
18 murder of Deputy J. Eaches. Those are the two counts of
19 attempted murder.

20 South Carolina Code Section 16-3-29 states as
21 follows, and it is the attempted murder statute in South
22 Carolina: A person, who with the intent to kill, attempts
23 to kill another person with malice aforethought, either
24 expressed or implied, commits the offense of attempted
25 murder.

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

6 Malice aforethought does not require that malice
7 exist for any particular time before the act is committed,
8 but malice must exist in the mind of the defendant just
9 before and at the time the act is being committed.
10 Therefore, there must be a combination of the previous
11 evil intent and the act.

12 Malice aforethought may be expressed or inferred.
13 These terms expressed and inferred do not mean different
14 kinds of malice, but simply the manner in which malice may
15 be shown to exist. That is, either by direct evidence or
16 by inference from the facts and circumstances which are
17 proved beyond a reasonable doubt.

18 Expressed malice is shown when a person speaks words
19 which express hatred or ill-will or hostility towards
20 another person, or when the person prepared beforehand to
21 do the act which was later accomplished. For example,
22 lying in wait for another person, or any other act or
23 preparation going to show that the deed was within the
24 defendant's mind would be expressed malice. Malice may
25 also be inferred from conduct showing a total disregard

1 for human life.

2 The defendant is also charged in an indictment
3 charging him with the offense of possession of a weapon
4 during the commission of or attempt a violent crime. For
5 this offense, South Carolina Code Section 16-23-490, the
6 State must prove beyond a reasonable doubt that the
7 defendant was in possession of a firearm or visibly
8 displayed what appeared to be a firearm during the
9 commission of or attempt to commit a violent crime.

10 A firearm, for purposes of this statute, means any
11 machinegun, automatic rifle, revolver, pistol, or any
12 other weapon which will or is designed to or may be
13 readily converted to expel a projectile.

14 In order to find the defendant guilty of possession
15 of a weapon during the commission of a violent crime or
16 attempt to commit a violent crime, you must first find the
17 defendant guilty of either committing a violent crime or
18 attempting to commit a violent crime.

19 I charge you, ladies and gentlemen, that under the
20 laws of the State of South Carolina, attempted murder is a
21 violent crime, under the laws of the State of South
22 Carolina.

23 Now, Mr. Foreman, I've prepared a verdict form for
24 you and for the jury. Pay absolutely no attention to the
25 order in which I wrote the forms of verdict. I obviously

1 had to write one before the other, so the order has no
2 significance whatsoever.

3 I put the title of this case at the top. It says:
4 State of South Carolina, County of Colleton, Court of
5 General Sessions, and it has the three indictment numbers,
6 2011-552, 2011-553, 2011-554.

7 Under that, I have the title of the case for you. It
8 says: State of South Carolina versus Bronson Shelley,
9 Defendant.

10 Question One, and there are three questions on your
11 verdict form, Question One states as follows: We, the
12 jury, by unanimous consent, find the defendant, Bronson
13 Shelley, in Indictment 2011-GS-15, and that means General
14 Sessions, 15 means Colleton County, Number 552, and the
15 first form of verdict under Question One, guilty of
16 attempted murder of Deputy J. Burnette.

17 If that be your form of verdict, Mr. Foreman, you
18 would check on the line beside that form of verdict.

19 Under Question One: We, the jury, by unanimous
20 consent, find the defendant, Bronson Shelley, in
21 Indictment 2011-552, second form of verdict, not guilty of
22 attempted murder of Deputy J. Burnette.

23 If that be your form of verdict, Mr. Foreman, you
24 would check on the line beside that form of verdict. You
25 must find under Question One one form of verdict or the

1 other. You cannot find both. It must be guilty or not
2 guilty of attempted murder of Deputy J. Burnette.

3 Question Two: We, the jury, by unanimous consent,
4 find the defendant, Bronson Shelley, in Indictment
5 2011-553, the first form of verdict under Question Two is
6 guilty of attempted murder of Deputy J. Eaches.

7 If that be your form of verdict, Mr. Foreman, you
8 would check on the line beside that form of verdict.

9 The second form of verdict under Question Two is not
10 guilty of attempted murder of Deputy J. Eaches.

11 If that be your form of verdict, you would check on
12 the line beside that form of verdict. You must find one
13 form of verdict or the other for Question Two. You cannot
14 find both. It must be either guilty or not guilty of
15 attempted murder of Deputy J. Eaches.

16 Finally, Question Three: We, the jury, by unanimous
17 consent, find the defendant, Bronson Shelley, in
18 Indictment 2011-554, in the first form of verdict under
19 Question Three is guilty of possession of a weapon during
20 the commission of a violent crime.

