

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Alexander S. Macaulay, Circuit Court Judge

**RECEIVED**

NOV 1 2 2014

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

JAVAN F. MAYS,

APPELLANT

APPELLATE CASE NO. 2013-002530

RECORD ON APPEAL

SUSAN B. HACKETT  
Appellate Defender

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

Attorney for Appellant

ALAN WILSON  
Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211  
(803) 734-3727

Attorneys for Respondent

INDEX

INDEX ..... i

PRE-TRIAL HEARING TRANSCRIPT DATED JUNE 21, 2013 ..... 1

PRE-TRIAL HEARING TRANSCRIPT DATED AUGUST 9, 2013 ..... 15

PRE-TRIAL HEARING TRANSCRIPT DATED SEPTEMBER 20, 2013 ..... 28

TRIAL TRANSCRIPT DATED NOVEMBER 18, 2013 ..... 35

BRADY MOTION ..... 46

MOTION FOR CONTINUANCE ..... 57

VOIR DIRE ..... 67

JURY SELECTION ..... 74

OPENING STATEMENT BY MR. BULSA ..... 92

OPENENING STATEMENT BY MR. MAYS ..... 96

TESTIMONY

    ROBERT CHEEKS ..... 97

    TIM HANCOCK ..... 103

    LAURENT SMITH ..... 113

    ED GUTHRO ..... 120

    BRENDALL MATHIS ..... 169

    BRIAN STOKES ..... 174

    ANTRON OGLESBY ..... 189

    CHRISTOPHER SCOTT ..... 205

    KENDALL ROBINSON ..... 216

CLOSING ARGUMENT BY MR. BULSA .....240

CLOSING ARGUMENT BY MR. MAYS .....248

CHARGE ON THE LAW .....249

VERDICT .....280

SENTENCING .....292

COURT’S EXHIBIT # 1 (JURY NOTE) .....295

INDICTMENTS AND SENTENCE SHEETS .....296

CERTIFICATE OF COUNSEL .....306

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

)  
) IN THE COURT OF GENERAL SESSIONS

The State,  
-vs-

)  
) TRANSCRIPT OF RECORD  
) 2012-GS-42-5314

Javan F. Mays,  
Defendant.

)  
) June 21, 2013  
) Spartanburg, South Carolina

B E F O R E:

HONORABLE J. DERHAM COLE, JUDGE

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

MEGHAN MICHELLE GILMERT, ESQUIRE  
Attorney for the State

ANDREA LEAH PRICE, ESQUIRE  
Attorney for the Defendant

Linda D. Moffitt  
Circuit Court Reporter

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

Motion -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: All right. You're Javan Mays.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Ms. Price is your lawyer.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you've filed a motion to have her  
6 relieved.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You don't want a lawyer?

9 THE DEFENDANT: No, sir.

10 THE COURT: You're going to represent yourself.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. What's Mr. Mays charged with?

13 MS. GILMERT: Your Honor, he has multiple charges.

14 I have him -- my case was -- it came in as an  
15 attempted murder but was indicted as a criminal domestic  
16 violence of a high and aggravated nature, and also a  
17 discharging a firearm in a dwelling.

18 With Mr. Bulsa, it looks like he has two counts of  
19 attempted murder, armed robbery, possession of a weapon  
20 during a violent crime, escape and a discharging of weapon  
21 charge. And it's my understanding he's in on a home  
22 detention violation presently.

23 THE COURT: All right. Mr. Mays, what do you want to  
24 tell about it?

25 THE DEFENDANT: I filed a motion. She refused to tell

1 me that she was going to put in the motion. Finally, she  
2 told me that there was no need to even put in these  
3 motions.

4 I ain't seen her in 11 months as far as pertaining to  
5 a defense for my case. And I been filing, filing. Took me  
6 about maybe five or six months to even get my motion under  
7 discovery Rule 5. I filed a Brady motion. She refused to  
8 do that.

9 THE COURT: Well, Mr. Mays, now, you understand that  
10 if you have a lawyer you don't get to file motions? Do you  
11 understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: That's what lawyers do.

14 THE DEFENDANT: Okay. But I asked her to do it and  
15 she refused.

16 THE COURT: Okay.

17 THE DEFENDANT: So I tried to file it pro se cocounsel  
18 myself.

19 THE COURT: But, as I say, you can't do that.

20 THE DEFENDANT: Okay.

21 THE COURT: How old are you?

22 THE DEFENDANT: Thirty-seven.

23 THE COURT: How far did you go in school?

24 THE DEFENDANT: Eleventh grade.

25 THE COURT: What kind of work have you done?

1 THE DEFENDANT: Warehouse.

2 THE COURT: Have you ever had criminal charges before?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Been to court before?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And what kind of charges were they?

7 THE DEFENDANT: So many I can't even remember.

8 THE COURT: You don't even remember it.

9 Did you have a lawyer when you had those charges

10 disposed of?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Who was your lawyer then?

13 THE DEFENDANT: Matthew Shealy.

14 THE COURT: So you've had the public defender before.

15 And did you have a trial or did you enter a plea of guilty

16 to those charges?

17 THE DEFENDANT: They dropped, dismissed them.

18 THE COURT: They dropped the charges.

19 Well, have you ever been involved in a trial before?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: When?

22 THE DEFENDANT: Around about '97.

23 THE COURT: Where?

24 THE DEFENDANT: Here.

25 THE COURT: What kind of trial was it? What were you

1 charged with?

2 THE DEFENDANT: Assault and battery with intent to  
3 kill.

4 THE COURT: what happened to the case?

5 THE DEFENDANT: This attorney came to me with a plea,  
6 and it was a pretty nice plea, so I took it.

7 THE COURT: And was your lawyer the public defender  
8 also?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. So you've entered a plea of  
11 guilty to a charge before.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have you ever had a jury trial before?

14 THE DEFENDANT: Yes, sir. On this same -- that same  
15 case I just told you about.

16 THE COURT: That same case you had a trial and you  
17 stopped it and pled guilty to it?

18 THE DEFENDANT: They did.

19 THE COURT: They did?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Well, they can't plead guilty unless  
22 they're charged with something.

23 THE DEFENDANT: They came to me. We -- they took a  
24 recess and took me back.

25 THE COURT: That's what I'm saying. So you started a

1 trial.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: But during the middle of it or somewhere  
4 during the course of the trial they made you an offer that  
5 you accepted and pled guilty.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Well, do you know what -- do you  
8 understand the rules of the Court and the rules of  
9 evidence?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You do? And how do you understand them?  
12 What kind of experience or training or education have you  
13 had in that regard?

14 THE DEFENDANT: Well, when I been doing time I go down  
15 and read a few books and get the codes and, you know, know  
16 about different circumstances, other cases.

17 THE COURT: You've been studying?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Studying the law while you've been  
20 incarcerated?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: How long have you been incarcerated?

23 THE DEFENDANT: Eight and a half on my last.

24 THE COURT: Eight and a half years. And you've been  
25 studying all of those eight and a half years?

1 THE DEFENDANT: Not the whole eight.

2 THE COURT: Well, I mean, not 24 hours a day, but  
3 you've been studying a lot -- studying the law a lot?

4 THE DEFENDANT: I am decent.

5 THE COURT: And you think you're capable of  
6 representing yourself in these cases?

7 THE DEFENDANT: I wouldn't say a hundred percent, but  
8 I know pretty much enough. As long as I get the motions in  
9 and I can pretty much, you know, cross-examine and  
10 everything, I think I'll be pretty much all right.

11 THE COURT: All right. So do you understand of course  
12 that you do have a right to have a lawyer represent you if  
13 you want one?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You can hire one or you can have one  
16 appointed like you already have. That's Ms. Price. So you  
17 don't intend to hire one?

18 THE DEFENDANT: I'm in the process. But if it don't  
19 work out, then I guess I'll have to do it myself.

20 THE COURT: Okay. So you don't want a court-appointed  
21 lawyer.

22 THE DEFENDANT: That's coming out of the public  
23 defender office, Your Honor, I don't want them.

24 THE COURT: Okay. Well, it would come of the public  
25 defender's office.

1 THE DEFENDANT: No, sir.

2 THE COURT: You don't want the public defender.

3 THE DEFENDANT: No, sir.

4 THE COURT: And so you're willing to represent  
5 yourself if you can't get a lawyer retained?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand the advantages or the  
8 disadvantages and the pitfalls of attempting to represent  
9 yourself --

10 THE DEFENDANT: Yes, sir.

11 THE COURT: -- unless you have the proper education  
12 and training and experience to accomplish that task?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And do you understand that you have to  
15 assume the risk of deficient representation if you choose  
16 to represent yourself?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And you've had plenty of time to think  
19 about your decision?

20 THE DEFENDANT: Pretty much, yes.

21 THE COURT: And your decision is that you wish to  
22 represent yourself.

23 THE DEFENDANT: I guess so.

24 THE COURT: In any event, you're certain that you do  
25 not wish for Ms. Price or someone from the public

1 defender's office to represent you?

2 THE DEFENDANT: Since I asked her to file these  
3 motions and I haven't heard nothing, since I got these big  
4 charges, the state, my thing with her is I don't see her  
5 preparing a defense for these cases.

6 I haven't even heard nothing about the cases. She  
7 ain't come to me and told me no kind of defense that she's  
8 going to put forth the effort for these cases. So I came  
9 to the conclusion that she's not in my best interest. And  
10 I'm not comfortable with her -- with her services cause I  
11 don't see nothing that she's doing.

12 THE COURT: Well, do you understand that if you choose  
13 to represent yourself that you've got to follow the same  
14 rules that a lawyer would follow in court? And if you  
15 don't understand what to do you're going to be at a  
16 distinct disadvantage.

17 THE DEFENDANT: I understand.

18 THE COURT: Because the state is going to have a  
19 lawyer representing them.

20 THE DEFENDANT: I understand.

21 THE COURT: But you're going to be on your own.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Motion for Ms. Price to be  
24 relieved is granted. Mr. Mays will be representing  
25 himself.

1           when do you propose to try the case, Ms. Gilmert?

2           MS. GILMERT: Your Honor, both should be coming up on  
3 dockets.

4           They were arrested in July and August, Your Honor. So  
5 we can look for them coming up on probably the August and  
6 September dockets, Your Honor. I can speak with Ms. Parris  
7 and Solicitor Bulsa about that as well.