21 If that be your form of verdict, you would check on
22 the line beside that form of verdict.

23 The next form of verdict under Question Three is not
24 guilty of possession of a weapon during the commission of
25 a violent crime. If that be your form of verdict, you

1 would check on the line beside that form of verdict.

2 I wrote you a note on the verdict form, and I charged
3 you earlier, and I remind you as to Question Three,
4 possession of a weapon during the commission of a violent
5 crime or attempt to commit a violent crime, if you find
6 the defendant guilty of possession of a weapon during the
7 commission of a violent crime, only if you have previously
8 found the defendant guilty of attempted murder. If you
9 find the defendant not guilty of attempted murder on both
10 the charges of attempted murder, you must find the
11 defendant not guilty of possession of a weapon during the
12 commission of a violent crime.

13 Attempted murder, I charge you, is a violent crime.
14 You must find the defendant guilty of a violent crime in
15 order to find the defendant guilty of possession of a
16 weapon during the commission or attempted commission of a
17 violent crime.

18 Once you have completed the verdict form by checking
19 the appropriate boxes, Mr. Foreman, for the jury, you will
20 sign your name on the line where it says Foreperson and
21 fill in today's date. When you have reached a verdict and
22 filled out the verdict form, you will knock on the jury
23 room door, inform the bailiff you've reached a verdict,
24 and we will bring you back into the courtroom to publish
25 your verdict.

1 Now, ladies and gentlemen, your verdict must be
2 unanimous. It must be the verdict of each and every one
3 of you. All eleven of you must agree on a verdict.

4 Now, Mr. Foreman, one of the things after you fill
5 out the verdict form, I told you my law clerk has the
6 indictments. The indictments will not be with you in the
7 jury room, and that's the reason when you come back out
8 after you've filled out the verdict form, he'll want you
9 to write the same words on the indictment that you write
10 on the verdict form. So he's going to ask you to do that
11 before you leave.

12 You will have the exhibits with you in your jury
13 room, with the exception of the exhibits which require our
14 equipment to play. Those exhibits will remain here, but
15 if at any time the jury wants to view or listen to an
16 exhibit which has been displayed to them, all you have to
17 do is let me know by informing the bailiff, and we will
18 bring you back in the courtroom so that you will have the
19 opportunity to view that exhibit, but because the
20 equipment is not in your jury room, it's necessary that
21 you come back into the courtroom. And I have made some
22 rulings which affect certain exhibits, so that I have to
23 make sure that what you see is consistent with rulings
24 I've made during the trial of the case.

25 Now, Mr. Foreman and ladies and gentlemen, I've now

1 charged you on the law in order to help guide you to a
2 fair and a just result in this case. You're the sole
3 judges of the facts in this case, based on your
4 determination of the facts in this case and the law as I
5 have just explained it to you.

6 You're soon going to go to your jury room and begin
7 your deliberations. I remind you that each of you have
8 been selected as fair and impartial jurors. You have no
9 friends to reward. You have no enemies to punish. You've
10 been selected as fair and impartial jurors. You have
11 sworn to fairly and impartially try and determine the
12 facts of this case, and when you comply with the oath to
13 do so, no one can criticize your verdict. You're to
14 decide this case based solely on the evidence in this
15 case, that means testimony from the witness stand from the
16 sworn witnesses who have testified before you, along with
17 the exhibits which have been introduced into evidence and
18 any stipulations, if any occurred.

19 You must decide the issues in this case without any
20 bias, without any prejudice towards either party. You
21 cannot allow yourself in the jury room to be governed by
22 prejudice for or against any person. You can't allow
23 yourself to be governed by public opinion or by any other
24 arbitrary factor that is not in evidence in the trial of
25 this case.

1 Both the defendant and the State of South Carolina
2 have the absolute right to expect that each of you on this
3 jury will fairly, carefully, and impartially consider all
4 of the evidence in this case and that you will follow the
5 law as I have instructed it to you to be in reaching your
6 verdict in this case.

7 Mr. Foreman, ladies and gentlemen of the jury, at
8 this time I'm going to ask you to retire to your jury
9 room. Do not quite yet begin your deliberations. It may
10 be necessary for me to bring you back for some brief
11 additional instructions. When it is time for you to begin
12 your deliberations, I will send by the bailiff your
13 verdict form in to you, along with all the exhibits that
14 you can have in your jury room which do not require the
15 equipment to be played out here. You just let me know if
16 you want to play any of that. We can bring you back and
17 have that done on the screen for you, if you so desire.

18 Now, ladies and gentlemen, I remind you that there
19 are three exhibits that are in boxes that are weapons.
20 They have been secured. They have plastic tape through
21 the barrel of the weapons. I urge your caution when
22 you're examining the evidence. We've secured them for
23 your safety.

24 I ask you at this time if you would please retire to
25 your jury room, and I will instruct you whether or not it

1 is time to begin your deliberations by sending the verdict
2 form and the exhibits in to you at that time, or possibly
3 calling you back. So do not begin your deliberations
4 until I instruct you to do so. Please retire to your jury
5 room.

6 (NOVEMBER 15, 2012, 10:50 A.M., WHEREUPON, THE JURY
7 RETIRES FROM THE COURTROOM, AND THE FOLLOWING
8 PROCEEDINGS WERE HELD OUT OF THEIR PRESENCE.)

9 THE COURT: Any exceptions or additions to the charge
10 from the State of South Carolina?

11 MR. KNIGHT: No, sir.

12 THE COURT: Any exceptions or additions to the charge
13 from the defendant?

14 MR. MATHEWS: Yes, sir, Your Honor. In the
15 definition of malice, malice is the hatred, ill-will or
16 hostility, intentional act with the intent to inflict
17 physical injury ---

18 THE COURT: Whoa, whoa, whoa, whoa. You're quoting
19 things -- you started out quoting me, and then you added
20 to it.

21 MR. MATHEWS: Well, what I heard was: With the
22 intent to inflict physical injury.

23 THE COURT: No. I said malice is hatred, ill-will,
24 or hostility towards another person. It is the
25 intentional doing of a wrongful act without just cause or

1 excuse and with an intent to inflict an injury or under
2 circumstances the law will infer an evil intent.

3 **MR. MATHEWS:** Yes, sir. That's it.

4 **THE COURT:** That was the direct quote from my charge.

5 **MR. MATHEWS:** Yes, sir. That would be the intent to
6 inflict a physical injury.

7 **THE COURT:** I didn't say physical.

8 **MR. MATHEWS:** I'm sorry. To inflict an injury.

9 Whatever -- the intent to inflict injury, Your Honor, I
10 think in looking at the case of State versus Sutton, a
11 2000 case that we were talking about, I think there is a
12 disconnect between -- I think that sounds -- and I
13 understand the General Assembly by including in there the
14 specific language of malice made it perhaps a little
15 difficult to follow, for me to follow.

16 It sort of negates the whole conscious intent of the
17 completion of an act. In other words, the completion of
18 such acts is the defendant's purpose. That would be for
19 an intent, whereas with an intent -- assault and battery
20 with intent to kill is defined in Sutton. It says ABWIK
21 requires an unlawful act of violent to the person of
22 another with malice.

23 And, Your Honor, when mentioning the intent to
24 inflict injury, it sounds like -- it sounds like -- it
25 waters down the defendant's purpose, the level of intent,

1 Your Honor. I know we discussed this, but I'm just
2 putting my position on the record.

3 THE COURT: And let me say, Mr. Mathews, I charged --
4 I don't want to confuse anything. I certainly felt I had
5 to define malice to the jury, because it's an element of
6 attempted murder. But I charged the jury, at your
7 request, that a person who with the intent to kill,
8 attempts to kill another person with malice aforethought,
9 either expressed or implied, commits the offense of
10 attempted murder.

11 And I explained general intent so they would
12 understand what criminal intent was. And then I told them
13 for this offense that it would have to be intent to kill,
14 which is expressed in the statute.

15 I do not believe, and you of course have given me
16 nothing, you've just complained about the charge, but you
17 haven't offered any other suggestion, other than you
18 wanted me to charge language from a 2000 case, which was
19 not this statutory offense, and I'm referring of course to
20 the case of State versus Sutton, S-U-T-T-O-N, which was
21 decided May 15, 2000, and it's found at 532 S.E.2d 283.
22 And you wanted me to take the language from it, and you
23 and I both know that it was talking about -- and the
24 reason we have this statute is because it changed the law.

25 I felt that at this point I should charge the exact

1 wording of the statute, which is 16-3 -- I think it's 16-3
2 -- isn't it 29, David?

3 MR. KNIGHT: 29.

4 THE COURT: 16-3-29. I felt that I should define
5 attempt, and I should define malice, because both of those
6 words are contained within the statutory language, but I
7 declined to charge the paragraph that you underlined from
8 the Sutton case, which dealt with intent in general. It
9 dealt with attempted murder when it was not a statutory
10 offense, as it is now in South Carolina. So, even though
11 I'm not sure exactly, other than that you're complaining
12 about the charge, and you had -- and that was the only
13 thing you handed me was that case, and you outlined what
14 you wanted in that case, so I'm assuming this is a renewal
15 of your request to charge the Sutton language, and that
16 would be the language that begins -- on my copy it says --
17 begins with: In general, attempt is a specific intent
18 crime, and they cite AmJur, and it goes all the way
19 through the next paragraph, which ends in the sentence
20 with each offense has an element. The other does not,
21 however, simply because a conviction for both offenses
22 would not violate double jeopardy. We are not constrained
23 to recognize the offense of attempted murder.