8           THE COURT: They were arrested -- I mean, he was  
9 arrested and the cases were made a year ago?

10          MS. GILMERT: Yes, Your Honor, July of 2012. And  
11 Solicitor Bulsa's cases I believe were arrested in August  
12 of 2012.

13          THE COURT: All right. Mr. Mays, do you understand  
14 the case might be coming up for trial pretty quick? So  
15 you're going to need to get prepared if you're going to  
16 represent yourself. Are you sure that's what you want to  
17 do?

18          THE DEFENDANT: Yes.

19          THE COURT: Okay. Motion is granted.

20          MS. PRICE: Your Honor, may I have a point of  
21 clarification, please?

22          THE COURT: Sure. Wait just a minute, Mr. Mays. Wait  
23 a minute.

24          MS. PRICE: In addition to relieving me is my entire  
25 office relieved from representing Mr. Mays?

1 THE COURT: Well, I don't know about that.

2 Was the motion -- did the motion relate to you or the  
3 entire public defender's office?

4 MS. PRICE: I was under the impression it related to  
5 the entire public defender's office.

6 THE COURT: Is that true, Mr. Mays? You don't want  
7 any public defender representing you on any case?

8 THE DEFENDANT: I can get -- I'm fine with the public  
9 defender. I just don't want her.

10 THE COURT: Well, who represents him on the other  
11 cases?

12 MS. PRICE: I represent him on all of them, Your  
13 Honor.

14 THE COURT: Oh, you represent him on all of them.

15 MS. PRICE: That's correct.

16 THE COURT: Okay. Well, you say you want somebody  
17 else from the public defender's office?

18 THE DEFENDANT: As long as it ain't her I can deal  
19 with them.

20 THE COURT: What about that, Ms. Price? Can y'all --  
21 is somebody else -- can somebody else assume his  
22 representation?

23 MS. PRICE: I'll have to talk to Mr. Allen about that.  
24 If Your Honor will indulge us, may we continue the hearing  
25 for just a moment?

1 THE COURT: Well, I tell what I'll do.

2 Mr. Mays, I'm going to -- since you tell me you'll  
3 take some -- you want somebody else from the public  
4 defender's office, you just don't want Ms. Price, I'm going  
5 to talk to Mr. Allen and see what arrangements can be made.  
6 He is the public defender. He makes that decision. I'll  
7 talk to him. And if we can make arrangements for somebody  
8 else to represent you, then they'll come and see you.

9 THE DEFENDANT: That's fine.

10 THE COURT: If not, I'll do an order relieving them.  
11 okay?

12 THE DEFENDANT: Okay.

13 MS. PRICE: Thank you.

14 MS. GILMERT: Thank you, Your Honor.

15 END OF REQUESTED TRANSCRIPT OF RECORD  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

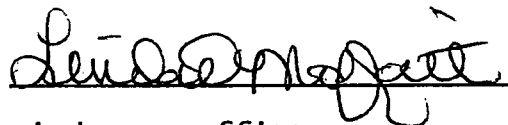
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 21st day of June 2013.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 15, 2014



Linda D. Moffitt  
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF SPARTANBURG ) COURT OF GENERAL SESSIONS

3  
4 THE STATE OF SOUTH CAROLINA, ) TRANSCRIPT  
5 PLAINTIFF, ) OF  
6 VS. ) RECORD  
7 JAVAN F. MAYS, )  
8 DEFENDANT. ) 2012-GS-42-5314-5316

9  
10 August 9<sup>th</sup>, 2013  
11 Spartanburg, South Carolina  
12  
13

14 B E F O R E:

15 THE HONORABLE BRIAN M. GIBBONS, Judge.  
16

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

18 DERRICK BULSA  
19 DEPUTY SOLICITOR  
Attorney for the State

20 ROGER POOLE  
21 ASSISTANT PUBLIC DEFENDER  
Attorney for the Defendant  
22  
23

24 PAMELA E. GREEN  
25 Circuit Court Reporter  
Seventh Judicial Circuit

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X   O F   W I T N E S S E S

(There were no exhibits marked during this hearing.)

P R O C E E D I N G S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SOLICITOR BULSA: Javan Mays.

This should be the last one on the list.

THE COURT: Under---

SOLICITOR BULSA: It's the second, the second section.

THE COURT: All right. And this is -- whose motion is this?

SOLICITOR BULSA: Mr. Mays. It's a motion to remove the public defender as his attorney.

THE COURT: All right. Which number is it on my list?

SOLICITOR BULSA: It's on the -- it's the second group of hearings number -- listed as Number 4, Javan Mays.

THE COURT: Number 4. Got it.

You're Mr. --?

MR. POOLE: Roger Poole of the Public Defender's Office, Your Honor.

THE COURT: That's right. Got it.

All right. And, Mr. Poole, this is your motion?

MR. POOLE: No, sir, it's pro se.

THE COURT: No, it's---

MR. POOLE: Mr. Mays.

THE COURT: All right.

(WHEREUPON, the defendant was placed under oath at this time.)

1 THE COURT: All right. Thank you. I see it now.

2 All right. Mr. Mays, let me read what you wrote on  
3 this and then I want you to tell me whatever you want to  
4 tell me.

5 okay?

6 (WHEREUPON, the defendant nodded affirmatively.)

7 THE COURT: Give me just a moment.

8 (Pause.)

9 THE COURT: All right. Mr. Mays, I've read your  
10 motion. Let me hear from you as to argument.

11 okay. Go ahead.

12 THE DEFENDANT: I just want to represent myself and  
13 work, be able to work on my case, work on it myself. I  
14 don't want an attorney.

15 THE COURT: Do you understand, if I were to grant that  
16 motion, the perils of representing yourself?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Now, what are you charged with?

19 THE DEFENDANT: Attempt murder, armed robbery,  
20 possession of a weapon during the commission of a violent  
21 crime.

22 THE COURT: All right. And all those are pretty  
23 serious offenses where you're looking at pretty substantial  
24 time in the event you're convicted.

25 THE DEFENDANT: Yeah.

1 THE COURT: Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And, you know, as a lawyer, if you're  
4 representing yourself in court, you'll be held to the same  
5 standards as your actual lawyer who would be representing  
6 you. That means you have to know all the rules and  
7 procedure, the Criminal Rules of Procedure, the Rules of  
8 Evidence, courtroom decorum, all that kind of stuff.

9 You understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And you understand, if you don't know that,  
12 that can severely impact your case, representing yourself?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You ever heard that old saying -- what's  
15 that saying?

16 Only a fool represents themself as a lawyer or whatever  
17 that -- do you understand what I'm talking about?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Why do you want to represent yourself?

20 THE DEFENDANT: Cause I been, I been incarcerated a  
21 whole year, and the Public Defender Office ain't did nothing  
22 for me. Ain't filed no evidence, ain't suppressed no  
23 evidence. I put in a speedy trial. Ain't heard nothing in  
24 a whole year. I just been a sitting duck.

25 THE COURT: Okay. I may come back to you. Just hang

1 on a second.

2 Mr. Poole.

3 MR. POOLE: Your Honor, the initial attorney in our  
4 office was Andrea Price representing Mr. Mays on these  
5 charges that he's mentioned to you. He filed a pro se  
6 motion and a hearing was held by Judge Cole on June 21,  
7 2013, and an order was signed on July 16, 2013, appointing  
8 me, Roger Poole, to represent Mr. Mays.

9 On August 1 I went to talk to Mr. Mays, and we didn't  
10 talk at any length at all about the charges that he's  
11 facing. He -- I -- he said that he wanted to represent  
12 himself, that he did not want any member of the Public  
13 Defender's Office to represent him, and he did not desire a,  
14 an attorney of any nature to represent him, and we -- I went  
15 over this with him about three times, and he was insistent  
16 about it.

17 That's basically all I can tell you. He's filed this  
18 motion fairly recently pro se, and apparently he's sincere  
19 about representing himself.

20 THE COURT: All right. What's the State's position?

21 SOLICITOR BULSA: Your Honor, the State would just ask  
22 that the public defender be available should he change his  
23 mind. We have actually been trying to schedule this for  
24 trial. There is a codefendant who had also been represented  
25 by the public defender. A conflict was determined to exist,

1 a new attorney had to be appointed for that defendant, and  
2 that attorney had to get up to speed.

3 We were actually attempting to schedule this case for  
4 trial this week, but the defendant fired his public  
5 defender. She also had vacation plans. So, it couldn't be  
6 scheduled till this week.

7 It was actually gonna be placed on the docket for  
8 August 26<sup>th</sup>. I think that's why Mr. Poole was trying to  
9 meet with Mr. Mays. Based on the difficulties they were  
10 having, it was pulled from that docket. So, it's not  
11 projected on the docket as of yet.

12 Your Honor, we intend to try the case and look forward  
13 to it getting, showing up on a docket. We just want to make  
14 sure the record is protected on any post-conviction issues  
15 should he be convicted.

16 THE COURT: All right. Well, Mr. Mays, certainly I've  
17 been over with you, at least I think I have, about the  
18 perils of representing yourself.

19 You understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And how old are you, sir?

22 THE DEFENDANT: Thirty-six.

23 THE COURT: And how far did you go in school?

24 THE DEFENDANT: All the way, GED.

25 THE COURT: You got your GED?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: What type of work have you done during your  
3 lifetime?

4 THE DEFENDANT: Warehouse skills.

5 THE COURT: Okay. Can you read and write?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Questions I just have to ask.

8 All right. Well, you don't appear to have any, you  
9 know, mental issue or anything like that. I'm gonna grant  
10 your motion. I'm gonna relieve Mr. Poole as your lawyer,  
11 but I want you to understand, in granting your motion, I'm  
12 gonna allow you to represent yourself. I'm not delaying the  
13 proceedings any. I mean you said earlier that you, you  
14 want -- you filed a speedy trial motion. You want to get  
15 this thing tried.

16 You just heard the solicitor say it may be going to  
17 trial in a couple of weeks. So, I'm gonna order the Public  
18 Defender's Office just to be on standby however because you  
19 may need them.