24 I did not feel that I needed to amplify the charge,
25 so I respectfully deny your request under that language

1 from Sutton. And I understand that you wanted more, but I
2 feel like I covered it by giving them the charge that I
3 did.

4 All right now, I'm very concerned because of my
5 sustaining your objection that the exhibits, David,
6 particularly the one and I believe it's Thirteen, the one
7 that I ---

8 COURT REPORTER: Eleven, Your Honor.

9 THE COURT: --- which was -- what was the number of
10 the exhibit that you edited for me, Angela?

11 COURT REPORTER: It's Eleven, Your Honor.

12 THE COURT: Eleven, but that's not the only one
13 that's going to require -- how many do I have that require
14 playing?

15 COURT REPORTER: Three.

16 THE COURT: Three. So I want you to identify the
17 numbers on the record, and I want you to come forward and
18 both of you tell me you're satisfied the court reporter
19 has all the exhibits and that you have no objection to my
20 bailiff taking the exhibits, with the exception of those
21 three, in to the jury, along with the verdict form and the
22 bailiff informing the jury they may now commence their
23 deliberations. Please come forward.

24 David, on behalf of the defendant, do you agree that
25 the exhibits -- what are the three, Ronda?

1 **COURT REPORTER:** Three, Seven, and Eleven.

2 **THE COURT:** Do you agree that Exhibits Three, Seven,
3 and Eleven need to remain in the courtroom?

4 **MR. MATHEWS:** Yes, sir.

5 **THE COURT:** Do you agree with that also, Solicitor?

6 **MR. KNIGHT:** Yes, sir.

7 **THE COURT:** All right. Are you satisfied, David,
8 that the court reporter has all the exhibits and that the
9 guns are secured?

10 **MR. MATHEWS:** Yes, sir.

11 **THE COURT:** And, David, you have no objection to the
12 bailiff taking the verdict form and the exhibits, with the
13 exception of Three, Seven, and Eleven, in to the jury and
14 telling the jury they may now commence their
15 deliberations?

16 **MR. MATHEWS:** No objection.

17 **THE COURT:** Solicitor, are you satisfied that the
18 court reporter has all the exhibits?

19 **MR. KNIGHT:** Yes, sir.

20 **THE COURT:** And you have no objection to the bailiff
21 taking this verdict form and all the exhibits, except for
22 Three, Seven, and Eleven, in to the jury and telling the
23 jury they may now commence their deliberations?

24 **MR. KNIGHT:** No, sir.

25 **THE COURT:** Keep Three, Seven, and Eleven up here by

1 the court reporter and take everything else in to the jury
2 and tell the jury they may now commence deliberations.

3 (WHEREUPON, ON NOVEMBER 15, 2012, AT 11:05 A.M., THE
4 EXHIBITS AND VERDICT FORM WERE TAKEN TO THE JURY TO BEGIN
5 DELIBERATIONS.)

6 (WHEREUPON, ON NOVEMBER 15, 2012, AT 11:24 A.M., THE
7 FOLLOWING PROCEEDINGS WERE HELD ON THE RECORD OUT OF THE
8 PRESENCE AND HEARING OF THE JURY:)

9 THE COURT: Counsel, I understand from the bailiff
10 that the jury has reached a verdict. Anything from the
11 State before I publish the verdict?

12 MR. KNIGHT: No, sir.

13 THE COURT: From the defendant?

14 MR. MATHEWS: No, Your Honor.

15 THE COURT: Madam Clerk, are you going to publish it
16 for me?

17 CLERK: Yes, I will.

18 THE COURT: All right.

19 Will you bring us the jury, please, ma'am?

20 (NOVEMBER 15, 2012, 11:30 A.M., WHEREUPON, THE JURY
21 ENTERS THE COURTROOM, AND THE FOLLOWING PROCEEDINGS
22 WERE HELD IN THEIR PRESENCE.)

23 CLERK: Mr. Foreman, have you reached a verdict?

24 FOREMAN: Yes, ma'am.

25 CLERK: Okay.

1 **THE COURT:** You may publish the verdict.

2 **CLERK:** Indictment 2011-GS-15-552, 553, 554, ---

3 **THE COURT:** Hold on one second.

4 Mr. Mathews, would you and your client please stand?
5 Proceed.

6 **CLERK:** Indictment Number 2011-GS-15-552, 553, 554,
7 the State of South Carolina versus Bronson Shelley, we,
8 the jury, by unanimous consent, find the defendant,
9 Shelley -- Bronson Shelley in Indictment 2011-GS-15-552,
10 guilty of attempted murder of Deputy J. Burnette.

11 We, the jury, by unanimous consent find the
12 defendant, Bronson Shelley -- Shelley, in Indictment
13 2011-GS-15-553, not guilty of attempted murder of Deputy
14 J. E-A-C-H-E-S.

15 **MR. KNIGHT:** Eaches.

16 **CLERK:** Eaches.

17 We, the jury, by unanimous consent find the
18 defendant, Bronson Shelley, in Indictment Number
19 2011-GS-15-554, guilty of possession of a weapon during
20 the commission of a violent crime.

21 It's signed by Foreperson Anthony Smuz.

22 If this is your verdict, please raise your right
23 hand.

24 Thank you. You may put your hands down.

25 **THE COURT:** Let the record reflect eleven hands were

1 raised.

2 Mr. Mathews, anything further on behalf of the
3 defendant for the jury before I excuse the jury?

4 MR. MATHEWS: For the jury, no, Your Honor.

5 THE COURT: All right, Mr. Foreman and ladies and
6 gentlemen of the jury, first of all, on behalf of Colleton
7 County and this court, I want to thank you for your
8 service. All a judge can ask the jury to do is to listen,
9 and I watched you throughout the trial of this case, and
10 that's exactly what you did, so I thank you for that
11 service.

12 (WHEREUPON, THE JURY WAS RELEASED.)

13 THE COURT: Mr. Mathews, are there any post-verdict
14 motions from the defendant?

15 MR. MATHEWS: Your Honor, if we could have, I guess,
16 ten days to do that, I'll wait the ten days.

17 THE COURT: No, Mr. Mathews, actually it is
18 discretionary with the judge.

19 MR. MATHEWS: Okay, Your Honor, ---

20 THE COURT: Counsel, approach.

21 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
22 RECORD. THEREAFTER, THE FOLLOWING PROCEEDINGS WERE HELD
23 ON THE RECORD:)

24 THE COURT: All right, let the record reflect that I
25 had a conference with defense counsel and the solicitor at

1 the bench. I informed Mr. Mathews that there is not an
2 automatic right to ten days on a motion -- a post-verdict
3 motion; however, the solicitor had no objection. Mr.
4 Mathews insists that he be given ten additional days,
5 because he wants to make a written post-verdict motion.

6 I told him there would be no additional hearing,
7 unless I felt it was necessary, after I received his
8 motion, but with the consent of the State, I've granted
9 him ten additional days to file his motion within ten days
10 of today in writing, with a copy to the solicitor and
11 providing a copy to the Court. When he files it with the
12 Clerk of Court, you're also to send my office, Mr.
13 Mathews, your written motion.

14 Solicitor, I ask that you prepare a sentencing sheet.

15 Mr. Mathews, you and the defendant please come around
16 for sentencing. The jury has spoken.

17 MR. KNIGHT: May I approach, Your Honor?

18 THE COURT: Yes, sir.

19 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE
20 RECORD. THEREAFTER, THE FOLLOWING PROCEEDINGS WERE HELD
21 ON THE RECORD:)

22 THE COURT: All right, Solicitor, is the State ready?

23 MR. KNIGHT: Just about, Your Honor. I apologize.

24 THE COURT: All right.

25 MR. MATHEWS: Your Honor, I would also request a

1 pre-sentence investigation, if that -- if that is
2 something that the Court would award us.

3 THE COURT: On what grounds, Mr. Mathews?

4 MR. MATHEWS: Just to get an opinion as to -- you
5 know, just to do a pre-sentence investigation to ---

6 THE COURT: Well, obviously, my sentence would be
7 subject to whether or not I grant your motion that you've
8 asked for ten days on, but pre-sentence reports are done
9 by the probation office. And actually, Mr. Mathews -- do
10 I have his record in the courtroom?

11 MR. KNIGHT: Yes, sir. I'll just hand you the whole
12 thing.

13 THE COURT: Well, I'm going to let you publish it.

14 Mr. Mathews, I've heard the evidence in this case,
15 and obviously I would want to hear his record and I'm
16 going to listen to you, but I see no need to do a
17 pre-sentence investigation from what I know right now.
18 Are there any grounds that you haven't explained?

19 MR. MATHEWS: Your Honor, I just -- I think that in
20 light of -- in light of the verdict and everything, I
21 think it would be the appropriate thing to do, just to let
22 probation take a look at it and figure out what would be
23 within the grounds of what they might recommend.
24 Obviously, it would be the Court's ultimate decision on
25 what sentence to give, but ---

1 **THE COURT:** Is your client presently on probation in
2 Colleton County?

3 **MR. MATHEWS:** No, sir.

4 **THE COURT:** Then I don't think they would have any
5 other expertise than the Court would have. We will
6 proceed. That request is respectfully denied.