20 Okay?

21 THE DEFENDANT: Well, Your Honor?

22 THE COURT: Yes, sir.

23 THE DEFENDANT: Can I, can I state on the record that  
24 I'm trying to put in a State versus Chapman, speedy trial  
25 motion?

1 THE COURT: Okay.

2 THE DEFENDANT: Can I get a -- schedule a hearing date  
3 for that?

4 THE COURT: All right. Well, I mean -- solicitor,  
5 you're saying you're going to try it August 26<sup>th</sup>?

6 SOLICITOR BULSA: No, sir, our -- the way our docket  
7 works---

8 THE COURT: This is a Court run docket.

9 SOLICITOR BULSA: The way our docket works is that  
10 docket's already been published. The next potential date  
11 will be sometime in September.

12 THE COURT: Have you actually filed your motion?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: When was that filed?

15 THE DEFENDANT: I done filed it so many times, but  
16 somehow it keep getting lost and --.

17 THE COURT: All right. Any motion for speedy trial  
18 must be heard within the next ten days.

19 THE DEFENDANT: Thank you.

20 THE COURT: We'll get that done.

21 You got Court next week?

22 SOLICITOR BULSA: I'm not sure that can get  
23 accomplished, Your Honor, no, sir.

24 THE DEFENDANT: My dates keep getting changed.

25 SOLICITOR BULSA: We don't have Court the next two

1 weeks.

2 THE COURT: No Court next week?

3 SOLICITOR BULSA: No Court until August 26<sup>th</sup>.

4 THE COURT: See, I didn't know that. I'm, I'm a  
5 visiting judge and I'm not from around here.

6 THE DEFENDANT: My dates keep changing. They done had  
7 a whole year to bring it.

8 THE COURT: All right. I understand that, but you  
9 filed a -- you can't have a motion hearing without Court  
10 going on.

11 Okay. See, I mean we, we travel around all over the  
12 place. You know, next week I'm in Greenville and stuff.

13 Okay. So, without Court you can't have a hearing.

14 So---

15 SOLICITOR BULSA: We can---

16 THE COURT: I'm -- you're entitled to have your hearing  
17 on your motion.

18 Okay. It can't be next week and the week after that  
19 there's no Court anywhere in the State.

20 THE DEFENDANT: Can we---

21 THE COURT: Okay. We got, we got a place we got to go  
22 to and stuff, judges for learning and stuff. So, the week  
23 after that is the 26<sup>th</sup>, which is when you're talking about,  
24 right?

25 SOLICITOR BULSA: Yes, sir, I can ask that it be put on

1 the motion docket for that week.

2 THE COURT: Well, let's just say it's gonna be on the  
3 week.

4 SOLICITOR BULSA: Friday would be basically three weeks  
5 from today.

6 THE COURT: You got it. Three weeks from today your  
7 motion is gonna be heard.

8 THE DEFENDANT: Thank you.

9 THE COURT: All right. Anything else?

10 SOLICITOR BULSA: One other matter, Your Honor. The  
11 State has provided discovery to the Public Defender's  
12 office. So, that should be available to Mr. Mays.

13 MR. POOLE: I have---

14 THE DEFENDANT: That's the Brady material, right?

15 THE COURT: Yes, sir.

16 MR. POOLE: Your Honor, I've recently received that --  
17 the supplemental discovery.

18 THE COURT: Okay.

19 MR. POOLE: And I have it right here. He has the past  
20 produced discovery and I'm delivering it to him.

21 THE COURT: All right. Let the record reflect you have  
22 it now. It's your paperwork.

23 MR. POOLE: That's yours.

24 THE DEFENDANT: I'm talking about -- this not still  
25 what -- I'm asking for the Brady material discovery motion.

1 I filed it too. I'm trying to get a scheduled hearing date  
2 on that also while I'm here.

3 THE COURT: All right. Solicitor, you bring -- you're  
4 saying---

5 SOLICITOR BULSA: We've complied with that.

6 THE COURT: ---you've complied with that?

7 SOLICITOR BULSA: Yes, sir.

8 THE COURT: All right. Y'all deal with all that in  
9 three weeks. You can be heard on that as well. Mr. Poole  
10 is reflecting to the Court that that's everything he has in  
11 his file.

12 THE DEFENDANT: All right.

13 THE COURT: Mr. Poole, could you prepare just a short  
14 order for me that I relieved you of representation and y'all  
15 are gonna be on standby?

16 MR. POOLE: Yes, sir.

17 May I approach please?

18 THE COURT: Yes, sir, thank you.

19 THE DEFENDANT: Thank you.

20 THE COURT: Good luck to you.

21

22

23 \* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

24

25

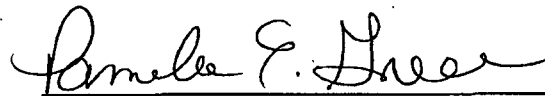
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 9<sup>th</sup> day of August, 2013.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 5<sup>th</sup>, 2014



PAMELA E. GREEN, Court Reporter

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	
The State,	)	TRANSCRIPT OF RECORD
	)	2012-GS-42-05314, -05315, -05316,
-vs-	)	-05316A, 05317
Javan F. Mays,	)	
	)	September 20, 2013
Defendant.	)	Spartanburg, South Carolina

B E F O R E:

HONORABLE ROBIN B. STILWELL, JUDGE

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

MEGHAN M. GILMER, ESQUIRE  
Attorney for the State

PRO SE  
Attorney for the Defendant

Margaret A. Woods  
Circuit Court Reporter

1 THE COURT: Okay, I see we've come to the motion so I  
2 have Mr. Mays in front of me. Mr. Mays I think you've made a  
3 motion for a speedy trial, is that correct, sir?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: I'd be happy to hear you, sir.

6 (Whereupon, a discussion was held off the record.)

7 THE DEFENDANT: Well, um, Your Honor, I've been sittin'  
8 fourteen months and I keep keep gettin' prior dates like I'm  
9 goin' to trial I'm not ---

10 THE COURT: Yes, sir.

11 THE DEFENDANT: --- and, uh, I didn't get no response to  
12 'em so I I granted a, uh, I filed a speedy trial motion ---

13 THE COURT: Okay.

14 THE DEFENDANT: --- to get get 'em, uh, State a certain  
15 amounta days, to, uh, bring me forth trial or, yeah, my  
16 charges are to be disposed of.

17 THE COURT: Okay, good enough, good enough. What's the  
18 position of the State?

19 MS. GILMER: Your Honor, his cases are actually scheduled  
20 for trial on the October 7th trial docket which is our next  
21 upcoming docket. He's here on criminal domestic violence of a  
22 high and aggravated nature, discharging a firearm into a  
23 dwelling, two counts of attempted murder, one count of armed  
24 robbery, one count of possession of a weapon during a violent  
25 crime and escape and, uh, and excuse me, and another

1 discharging a firearm into a dwelling and all of those cases  
2 are on the October 7th docket.

3 THE COURT: Okay. Do you have a, you're -- do you have a  
4 bond right now?

5 THE DEFENDANT: No, I haven't had one for fourteen  
6 months. I, um, ---

7 THE COURT: No bond or just one you can't make?

8 THE DEFENDANT: No bond.

9 THE COURT: Okay, ---

10 MS. GILMER: Your Honor, ---

11 THE COURT: --- so ---

12 MS. GILMER: --- I I can address that.

13 THE COURT: Sure.

14 MS. GILMER: Uh, he had a \$40,000 bond, uh, with GPS  
15 monitoring on the criminal domestic violence of a high and  
16 aggravated nature and ---

17 THE COURT: Yes, ma'am.

18 MS. GILMER: --- dis -- discharging a firearm.

19 THE DEFENDANT: I never had ---

20 MS. GILMER: He ---

21 THE DEFENDANT: --- that charge.

22 MS. GILMER: --- he, that those arrests were in July. He  
23 was on obviously home detention with the GPS monitoring, he  
24 picked up the new charges in August: the two attempted  
25 murders, the additional discharging a firearm, escape and the

1 possession of a weapon during a violent crime. No bond was  
2 set on those cases, uh, Your Honor, and I can assume because  
3 he was on bond with home detention ---

4 THE COURT: Okay, ---

5 MS. GILMER: --- for the other charges.

6 THE COURT: --- so you you ya'll lookin' to dispose of  
7 all the outstanding cases on -- in the the docket in October?

8 MS. GILMER: Yes, Your Honor, they are all on the trial  
9 docket.

10 THE COURT: Okay. Alright, uh, Mr. Mays I'm gonna, I'm  
11 gonna grant it in part and in substance so what I'm gonna say  
12 is, uh, needs to be brought trial on the October 7th week of  
13 trial if not then you may petition for a, uh, for a  
14 modification of your bond, okay?

15 THE DEFENDANT: Well, Your Honor, I had, uh, I went up  
16 for a bond and my problem with that is I withheld it and I  
17 started doin' some filin' and I discovered that my bond had  
18 been denied by a judge and the judge never did it.

19 THE COURT: Okay. If you're not up on October 7th then  
20 you make a motion for a modification of your bond globally,  
21 that is everything that you have outstanding.

22 THE DEFENDANT: Oh.

23 THE COURT: I'm not guaranteein' that there's gonna --  
24 you're, that that you're gonna get your relief from that  
25 because I don't know, I'm not gonna, I'm not gonna be holdin'

1 court that week but you have the right to make that that  
2 motion at that time, ---

3 THE DEFENDANT: I will.

4 THE COURT: --- okay? Uh, I see here Defense Attorney  
5 Roger Poole, is there -- is is Mr. Poole representing or is he  
6 gonna rep. ---

7 MS. GILMER: He ---

8 THE DEFENDANT: I represent ---

9 MS. GILMER: --- he is ---

10 THE DEFENDANT: --- myself, he's been relieved.

11 MR. POOLE: May it please the Court, ---

12 MS. GILMER: --- he's ---

13 MR. POOLE: --- Your Honor.

14 THE COURT: Uh, how ya doin', sir?

15 MR. POOLE: I'm fine thank you.

16 THE COURT: Good.

17 MR. POOLE: Uh, I am Roger Poole with ---

18 THE COURT: Yes, sir:

19 MR. POOLE: --- public defender's office ---

20 THE COURT: Yes, sir.

21 MR. POOLE: --- and, uh, I do not represent him but, uh,  
22 the public defender's office is on standby.

23 THE COURT: Okay.

24 MR. POOLE: I was his last appointed attorney and Judge  
25 Gibbons signed an order on August 9 relieving me at Mr. Mays'

1 request as his lawyer so he is pro se.