7 Solicitor, tell me his prior record.

8 **MR. KNIGHT:** At this juncture, we're just going to go
9 with the convictions, Your Honor.

10 **THE COURT:** Pardon?

11 **MR. KNIGHT:** Convictions only.

12 **THE COURT:** Convictions only. I'm not interested in
13 arrests for which there was no conviction.

14 **MR. KNIGHT:** I've got a conviction in the -- it's
15 hard for me to read, I think it's Massachusetts, for
16 assault and battery and it looks like on a police officer.
17 It is on a police officer. That carried up to three
18 years. He got one year. That's in '03.

19 Then I've got a conviction for it looks like a
20 failure to appear 9/7/2005.

21 Then I've got a conviction -- these are out-of-state,
22 that's the problem.

23 **THE COURT:** These are what?

24 **MR. KNIGHT:** Out-of-state.

25 **THE COURT:** Pull your microphone down to you so we

1 can hear you.

2 MR. KNIGHT: Excuse me. They're out-of-state.

3 He was convicted of misdemeanor actions, nollo,
4 12/10/2007. He was confined to time served, suspended to
5 twelve months, another type of sentence.

6 Then on -- the date is March 29, 2001, he was
7 convicted of criminal possession of a loaded firearm,
8 third degree. He got a two year term, suspended upon the
9 service of eighteen months.

10 That looks like all of the convictions.

11 THE COURT: Are any of those South Carolina
12 convictions?

13 MR. KNIGHT: No, sir.

14 THE COURT: All of them are out-of-state. You told
15 me Massachusetts, but you didn't tell me any other states.

16 MR. KNIGHT: Massachusetts and Georgia.

17 THE COURT: Georgia was the other out-of-state?

18 MR. KNIGHT: Yes, sir.

19 THE COURT: Very well.

20 Mr. Mathews, I'll be happy to hear from you.

21 MR. MATHEWS: Your Honor, Bronson is thirty-one. He
22 is from -- Massachusetts is where his mother lives. His
23 mother says that her boy has had some emotional problems,
24 but he is an intelligent kid. He has a ten year old son
25 in New York and a four year old daughter in Los Angeles.

1 The longest, according to the report, that he's spent
2 in prison has been two years, and his record is not that
3 bad. I would ask the Court -- obviously nobody -- the
4 only person that was hurt in this was Mr. Shelley and Mr.
5 Rivers. The ---

6 **THE COURT:** Thank goodness.

7 **MR. MATHEWS:** Thank goodness.

8 **THE COURT:** Because the potential was there, Mr.
9 Mathews, and there was clearly evidence which the jury
10 based their verdict, and I understand that. I am very
11 thankful that there was not death involved or more serious
12 bodily injury. I think we all agree on that.

13 **MR. MATHEWS:** Yes, sir.

14 Your Honor, it's -- you know, we don't know which
15 theory Mr. Shelley was convicted on, so I'm ---

16 **THE COURT:** I know exactly what theory he was
17 convicted on. You argued to this jury there was no
18 evidence to really support attempted murder, and the jury
19 found your client not guilty of attempted murder as to the
20 other officer.

21 **MR. MATHEWS:** Yes, sir.

22 **THE COURT:** They found him guilty of attempted murder
23 as to the officer who said he absolutely saw the defendant
24 fire the weapon, which means the jury was listening
25 attentively to your argument and the evidence.

1 **MR. MATHEWS:** I'm sorry, Your Honor. What I meant
2 was I'm not sure whether or not the theory was the hand of
3 one, the hand of all, or whether it was for him actually
4 firing the weapon.

5 **THE COURT:** But as you know, the hand of one, the
6 hand of all is the law of the State of South Carolina, so
7 regardless of what theory the jury used to convict your
8 client, the question was whether there was evidence
9 sufficient to support it.

10 **MR. MATHEWS:** Yes, sir, and I certainly understand
11 the Court's ruling, and my only -- you know, he is -- he
12 has contended that he didn't fire any gun, and ---

13 **THE COURT:** We're not here to retry the case.

14 **MR. MATHEWS:** Well, I know that, Your Honor. This
15 was in terms of mitigation, that's all. And it -- it's --
16 since, you know, he is -- the jury has spoken, Your Honor.
17 I would only say that there is -- you know, thank God
18 nobody was hurt and that, you know, certainly if either he
19 or Mr. Rivers had wanted to hurt anybody, they certainly
20 had guns there and they could have when the car stopped,
21 could have done something. They didn't.

22 That, again, this is not a matter of the guilt or
23 innocence, Your Honor. That's -- that has been decided.
24 It's just a matter of what's the appropriate sentence,
25 Your Honor, and I would contend in this case where this

1 will be, you know, similar to an assault and battery first
2 degree, which would carry a max of ten years, Your Honor.
3 I would contend that that would be a decent guideline for
4 an appropriate sentence in this case.

5 The longest he's spent in prison is two years. This
6 is not a -- a -- this was not a premeditated crime. And I
7 would ask the Court to consider, you know, a sentence less
8 than ten years, perhaps something in the line of -- I
9 think a failure to stop for a blue light is three. And,
10 you know, I would ask the Court to consider a sentence
11 along the lines of five years.

12 THE COURT: Very well.

13 Mr. Shelley, is there anything you would like to tell
14 the Court prior to sentencing?

15 DEFENDANT, MR. SHELLEY: That I just ---

16 THE COURT: You've got to speak up for me.

17 DEFENDANT, MR. SHELLEY: Creator -- Creator Yahweh
18 appointed y'all to govern over the people of the land and
19 that, you know, it's in your power to make a right
20 judgment on all decisions. Whatever happens, I see this
21 as from the Creator. So all praise to Yahweh. That's all
22 I want to say.

23 THE COURT: Solicitor, I'll be happy to hear from any
24 of the victims who wish to address the Court or from
25 anyone the State so desires.

1 MR. KNIGHT: He doesn't want to address you.

2 THE COURT: All right.

3 MR. KNIGHT: Your Honor, could I?

4 THE COURT: Yes, sir.

5 MR. KNIGHT: This case, and as the Court has
6 indicated, we're very fortunate that no one was hurt, that
7 no one was killed, but the amount of times that this
8 officer was shot at, some ten times, there's no question
9 in my mind what their intent was, and the jury has found
10 that. I would think based upon the total disregard for a
11 human being, as this individual has exhibited, a
12 substantial sentence would be in order. Thank you, Your
13 Honor.

14 THE COURT: Thank you.

15 Now so that -- since the jury is present, and Mr.
16 Mathews knows this, in federal court, there's a
17 difference, and we pointed that out earlier this week. In
18 state court, the offense of commission of a -- or
19 possession of a weapon during the commission of a violent
20 crime can be a concurrent or a consecutive sentence. It's
21 mandatory consecutive in federal court.

22 The offense of attempted murder is a relatively new
23 offense. Mr. Mathews and I have had long discussions
24 during this trial about the wording of the statute. It
25 was only passed two years ago. We had it before 2010, but

1 we didn't have the statutory offense. The Legislature
2 passed a new statute. It carries up to thirty years.

3 The offense of commission of a -- possession of a
4 weapon during the commission of or attempt to commit a
5 violent crime carries five years max. So one carries
6 thirty and one carries five, and I want my jury to
7 understand the parameters in which the judge has to deal,
8 because those are set by the South Carolina Legislature
9 when they passed the statute.

10 All right. Mr. Mathews, I understand your client has
11 been in custody. I have my jail list in front of me, and
12 I realize it's not current through today, but I understand
13 that your client has been in custody in excess of four
14 hundred and seventy-four days; is that correct?

15 MR. MATHEWS: Yes, sir.

16 THE COURT: I'll give him credit for time served.
17 Now I want to say a couple of things so that the jury
18 understands and the public understands. I realize I have
19 people who have been here throughout the entire trial.

20 Mr. Mathews, you're correct to point out to me that
21 thank God nobody got seriously -- no one was killed,
22 nobody got permanently damaged. I realize there was
23 injury to your client and to the codefendant.

24 The other side of that coin is that everyday when we
25 have police officers or any individuals traveling the

1 interstate, when you have -- or the public highways of
2 this state and we have speed going on, there's a potential
3 for people to get hurt. There's a potential for people to
4 lose their life.

5 I clearly understand why the jury decided the case.
6 It is obvious to me that you listened very carefully,
7 because you differentiated between the two indictments,
8 which was exactly Mr. Mathews' argument, that he didn't
9 think there was sufficient evidence of attempted murder as
10 to Mr. Eaches.

11 Clearly there was eyewitness evidence, which I
12 listened to, along with the jury from Mr. Burnette that he
13 saw the defendant, he saw the defendant shoot at him when
14 he was trying to pursue. This was a chase that lasted
15 somewhere around five, six, seven, or eight miles and at
16 speeds in excess of a hundred miles an hour. It is an
17 absolute miracle that no one wasn't killed. It's a
18 miracle that a member of the public wasn't hurt, that an
19 officer wasn't hurt, or that Mr. Shelley or the other
20 occupant of the car wasn't hurt more seriously.

21 This is just the type of thing that the law seeks to
22 try to prevent. There is absolutely no reason, no matter
23 how much you dispute an officer stopping you, for you to
24 take off and run, and there certainly is no reason to
25 shoot a weapon at a marked police vehicle and an officer

1 in uniform, none.