2 THE COURT: Okay, good enough, that's just an  
3 administrative issue, I was just, I was just curious because  
4 it wasn't on the docket. Okay, Mr. Mays, uh, that's it. If  
5 you, if if you're not tried and everything's resolved on that  
6 October 7th term a court then you can make your motion for a  
7 reconsideration of your bond, okay. Alright, good luck to  
8 you, sir.

9 THE DEFENDANT: Thank you, sir.

10 MS. GILMER: Thank Your Honor.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER  
2

3 I, Margaret A. Woods, Court Reporter in and for the State  
4 of South Carolina at Large, hereby certify that I reported the  
5 preceding case on September 20, 2013 at the time and place  
6 heretofore set forth; and that the foregoing pages numbered  
7 from 2 through 6, inclusive, constitute a true and accurate  
8 transcription of my stenographic notes of the said proceeding.

9 I further certify that I am neither attorney nor counsel  
10 for, nor related to or employed by any of the parties  
11 connected to the action, nor am I financially interested in  
12 the action.

13 July 13, 2014  
14

15 Margaret A. Woods

16 Margaret A. Woods, Court Reporter

17 in and for the State of South Carolina at Large.  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, )  
 )  
 PLAINTIFF, )  
 )  
 -VS- )  
 )  
 JAVAN FREDERICK MAYS, )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

2012-GS-42-05314-05316

NOVEMBER 18, 2013

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE ALEXANDER S. MACAULAY, JUDGE

APPEARANCES:

DERRICK BULSA, ESQUIRE  
ATTORNEY FOR THE STATE

PRO SE  
with ROGER POOLE  
ATTORNEY FOR THE DEFENDANT

MARGARET WOODS  
CIRCUIT COURT REPORTER

TRANSCRIPT PREPARED BY  
DANETTE HANKS  
CIRCUIT COURT REPORTER

<b>INDEX</b>				
<b>WITNESSES</b>	<b>DIRECT</b>	<b>CROSS</b>	<b>REDIRECT</b>	<b>RECROSS</b>
Robert Cheeks Bulsa	63			
Tim Hancock Bulsa Mays	69	72	77	
Laurent Smith Bulsa	79			
Ed Guthro Bulsa Mays	86	121	122	
Brendall Mathis Bulsa	134			
Brian Stokes Bulsa Mays	140	147	149	
Antron Oglesby Bulsa Mays	155	167		
Christopher Scott Bulsa Mays	171	180	181	
Kendall Robinson Bulsa Mays	182	194	197	
<<--->>				
				<b>PAGE</b>
Jury Voir Dire				4
Opening Statements				
Bulsa				58
Mays				62
Closing Statements				
Bulsa				206
Mays				213
Charge				215
Certificate of Reporter				260

## STATE'S/ EXHIBITS

NO	DESCRIPTION	ID	EV
S-1	Photo	19	
S-2	Photo - placard 14	19	
S-3	Description of item 19	22	
S-4	Notice of case scheduling	24	
S-5	Aerial photo	65	66
S-6	Photo	88	89
S-7	Photo	88	89
S-8	Photo	88	89
S-9	Photo	88	89
S-10	Photo	88	89
S-11	Photo	94	95
S-12	Photo	94	95
S-13	Photo	94	95
S-14	Photo	94	95
S-15	Photo	94	95
S-16	Photo	94	95
S-17	Spent shell casing	99	109
S-18	Live round (Exhibit 12)	99	110
S-19	Live round (Exhibit 12)	99	111
S-20	Live round (Exhibit 12)	99	112
S-21	Live round (Exhibit 12)	99	113
S-22	Live bullet	126	128

## DEFENDANT'S EXHIBITS

	(NONE)		
COURT'S EXHIBITS			
C-1	Note from jury	245	

**JURY VOIR DIRE**

Juror #	Name	Race	Sex	Strikes			Accept
				Court	Plaintiff	Def.	
100	Lawson, Christopher W	W	M		x		
88	Ingerson, Janet T	W	F				x
63	Gosselin, Lois M	W	F			x	
87	Hyatt, John R	W	M			x	
79	Hawkins, Cecelia M	B	F				x
204	Greenleaf, Roxanne Tracey	W	F			x	
124	Mitchell, Richard H	W	M			x	
127	Moore, Tyanna V	B	F				x
86	Hutchinson, Richard A	W	M			x	
126	Moore, Anthony	B	M				x
17	Bradley, Helen W	W	F			x	
137	Osbey, Tawanna T	B	F				x
95	Keadle, Jim H	W	M				x
18	Bright, Gail O	W	F			x	
50	Gaulstich, Gerd M	W	M				x
123	Mitchell, Brandon T	W	M				x
98	Lambert, Bobby J	W	M				x
200	Young, Frances Y	B	F			x	
115	Mayes, Rebecca S	W	F			x	
201	Starr, Brandi R	W	F		x		
148	Raymond, Gregory P	W	M			x	
128	Moss, Erroll G	B	M				x
185	Walker, Beverly B	W	F			x	
110	Lyles, Daniel M Jr	B	M				x
174	Stephens, Cassandra	W	F				x
4	Baker, Gregory K	W	M			x	

State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)  
Jury Voir Dire

5

66	Green, Alissa M	W	F				x

1

NOVEMBER 18, 2013

2

THE COURT: All right. Solicitor, if you  
would, please, call your first case before this court,  
please.

5

MR. BULSA: Thank you, Your Honor. State  
versus Javan Mays, three indictments before Your Honor.  
2012-GS-42-5314, 5315 and 5316, two counts of attempted  
murder, one count of armed robbery, with the second count  
of armed robbery, indictment for possession of a firearm  
during the commission of a violent crime.

11

THE COURT: All right. Are you Javan Frederick  
Mays?

13

MR. MAYS: Yes, sir.

14

THE COURT: If you would, please, sir, stand.  
Have you been served with these indictments; indictment  
number 12-GS-42-5314, attempted murder; indictment number  
12-GS-42-5315, attempted murder; and then indictment  
number 12-GS-42-5316, armed robbery, count one; and count  
two, possession of a weapon during the commission of a  
violent crime?

21

MR. MAYS: Yes, sir.

22

THE COURT: It's my understanding that a prior  
order of Judge Gibbons, your petition to have the public  
defender dismissed as your attorney and for you to  
proceed pro se, meaning you'll represent yourself, was

25

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Jury Voir Dire*

7

1 granted; is that correct?

2 MR. MAYS: Yes, sir.

3 THE COURT: Do you still wish to proceed  
4 without an attorney?

5 MR. MAYS: Yes, sir.

6 THE COURT: Now, you do understand the  
7 advantages and disadvantages of proceeding without an  
8 attorney?

9 MR. MAYS: Yes, sir.

10 THE COURT: How long have you -- how many times  
11 have you ever been in criminal court?

12 MR. MAYS: Several.

13 THE COURT: Several. So you're familiar with  
14 the process?

15 MR. MAYS: Yes, sir.

16 THE COURT: Now, have you discussed your  
17 decision to proceed without an attorney, pro se?

18 MR. MAYS: Yes, sir.

19 THE COURT: And do you still wish to proceed  
20 without an attorney?

21 MR. MAYS: Yes, sir.

22 THE COURT: Now, I noticed that in Judge  
23 Gibbons' order that the public defender was told to  
24 remain as your standby counsel; is that correct?

25 MR. MAYS: Yes, sir. There was another part

1 supposed to be in my order where I was requesting ---

2 THE COURT: I need you to speak up. I'm sorry.

3 My hearing is not ---

4 MR. MAYS: There was another court order from  
5 Judge Gibbons about my *Brady* material that I did not yet  
6 receive.

7 THE COURT: We'll get to that in a moment. I'm  
8 trying to find out if we're ready to proceed with this or  
9 not.

10 Now, as I understand, Mr. Poole is the public  
11 defender who was supposed to remain as standby counsel in  
12 this case; is that correct?

13 MR. MAYS: Yes, sir.

14 THE COURT: And he's in court here seated  
15 behind the table where you're seated; is that correct?

16 MR. MAYS: Yes, sir.

17 THE COURT: All right. Is there anything from  
18 the state before we proceed?

19 MR. BULSA: No, sir.

20 THE COURT: All right. Well, from my -- you  
21 may sit down for the moment. From my interview of the  
22 witness, I do find that he is knowingly, intelligently  
23 and well in control of his faculties. In fact, we need  
24 to get up and take up some of the matters he wishes to  
25 address. And therefore, knowingly and intelligently and

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Jury Voir Dire*

9

1 freely and voluntarily has waived his right to counsel  
2 and to proceed pro se; and continues to do so, and that  
3 will be provided in this case.

4 Now, you know if you need to consult, of course,  
5 with Mr. Poole, advise the court and you'll be permitted  
6 to do that. Do you understand that?

7 MR. MAYS: Yes, sir.

8 THE COURT: All right. Now, you say you have  
9 another motion that has not been heard yet?

10 MR. MAYS: I have filed it several times and I  
11 have not yet received ---

12 THE COURT: Now you need -- this is one of the  
13 things -- you stand up. Now, there's a difference in  
14 decorum in different places. South Carolina people who  
15 are representing either themselves or someone else,  
16 always stand when they address the court. Now, if you  
17 were in North Carolina, you would always sit. So you  
18 understand, it's a little bit different. So you stand.  
19 And there's a reason for that. Because the court has a  
20 reporter, court reporter, that takes down everything that  
21 is said. And so she needs to see you clearly speaking at  
22 the time. And this rule applies to both sides. So when  
23 the solicitor is speaking, he stands, so we know who's  
24 talking. And of course, you can't talk over each other.  
25 The one who is standing, will be the one that is

1 recognizing. So in this case, I'm recognizing you to  
2 find out about your *Brady* motion. You may proceed.

3 MR. MAYS: I have filed it probably within the  
4 last eight, nine months, and I have not received anything  
5 and have nothing been on the docket or anything speaking  
6 that I got it.

7 THE COURT: All right. Is there anything else?  
8 Because I'm going to ask the solicitor about that?

9 MR. MAYS: That's all.

10 THE COURT: Very good. Mr. Bulsa?

11 MR. BULSA: Thank you, Your Honor. Back when  
12 Mr. Mays was represented by a public defender, we  
13 complied with the discovery requests, as we always do.  
14 When Mr. Mays sought to relieve them, I inquired of the  
15 public defender if they had provided him with their file.  
16 I was told they did. I actually met with Mr. Mays in the  
17 county jail with my investigation to question why he kept  
18 asking for the same material.

19 THE COURT: All right. When did you meet with  
20 him, approximately?

21 MR. BULSA: It would have been probably in July  
22 or August.

23 THE COURT: All right. Before the last  
24 hearing?

25 MR. BULSA: Yes, sir. It was after the -- in

1 June, Your Honor, June 21st is when he had his first  
2 motion with Judge Cole. Actually it would have been June  
3 21st, he had the first motion with Judge Cole. Judge  
4 Cole relieved Andrea Price, and then appointed -- or  
5 asked the public defender to appoint someone else to  
6 represent Mr. Mays. Roger Poole was appointed at that  
7 time, is my understanding, and I started dealing with Mr.  
8 Poole.

9 Mr. Poole informed me that Mr. Mays did not want his  
10 counsel either. So another hearing was set up and it was  
11 heard on August the 9th of 2013 with Judge Gibbons. And  
12 Judge Gibbons completely released the public defender.  
13 That's when I undertook meeting with the defendant. At  
14 that point we met. He had some documents with him. He  
15 says he needed his *Brady* material. I tried to explain to  
16 him what the discovery was and what was provided.

17 After that meeting I had decided that I'm going to  
18 just give him everything again. We supplied him,  
19 personally, with every document that we had involving  
20 this case, as well as some CDs that involved interviews  
21 of witnesses, and the 911 CD, and a CD of some phone  
22 records that were recovered by the city police.

23 So he keeps commenting about *Brady* material. I'm  
24 not sure what he thinks there is that he has not gotten.  
25 I will tell the court that in preparation for the trial,

1 as I always do, I ran the rap sheets on the potential lay  
2 witnesses. And I do have those available. That would be  
3 the only thing did he did not -- would not have received  
4 at this time.

5 THE COURT: But you have those available for  
6 him?

7 MR. BULSA: I do, yes, sir.

8 THE COURT: Are you going to give them to him  
9 at the time ---

10 MR. BULSA: Yes, sir. At the appropriate time,  
11 yes, sir.

12 THE COURT: All right, Mr. Mays. Of course  
13 that's in the event that he calls witnesses, you will  
14 provide their rap sheets prior to their testifying. You  
15 understand that? Yes, sir.

16 MR. MAYS: Your Honor, that's not all true.

17 THE COURT: What was -- what more are you  
18 seeking?

19 MR. MAYS: I'm seeking -- this a CD. He gave  
20 me six CDs. That's one that's missing. As I read  
21 through my motion ---

22 THE COURT: Which one is missing?

23 MR. MAYS: It's the one -- the name of it --  
24 well, the guy's name is Christopher Scott. It says in my  
25 motions that his interview was on a CD. I have not got

1 that.

2 THE COURT: All right. Just a moment. Mr.  
3 Bulsa, do you know about a CD ---

4 MR. BULSA: I do, Your Honor. I know what he's  
5 talking about. I inquired of the officer. When one of  
6 the victims was in the hospital, the police went and  
7 interviewed him. They attempted to audiotape that  
8 interview. I was told by the police that that did not  
9 record. So there is no audio. Mr. Scott came to the  
10 police department after he was released from the hospital  
11 and gave a written statement. And that written statement  
12 has been supplied to the defendant. He has been provided  
13 what Mr. Scott will say.

14 MR. MAYS: The other thing that I'm missing is  
15 I'm reading throughout the motion and it states that  
16 these guys were shot. I have yet -- I asked for it in my  
17 Brady motion, any blood work, serology testing,  
18 fingerprint testing, any kind of testing. I have not  
19 received any of that.

20 THE COURT: All right. Mr. Solicitor, any  
21 forensics?

22 MR. BULSA: No, sir. No forensics.

23 THE COURT: None was submitted?

24 MR. BULSA: No, sir. We recovered one shell  
25 casing, several rounds at the scene. No weapon was

1 recovered, so no ballistics was requested. The victims  
2 were shot. Based on the nature of the way they were shot  
3 and the type of weapons used, we did not seek their  
4 medical records. We don't feel the need. The doctor's  
5 testimony should meet that element of the offense. There  
6 was -- the vehicle was processed that was used -- that  
7 the crime occurred in. Fingerprints were left and thus  
8 were evaluated by the city police department and a report  
9 was generated and was included in the documents to the  
10 defendant.

11 THE COURT: Were any other forensics, as far as  
12 fingerprints done?

13 MR. BULSA: Those were the fingerprints from  
14 the car. They belonged to the ---

15 THE COURT: Well, any fingerprints ---

16 MR. BULSA: No. Other than that, no, sir,  
17 there was nothing that I recall there being submitted to  
18 ---

19 THE COURT: Well, let's be sure, because we  
20 want ...

21 MR. BULSA: I am reminded that both victims  
22 were swabbed for gunshot residue. And the officer  
23 reminds me that those were sent to the State Law  
24 Enforcement Division. We do not have a report back from  
25 them. It's not something I would introduce if we did

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Jury Voir Dire*

15

1 that.

2 THE COURT: All right. When were they sent?

3 MR. BULSA: It looks like it was about August  
4 the 24th, 2012.

5 THE COURT: And you haven't heard anything?

6 MR. BULSA: No, sir, I have not been supplied  
7 with copies of that. No, sir. I can ask my assistant to  
8 check the SLED computer. We do have access to that. But  
9 nothing has been sent to us. And the officer says he has  
10 not received a copy either. Those would have been in the  
11 GSR to the victims. There's been no allegation that  
12 either one of them had a gun. But that would have been  
13 done out of -- it's just a standard procedure.

14 THE COURT: All right. Anything else, Mr.  
15 Mays?

16 MR. MAYS: Yes, sir, there is, Your Honor.

17 THE COURT: Yes, sir.

18 MR. MAYS: As I read through my motion, I seen  
19 that there was some drugs involved in this shooting. The  
20 drugs had no name titled to them. I'm wondering who --  
21 it doesn't say who drugs was it. But they say drugs are  
22 in the evidence room. I put that in my motion to see who  
23 drugs -- who got caught with the drugs and what the drugs  
24 title was. And I have yet to get that information  
25 either.

1           THE COURT: All right. Mr. Solicitor, were  
2 drugs involved in this incident?

3           MR. BULSA: It was believed that that was part  
4 of the motive of the robbery that Mr. Mays is alleged to  
5 have committed; that drugs were involved. Your Honor,  
6 just a brief factual scenario. Two individual were  
7 seated in the backseat of a car that had been driven to  
8 and parked at a local housing complex. This was about  
9 one o'clock in the morning. The defendant was with  
10 another individual -- allegedly with another individual  
11 when they were -- those two men were confronted in the  
12 backseat of that car. Shots were fired into the car.  
13 The two men had to jump over the seat and get out the  
14 driver's side door. And they fled. They split up when  
15 they fled. One victim was found hiding in some bushes  
16 near the apartment complex. Found somewhere near him,  
17 which the defendant has been provided photographs of, was  
18 a package of what is probably crack cocaine. They were  
19 not tested.

20           THE COURT: Were they field tested?

21           MR. BULSA: They were not tested, no, sir.

22           THE COURT: Not even field tested?

23           MR. BULSA: I don't, I don't recall that, Your  
24 Honor. They were not with the victim. They were within  
25 probably twenty yards of him. He denies that they were

1 his.

2 THE COURT: The victim did?

3 MR. BULSA: Yes, sir, in a meeting with us. We  
4 have no other link, so we didn't ---

5 THE COURT: All right. Was that information  
6 provided to the defendant?

7 MR. BULSA: Yes, sir. All that is provided.  
8 That's how he knows about there being drugs.

9 THE COURT: All right. But was it in the form  
10 of an investigative report?

11 MR. BULSA: Investigative report and also  
12 photographs.

13 THE COURT: Did you receive those photographs?

14 MR. MAYS: No, sir. No, sir, I did not, Your  
15 Honor. Those are not the drugs that I'm talking about.

16 THE COURT: Oh, okay. Which ones are you  
17 talking about?

18 MR. MAYS: These drugs here is on -- it's on  
19 Item 19. It does not have the name title to it and it  
20 just says drugs.

21 THE COURT: Item 19, is that your request or  
22 some ---

23 MR. MAYS: It was from what was in his  
24 paperwork; the motion that I got.

25 THE COURT: All right. What do you have there,

1 Mr. ---

2 MR. BULSA: Item 19 that he's referencing, a  
3 list of items from the city police evidence department.  
4 Item 19 is entitled drugs. Description, plastic bag  
5 containing two separated units of an off-white, rock-like  
6 substance. Submitted to evidence by Ed Guthro. Your  
7 Honor, I submit to the court is that that, is my  
8 understanding, is what was recovered at the scene near  
9 the location of where Christopher Scott was found  
10 wounded.

11 THE COURT: Item 19, drugs two -- what did you  
12 say? Two?

13 MR. BULSA: It's described as a plastic bag  
14 containing two separated units of an off-white rock-like  
15 substance.

16 THE COURT: All right. A plastic bag, one  
17 plastic bag?

18 MR. BULSA: Yes, sir.

19 THE COURT: Is that correct? One container, in  
20 other words?

21 MR. BULSA: For the purposes of this record,  
22 Your Honor, I do have a couple of pictures I can ask to  
23 be marked.

24 THE COURT: Well, is that what we're talking  
25 about, a plastic bag?

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Jury Voir Dire*

19

1 MR. BULSA: Yes, sir, I believe ---

2 THE COURT: With two objects.

3 MR. BULSA: The picture, I think, will help  
4 describe that.

5 MR. MAYS: That's not it.

6 Your Honor, I would like to ask for a continuance  
7 today because I did not know I was coming over here for a  
8 jury trial and I don't have the proper paperwork to  
9 really ---

10 THE COURT: Well, let's finish this and we'll  
11 see what you have on anything else.

12 Do you have that marked?

13 COURT REPORTER: No.

14 THE COURT: We're off the record.

15 (WHEREUPON, the court stood at recess for a short  
16 break.)