2 I take into consideration Mr. Shelley's prior record
3 of convictions in Massachusetts and in Georgia. I take
4 into consideration also the facts and circumstances of
5 this case, because I listened carefully to the evidence in
6 this case.

7 First of all, on Indictment 2011-GS-15-00552,
8 indictment for attempted murder as to Officer Burnette,
9 the sentence of this Court is the defendant is committed
10 to the State Department of Corrections for a term of
11 twenty-five years.

12 On Indictment 2011-GS-15-00554, possession of a
13 weapon during the commission of or attempted commission of
14 a violent crime, the sentence of the Court is the
15 defendant is committed to the State Department of
16 Corrections for a term of five years.

17 The defendant is to be given credit for the time that
18 he has served, pursuant to South Carolina Code Section
19 24-13-40. That is to be calculated and applied by the
20 State Department of Corrections.

21 Good luck to you, sir.

22 MR. KNIGHT: Thank you, Your Honor.

23 THE COURT: Sentences to run concurrent, Mr. Mathews.

24 MR. MATHEWS: Thank you, Your Honor.

25 (END OF REQUESTED TRANSCRIPT OF RECORD.)

WITNESSES

A. Inabinett, CCSO

REST WARRANT NUMBER

M104328

July 15, 2011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

8/25/2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011-15-00554

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Bronson Shelley

Indictment for

Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death

SC Code: 16-23-0490

CDR Code:0549

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:09

(STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

INDICTMENT

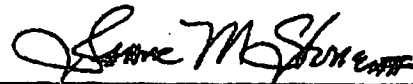
2011-GS-15-00554

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

**Weapons / Poss. weapon during violent crime, if not also sentenced to life without
parole or death**

That in Colleton County, South Carolina, on or about July 12, 2011, the Defendant, Bronson Shelley, did possess a handgun or visibly display what appeared to be a handgun during the commission, or attempted commission, of attempted murder, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor

WITNESSES

A. Inabinett, CCSO

TEST WARRANT NUMBER

M104324

July 15, 2011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Dt 8/25/2011

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2011-C 5-00552

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

August Term 2011

THE STATE

vs.

Bronson Shelley

Indictment for

Attempted Murder

SC Code: 16-03-0029
CDR Code: 3410

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 AUG 25 PM 1:09

Handwritten signature/initials

(STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

INDICTMENT

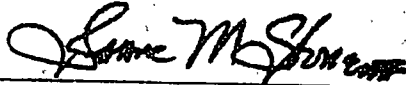
2011-GS-15-00552

At a Court of General Sessions, convened on August 25, 2011, the Grand Jurors of Colleton County present upon their oath:

Attempted Murder

That in Colleton County, South Carolina, on or about July 12, 2011, the Defendant, Bronson Shelley, with malice aforethought accompanied by a present ability to complete the act and the intent to kill, either express or implied, did attempt to kill the victim, Deputy J. Burnette with the Dorchester County Sheriff's Office, while on Augusta Highway, by shooting at the victim; in violation of S.C. Code of Laws Section 16-03-0029 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Isaac M. Stone, III, Solicitor

COUNTY OF
STATE

Colleton

VS.

Bronson Shelley

AKA:

Race: B

Sex: M

Age: 31

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

INDICTMENT/CASE#: 2011GS1500552

A/W#: M104324

Date of Offense: 7/12/2011

S.C. Code § 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☒ LEADS

in violation of § 16-03-0029

of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Knight, Steve

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 25 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-15-20554

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§ 14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)		\$	3.90
TOTAL		\$	133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 0122

Sentence Date: 11/15/12

COUNTY OF Colleton
 STATE VS.
Bronson Shelley
 AKA:
 Race: Sex: M Age: 31
 DOB: SS#: 55
 Address:
 City, State, Zip:
 DL#: SID#: 7

INDICTMENT/CASE#: 2011GS1500554
 A/W#: M104328
 Date of Offense: 7/12/2011
 S.C. Code §: 16-23-0490
 CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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 ☒ CONVICTED OF or ☐ PLEADS

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(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Knight, Steve

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:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

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	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☒ Appointed PD or appointed other counsel.
 § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 0122

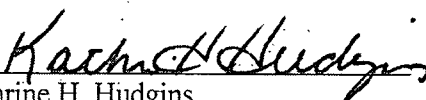
Sentence Date: 11/15/12

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material, and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

February 10th, 2014


Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

RECEIVED

MAR 05 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRONSON SHELLEY,

APPELLANT

APPELLATE CASE NO. 2012-213520

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Jennifer Ellis Roberts, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 5th day of March, 2014.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 5th day of March, 2014.

Talal N. K.

(L.S.)

Notary Public for South Carolina

My Commission Expires: July 24, 2022.