17 (WHEREUPON, State Exhibit Numbers 1 and 2 were  
18 marked for identification.)

19 MR. BULSA: Your Honor, just for this hearing,  
20 State's Exhibit 1 and 2. 1 is a picture of the bag. 2  
21 is a picture with a placard marked number 14. That's the  
22 number that was assigned at the scene. However, when it  
23 was introduced into evidence, it is submitted as Item 19,  
24 for their list.

25 Now, if the court -- by the picture and my looking

1 at it, it appears to be a plastic bag of two packages of  
2 rock-like substances, which references the Item 19 that  
3 the defendant is talking about.

4 MR. MAYS: No, it's not.

5 THE COURT: Did you receive these photographs?

6 MR. MAYS: Yes, sir, Your Honor.

7 THE COURT: All right. So you received what  
8 has been marked as Plaintiff's Exhibit -- or State's  
9 Exhibit Number 1 and 2?

10 MR. MAYS: Yes, sir.

11 THE COURT: So this is what you're saying was  
12 not ---

13 MR. MAYS: Your Honor, those are not the drugs  
14 that I'm talking about. Those are the drugs that the two  
15 victims allegedly wrote a voluntary statement saying that  
16 those are they drugs. The drugs I'm talking about is  
17 somebody else's.

18 THE COURT: And where would somebody ---

19 MR. MAYS: I don't know where they got caught.  
20 I don't know where the drugs -- where they got the drugs  
21 from, but this says ---

22 THE COURT: Is there any reference to that in  
23 the material that you've been supplied?

24 MR. MAYS: Yes, sir. Yes, sir.

25 THE COURT: What was that?

1           MR. MAYS: It was -- well, they said the items  
2 was -- 19 was the drugs. They had no name onto them.  
3 They said they separated ---

4           THE COURT: Well, now, he just proffered the  
5 Item 19, which apparently is now marked as State's  
6 Exhibits 1 and 2.

7           MR. MAYS: There's another, there's another  
8 item on there that says crack cocaine. That's what he's  
9 talking about right there. He's not talking about no  
10 drugs with no name on them. Those were all the drugs  
11 that them guys claim. They got those. They know who ---

12          THE COURT: In other words, you say there's  
13 another ---

14          MR. MAYS: There's another thing ---

15          THE COURT: Another group of drugs somewhere?

16          MR. MAYS: Somewhere.

17          THE COURT: All right. Where is it referenced  
18 in anything that you know about?

19          MR. MAYS: I'm trying to remember the motion.

20          THE COURT: Are there any other drugs other  
21 than these two that are reflected in ---

22          MR. BULSA: Yes, sir, I have number 4; that's  
23 -- that's drugs.

24          THE COURT: This one?

25          MR. BULSA: We've got all the evidence right

1 here.

2           Could I ask the court reporter to mark these two  
3 sheets and staple them.

4           THE COURT: All right. We're off the record.

5           (WHEREUPON, State Exhibit Number 3 was marked for  
6 identification.)

7           MR. BULSA: Your Honor, I'm reminded that the  
8 drugs are actually kept in a separate location. The  
9 evidence room would not have been in this package.

10          I would, for the court's information, submit State's  
11 Exhibit 3, which list Item 19 and sets out the  
12 description that I put into the court seems to match the  
13 picture previously ---

14          THE COURT: Have you shown this to Mr. Mays?

15          MR. BULSA: I didn't.

16          MR. MAYS: That's what I'm talking about.

17          THE COURT: Okay. All right. Mr. Mays,  
18 referring to State's Exhibit Number 3, which seems to be  
19 descriptions of various items, is this what you were  
20 talking about, Item 19? Description: plastic bag  
21 containing two separate units of an off-white rock  
22 substance?

23          MR. MAYS: Yes, sir.

24          THE COURT: And you say there was another  
25 reference to some other drugs?

1 MR. MAYS: Those are the drugs that I'm trying  
2 to figure out in my *Brady* that I brought up, which I  
3 don't see who got caught with those drugs. And I'm  
4 asking for the bad character, the bad reputation, fraud,  
5 dishonesty.

6 THE COURT: Well, that goes to the time of  
7 their testimony.

8 MR. MAYS: Okay.

9 THE COURT: That's not an evidentiary matter.

10 MR. MAYS: Okay.

11 THE COURT: You're talking about as far as  
12 their credibility, that you want ---

13 MR. MAYS: Yes, sir. I ---

14 THE COURT: Just a moment. You will be  
15 provided with a rap sheet of any witnesses that do  
16 testify that have rap sheets. All right. And those  
17 convictions will relate whether or not they've had any  
18 convictions for fraud or anything that might be  
19 approachable as moral turpitude.

20 All right. Anything else?

21 MR. MAYS: I don't have my private documents,  
22 Your Honor, so I really can't state at this time.

23 THE COURT: I beg your pardon?

24 MR. MAYS: I don't have my documents with me,  
25 so I can't state anything for the record at this time.

1 THE COURT: All right. You say you don't have  
2 the documents with you that you needed?

3 MR. MAYS: I was not notified of this jury  
4 trial today.

5 THE COURT: All right. Madam Clerk, what's the  
6 process or procedure for -- regarding parties, that they  
7 have matters ready for trial?

8 THE CLERK: They go out -- we have a docket  
9 clerk and she notifies the defendants by letter and it's  
10 put on the trial docket.

11 THE COURT: The letters are sent to their  
12 address?

13 THE CLERK: They are mailed to their home  
14 address.

15 THE COURT: Home address? How about if they're  
16 incarcerated?

17 THE CLERK: I'm not sure how she handles that.

18 THE COURT: Mr. Solicitor, can you give any  
19 assistance?

20 MR. BULSA: I was under the impression that she  
21 would have notified him at the jail. However, when I  
22 inquired of her after our conversation, I had her go to  
23 look into her record.

24 If I could have this marked.

25 (WHEREUPON, State Exhibit Number 4 was marked for

1 identification.)

2 MR. BULSA: This is State's Exhibit Number 4.  
3 It's a group of one, two, three, four, five, six, seven,  
4 eight pages, addressing separate warrant numbers assigned  
5 to Mr. Mays. The docket clerk, Cindy Pierce, tells me  
6 she would have -- this would have been mailed out by  
7 their office to his address on the record. I'll tell the  
8 court that that address is the defendant's mother's  
9 address. What she did with them if she received them, I  
10 do not know. That's how I'm told he would have been  
11 notified.

12 THE COURT: But no service was made on the  
13 defendant at his present residence or location?

14 MR. BULSA: Not that they tell me, no, sir.

15 THE COURT: All right.

16 MR. BULSA: For the record, I don't know if  
17 he's had contact, but Mr. Poole has known that this has  
18 been on the docket. He's called me about it several  
19 times.

20 THE COURT: Well, Mr. Poole has been relieved  
21 as counsel by Judge Gibbons except for standby at trial.

22 MR. BULSA: I had him -- I'm not putting him on  
23 the spot. I'm just -- I don't know if he had ever made  
24 an attempt to speak with Mr. Mays.

25 MR. MAYS: No, he has not.

1 MR. BULSA: I would just ---

2 THE COURT: Well, I'm not trying to take him  
3 off the spot, but Mr. Poole, by the provisions of Judge  
4 Gibbons' order, was relieved as counsel for the  
5 defendant. However, the public defender will remain as  
6 standby counsel should the defendant need assistance  
7 during the trial of the case. In other words, he had no  
8 further responsibilities until the trial was actually  
9 called.

10 MR. BULSA: I agree. And I just asked -- I  
11 stepped over and asked Mr. Poole and he said he did not  
12 go to the jail to speak with Mr. Mays.

13 THE COURT: Well, he had no reason to. In  
14 fact, it may be a violation of Judge Gibbons' order if he  
15 did, because it says that he should be standby should the  
16 defendant need assistance during the trial.

17 All right. Have a seat. Now, what is it -- you did  
18 not receive proper notice. What are you suggesting, Mr.  
19 Mays?

20 MR. MAYS: I just need some time.

21 THE COURT: How much time do you need?

22 MR. MAYS: One day is fine with me.

23 THE COURT: All right. Mr. Solicitor, what do  
24 you say?

25 MR. BULSA: At this time and this date, I don't

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Jury Voir Dire*

27

1 know how it would affect other trials. We might be  
2 proceeding on. We do have some other cases on the  
3 docket. I don't know if Your Honor wants to start  
4 another case.

5 THE COURT: No. I think it was -- as I  
6 understand, you have a very efficient docket coordinator  
7 here in Spartanburg County and that she probably -- I was  
8 looking at it; I've seen it today. And it shows you've  
9 got about eighty-two cases down and this all seems to be  
10 ones that are adjusted for different purposes.

11 How about if I do this, Mr. Mays, suggest -- how  
12 long do you think this case might try -- last, Mr.  
13 Solicitor?

14 MR. BULSA: The state's portion is about a day.

15 THE COURT: How much time do you need on your  
16 side of the case, Mr. Mays? Now, you understand -- and  
17 I'm sure Mr. Poole has advised you, or somebody has, that  
18 you do not have any -- you do not have the burden of  
19 proof in a criminal case. In other words, the  
20 constitutional provides that you do not even have to  
21 testify or offer any evidence. Do you understand that?

22 MR. MAYS: Yes, sir.

23 THE COURT: And the fact that you do not  
24 testify or offer any evidence will not be held against  
25 you, and I'll also instruct the jury that's drawn in this

1 case. Do you understand that?

2 MR. MAYS: Yes, sir.

3 THE COURT: So now I'm going to ask you, how  
4 much time do you think you might need if you decide to  
5 waive your right not to testify or present evidence?

6 MR. MAYS: I'm fine.

7 THE COURT: Would a day be ---

8 MR. MAYS: That's fine.

9 THE COURT: All right. In that case, let's say  
10 Wednesday. So this case will not be called before  
11 Wednesday, but what time will the jury be reporting back  
12 on Wednesday?

13 MR. BULSA: We normally do it on an on-call  
14 basis.

15 THE COURT: Well, I mean, so what time would  
16 they be on call?

17 MR. BULSA: They would call back, I would  
18 presume, tomorrow evening to determine when to come back.

19 THE COURT: And what time would that be? You  
20 tell them to come in at some time.

21 MR. BULSA: Yes, sir. I don't ---

22 THE COURT: Ten o'clock, nine thirty?

23 THE CLERK: It's in the judge's discretion.

24 THE COURT: Y'all will have to forgive me. I  
25 come to Spartanburg only occasionally. My mother told me

1 when you're a guest in a home, you don't try to dictate  
2 the terms. I want to be invited back. So what's the  
3 most convenient for your staff, your ---

4 MR. BULSA: May I ask the court a question?

5 THE COURT: Yes, sir.

6 MR. BULSA: Do you intend to try a case in  
7 between this?

8 THE COURT: I'll be glad to. Yes, sir.

9 MR. BULSA: So ---

10 THE COURT: But what I'm talking about, what is  
11 the normal time that you would ask the jury to report if  
12 they're to come back the next day?

13 MR. BULSA: Nine thirty.

14 THE COURT: What?

15 MR. BULSA: Nine thirty.

16 THE COURT: Pardon?

17 MR. BULSA: Nine thirty.

18 THE COURT: Nine thirty. All right. So this  
19 case can be called, but not sooner than nine thirty  
20 Wednesday. And Wednesday is what day? This is ---

21 MR. BULSA: November the 20th.

22 THE COURT: The 20th. Wednesday, the 20th,  
23 2013. You understand?

24 MR. MAYS: Yes.

25 THE COURT: And you'll be ready to go to trial

1 at that time. Any questions?

2 MR. MAYS: No, sir.

3 THE COURT: Very good. And Mr. Poole, you'll  
4 continue to be available as standby during the trial. Do  
5 you understand that?

6 MR. POOLE: Yes, sir, I do.

7 THE COURT: All right. Very good. Any  
8 questions from the state?

9 MR. BULSA: No, Your Honor. But I would like  
10 to take this opportunity to offer Mr. Mays an opportunity  
11 to look at the evidence.

12 THE COURT: That's a very good idea. See if  
13 you can't arrange that in an appropriate place.

14 All right. Mr. Mays, Mr. Solicitor, I want to thank  
15 you and all those who have been involved in this  
16 proceeding for your patience with the court today. We'll  
17 now be ready to proceed Wednesday morning at nine thirty.  
18 Very good. Thank you.

19 MR. BULSA: Yes, sir. Thank you, Your Honor.

20 (WHEREUPON, the court stood at recess in this matter  
21 for the day.)

22 **NOVEMBER 20, 2013**

23 (WHEREUPON, Court convened with all parties present  
24 and the following proceedings were had.)

25 THE COURT: All right. We are now ready to

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*

31

*Jury Voir Dire*

1 start the trial of State versus Javan Frederick Mack --  
2 Mays. Excuse me, Mr. Mays. Case number 2012-GS-42-5315,  
3 5314 and 5316.

4 Now, is there anything from the state before we  
5 begin the selection of a jury? Any voir dire?

6 MR. BULSA: I believe I handed my voir dire up  
7 yesterday. But I have a new list of witnesses. I added  
8 two names. Do you want the indictments?

9 THE COURT: At least copies.

10 All right. Mr. Mays, do you have any voir dire? In  
11 other words, questions for the jury?

12 MR. MAYS: No, sir.

13 THE COURT: Do you want to consult with Mr.  
14 Poole maybe just find out if there is anything you'd like  
15 to ask or should ask?

16 MR. MAYS: That's fine.

17 (WHEREUPON, Messrs. Mays and Poole consult.)

18 THE COURT: Do you have an extra copy of your  
19 voir dire? The reason I ask, we need to let the  
20 defendant look at it.

21 MR. BULSA: I had given him one yesterday.

22 THE COURT: Oh, all right.

23 All right. Mr. Mays, you have been furnished a copy  
24 of the state's?

25 MR. MAYS: Yes, sir.

1 THE COURT: You've looked at those?

2 MR. MAYS: (Affirmative nod.)

3 THE COURT: And you've also had an opportunity  
4 to discuss with your standby counsel any voir dire that  
5 you might have?

6 MR. MAYS: Yes, sir.

7 THE COURT: Do you have any that you want to  
8 have the jury asked?

9 MR. MAYS: No, sir.

10 THE COURT: Very good. All right. I  
11 understand just before we were supposed to get start, as  
12 far as the peremptory challenges under the indictments in  
13 this case that the defendant will be entitle to ten and  
14 the state would be five?

15 MR. BULSA: Yes, sir.

16 THE COURT: Mr. Mays, is that what you  
17 understand?

18 MR. MAYS: Can you repeat that, Your Honor.

19 THE COURT: That the defendant is entitled to  
20 ten strikes and the state is entitled to five, as far as  
21 jurors?

22 MR. MAYS: Yes, sir.

23 THE COURT: All right. Let's see. We're going  
24 to need some room; aren't we, in the courtroom? As soon  
25 as we strike the jury, you can come back.

1 THE BAILIFF: You ready for them?

2 THE COURT: Yes, sir. Yes, sir. Well, I say  
3 we are. Mr. Solicitor, are you ready for the jury?

4 MR. BULSA: Yes, sir.

5 THE COURT: Mr. Mays, are you ready?

6 MR. MAYS: (Affirmative nod.)

7 THE COURT: Now, you've got to speak up because  
8 the lady is taking down everything we say. And so are  
9 you ready?

10 MR. MAYS: Yes, sir.

11 THE COURT: Very good. Thanks.

12 (WHEREUPON, the jury panel entered the open court at  
13 approximately 2:33 p.m.)

14 THE COURT: Good afternoon, ladies and  
15 gentlemen. I think the way you do it here in  
16 Spartanburg, y'all were all in court yesterday with me on  
17 the other case. You do understand that when you were put  
18 under oath on Monday, I think, when you were qualified,  
19 that you're still under oath. So therefore when we ask  
20 you some questions, they'll be done in the same -- will  
21 be done the same way as provided.

22 We're about to start a trial of another case. And  
23 I'm going to call on the solicitor, if he would, to call  
24 this case.

25 MR. BULSA: Thank you, Your Honor. The state

1 versus Javan Mays on two indictments for attempted murder  
2 and one indictment for armed robbery.

3 THE COURT: Let's see. We have the indictments  
4 here.

5 Ladies and gentlemen of the jury panel, we're about  
6 to begin the trial of the case of State versus Javan  
7 Frederick Mays, who is charged in two indictments, with  
8 attempted murder; is that correct, Mr. ---

9 MR. BULSA: That's correct.

10 THE COURT: All right. On indictment number  
11 2012-GS-42-5314, he's charged with attempted murder. And  
12 indictment number 2012-GS-42-5315, with attempted murder.  
13 And a third indictment -- is there another indictment for  
14 armed robbery?

15 MR. BULSA: Yes, sir, you should have three  
16 indictments.

17 THE COURT: All right. Three indictments. I  
18 just wanted to be sure that that's correct.

19 MR. BULSA: Yes, sir.

20 THE COURT: And then a third indictment, 53 --  
21 excuse me. 2012-GS-42-5316, in court one, armed robbery,  
22 and in court two, possession of a firearm during the  
23 commission of a violent crime.

24 Now, the state will be represented by Ms. Bulsa.  
25 Mr. Bulsa, if you would please stand and introduce

1 yourself and anyone who will be assisting you in the  
2 trial of this case.

3 MR. BULSA: My name is Derrick Balsa. I'm a  
4 prosecutor with the solicitor's office. I have numerous  
5 witnesses. I assume their names will be called. But  
6 I'll be handling the case myself.

7 THE COURT: And the defendant is Javan  
8 Frederick Mays, and he is representing himself, as he is  
9 entitled to do under our constitution. However, Mr.  
10 Poole will be -- who is an attorney here with the local  
11 office will be standby counsel in the sense that he will  
12 assist Mr. Mays if necessary as far as questioning, but  
13 he will not be representing Mr. Mays, as such, except as  
14 a standby counsel.

15 Now, ladies and gentlemen of the jury, is there any  
16 member of the jury panel related by blood or marriage to  
17 the defendant, Javan Frederick Mays? If so, please  
18 stand.

19 (No response.)

20 THE COURT: Is any member of the jury panel --  
21 I'm sorry, Mr. Mays, I forgot. If you would, please,  
22 stand and face the -- look upon the jury. Very good.  
23 Thank you, sir. The reason for that, of course -- you  
24 may have a seat. The reason for that, as I said  
25 yesterday, sometimes we might recognize somebody but not

1 know them by name. And so I'm getting ready to read out  
2 a list of names of potential witnesses. And if any of  
3 the witnesses happen to be in court, if they would,  
4 please stand at the time their names are called and look  
5 upon the jury, as well. Is any member of the jury panel  
6 related by blood or marriage to the defendant, Javan  
7 Frederick Mays? If so, please stand.

8 (No response.)

9 THE COURT: Is there any member of the jury  
10 panel a member of the grand jury and returned the  
11 indictments in these cases? If so, -- the grand jury for  
12 Spartanburg County in the year 2012 and they returned the  
13 indictments in these cases? If so, please stand.

14 (No response.)

15 THE COURT: Now, I'm going to read the names of  
16 potential witnesses in this case, as I said. Potential  
17 witnesses are witnesses who may testify, but they do not  
18 have to testify in the trial of this case. Jo, J-O,  
19 Mays, Antron Oglesby, April Oglesby, Bill Oglesby, Tameka  
20 Pilgrim, Aretha Delores Richards, Kendall Robinson,  
21 Christopher Tore Scott, Courtney Burgess. If you would,  
22 turn around and look at the jury. Thank you, sir. John  
23 Burgess. Thank you, sir. Robert Cheeks, Cory Cole,  
24 Stacy Corn, Alan Freeman, Ed Guthro. Thank you, sir.  
25 Tim Hancock, Brendall Mathis, Laurent Smith, Brian

1 Stokes, Jennifer Watson. Thank you, ma'am. Chris  
2 Latham.

3 Now, is there any member of the jury panel related  
4 by blood or marriage, close personal friend, a business  
5 associate, of any of the potential witnesses in this  
6 case? If so, please stand. That would be Jo Mays,  
7 Antron Oglesby, April Oglesby, Bill Oglesby, Tameka  
8 Pilgrim, Aretha Delores Richards, Kendall Robinson,  
9 Christopher Tore Scott, Courtney Burgess, John Burgess,  
10 Robert Cheeks, Cory Cole, Stacy Corn, Alan Freeman, Ed  
11 Guthro, Tim Hancock, Brendall Mathis, Laurent Smith,  
12 Brian Stokes, Jennifer Watson or Chris Latham. Any  
13 member of the jury panel related by blood or marriage,  
14 close personal friend, business associate to any of the  
15 potential witnesses in this case, if you would please  
16 stand at this time.

17 (No response.)

18 THE COURT: Is there any member of the jury  
19 panel or member of their immediate family either close  
20 personal friends or business associates or related by  
21 blood or marriage to the defendant, Javan Frederick Mays,  
22 or any members of his family? If so, please stand.

23 (No response.)

24 THE COURT: Has any member of the jury panel  
25 ever been employed by or represented by the Spartanburg

1 Public Defender's Office? If so, please stand.

2 (No response.)

3 THE COURT: Is there any member of the jury  
4 panel or members of their immediately family close  
5 personal friends or business associate of the attorney,  
6 Robert Poole? If so, please stand.

7 MR. BULSA: It's Roger, Your Honor. That was a  
8 mistake, Roger Poole.

9 THE COURT: Did I say Robert? Well, I've got  
10 two names. Which is it? Roger?

11 MR. POOLE: Yes, sir, it's Roger.

12 THE COURT: Roger?

13 MR. POOLE: Right.

14 THE COURT: All right. Thank you.

15 Any member of the jury panel related by blood or  
16 marriage, close personal friend or business associate of  
17 the attorney Roger Poole?

18 (No response.)

19 THE COURT: Is there any member of the jury  
20 panel ever been employed by or -- excuse me. Any member  
21 of the jury panel or members of their immediate family or  
22 acquaintance ever been employed by or prosecuted for a  
23 criminal offense by any prosecution agency, state or  
24 federal, to include the solicitor's office of the 7th  
25 Judicial Circuit? If so, please stand.

1 (No response.)

2 THE COURT: Is there any member of the jury  
3 panel or members of their immediate family or  
4 acquaintances of the jury ever been investigated by law  
5 enforcement for a criminal violation? If so, please  
6 stand.

7 (No response.)

8 THE COURT: Has any member of the panel formed  
9 or expressed an opinion about any matter that might be  
10 involved in these cases? If so, please stand.

11 (No response.)

12 THE COURT: Is any member of the jury panel  
13 aware of any interest, bias or prejudice, towards either  
14 the defendant or the state of South Carolina? If so,  
15 please stand.

16 (No response.)

17 THE COURT: Does any member of the panel know  
18 of any reason whatsoever why he or she could not give  
19 both the state of South Carolina and the defendant a fair  
20 and impartial trial?

21 (No response.)

22 THE COURT: Any further questions, from the  
23 state?

24 MR. BULSA: No, Your Honor.

25 THE COURT: From the defendant?

1 MR. MAYS: No, Your Honor.

2 THE COURT: Very good. Thank you.

3 Madam Clerk, if you would, please, give us a jury.

4 While she's doing that, I might as well explain to  
5 you, since I didn't do it yesterday, as I say, now we use  
6 a computer to draw the jury names in the general sessions  
7 or criminal court. In the old days, and I'm not talking  
8 about so old as they were in my days, when we started out  
9 we would have a little drum like you do in the lottery  
10 and the clerk would have to cut up each one of your names  
11 off of a list and put them in a little white capsule.  
12 And then we put the capsule in the drum. And then we  
13 would turn the drum. And we'd have a child who was too  
14 young to read or write or a person who was legally blind  
15 to reach in that drum and pull out a capsule. The clerk  
16 would then open the capsule, write down the name, and  
17 then your name would be called to come forward. Now we  
18 do it by computer and -- when the computer is working,  
19 that is, which it is today, and the names are drawn  
20 randomly by the computer. So we get the same type of  
21 list. It's a random list. The names are not in  
22 sequence. In other words, they come in a random order.  
23 But now it's a little bit easier. The clerk is probably  
24 too young to remember those days. Do y'all still have a  
25 drum around here? Okay, very good.

1 All right. If you would, please, Madam Clerk, give  
2 us a jury.

3 THE CLERK: Ladies and gentlemen, when I call  
4 your name and number, please come forward and turn  
5 around; stand right over there.

6 Juror 100, Christopher W. Lawson. What says the  
7 state?

8 MR. BULSA: Please excuse the juror in this  
9 case.

10 THE COURT: He's excused. By the way, you do  
11 remember that the way we do this is that the state goes  
12 first and he'll either say, present the juror or excuse  
13 the juror. And then the defendant -- and Mr. Mays, you  
14 understand this, when it comes to you then you either  
15 say, swear the juror or excuse the juror. You understand  
16 that? And you have ten strikes.

17 MR. MAYS: Yes, sir.

18 THE COURT: Very good. All right.

19 THE CLERK: Juror number 88, Janet T. Ingerson.  
20 What says the state?

21 MR. BULSA: Please present the juror.

22 THE CLERK: What says the defendant?

23 MR. MAYS: Please present the juror.

24 THE CLERK: Juror number 63, Lois M. Gosselin.  
25 What says the state?

1 MR. BULSA: Please present the juror.  
2 THE CLERK: What says the defense?  
3 MR. MAYS: Please excuse the juror.  
4 THE CLERK: Juror number 87, John R. Hyatt.  
5 What says the state?  
6 MR. BULSA: Please present the juror.  
7 THE CLERK: What says the defense?  
8 MR. MAYS: Please excuse the juror.  
9 THE CLERK: Juror number 79, Cecelia M.  
10 Hawkins. What says the state?  
11 MR. BULSA: Please present the juror.  
12 THE CLERK: What says the defense?  
13 MR. MAYS: Please present the juror.  
14 THE CLERK: Juror number 204, Roxanne Tracey  
15 Greenleaf.  
16 MR. BULSA: What number?  
17 THE CLERK: 204. What says the state?  
18 MR. BULSA: Please present the juror.  
19 THE CLERK: What says the defense?  
20 MR. MAYS: Please excuse the juror.  
21 THE CLERK: Juror number 124, Richard H.  
22 Mitchell. What says the state?  
23 MR. BULSA: Please present the juror.  
24 THE CLERK: What says the defense?  
25 MR. MAYS: Please excuse the juror.

1 THE CLERK: Juror number 127, Tyanna V. Moore.

2 What says the state?

3 MR. BULSA: Please present the juror.

4 THE CLERK: What says the defense?

5 MR. MAYS: Please present the juror.

6 THE CLERK: Juror number 86, Richard A.

7 Hutchinson. What says the state?

8 MR. BULSA: Please present the juror.

9 THE CLERK: What says the defense?

10 MR. MAYS: Please excuse the juror.

11 THE CLERK: Juror number 126, Anthony Moore.

12 What says the state?

13 MR. BULSA: Please present the juror.

14 THE CLERK: What says the defense?

15 MR. MAYS: Please present the juror.

16 THE CLERK: Juror number 17, Helen W. Bradley.

17 What says the state?

18 MR. BULSA: Please present the juror.

19 THE CLERK: What says the defense?

20 MR. MAYS: What number?

21 THE CLERK: 17.

22 MR. MAYS: Please excuse the juror.

23 THE CLERK: Juror number 137, Tawanna T. Osbey.

24 What says the state?

25 MR. BULSA: Please present the juror.

1 THE CLERK: What says the defense?

2 MR. MAYS: Please present the juror.

3 THE CLERK: Juror number 95, Jim H. Keadle.

4 What says the state?

5 MR. BULSA: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. MAYS: Please present the juror.

8 THE CLERK: Juror number 18, Gail O. Bright.

9 What says the state?

10 MR. BULSA: Please present the juror.

11 THE CLERK: What says the defense?

12 MR. MAYS: Please excuse the juror.

13 THE CLERK: Juror number 50, Gerd M. Gaulstich.

14 What says the state?

15 MR. BULSA: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. MAYS: Please present the juror.

18 THE CLERK: Juror number 123, Brandon T.

19 Mitchell. What says the state?

20 MR. BULSA: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. MAYS: Please present the juror.

23 THE CLERK: Juror number 98, Bobby J. Lambert.

24 What says the state?

25 MR. BULSA: Please present the juror.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Jury Voir Dire*

45

1 THE CLERK: What says the defense?  
2 MR. MAYS: Please present the juror.  
3 THE CLERK: Juror number 200, Frances Y. Young.  
4 What says the state?  
5 MR. BULSA: Please present the juror.  
6 THE CLERK: What says the defense?  
7 MR. MAYS: Please present the juror.  
8 THE CLERK: Juror number 115, Rebecca S. Mayes.  
9 What says the state?  
10 MR. BULSA: Please present the juror.  
11 THE CLERK: What says the defense?  
12 MR. MAYS: Please excuse the juror.  
13 THE CLERK: Juror number 201, Brandi R. Starr.  
14 What says the state?  
15 MR. BULSA: Please excuse the juror in this  
16 case.  
17 THE CLERK: Juror number 148, Gregory P.  
18 Raymond. What says the state?  
19 MR. BULSA: Please present the juror.  
20 THE CLERK: What says the defense?  
21 MR. MAYS: Please excuse the juror.  
22 THE CLERK: Juror number 128, Errol G. Moss.  
23 What says the state?  
24 MR. BULSA: Please present the juror.  
25 THE CLERK: What says the defense?

1 MR. MAYS: Please present the juror.

2 THE CLERK: Juror number 185, Beverly B.

3 Walker. What says the state?

4 MR. BULSA: Please present the juror.

5 THE CLERK: What says the defense?

6 MR. MAYS: Please excuse the juror.

7 THE CLERK: Juror number 110, Daniel M. Lyles,

8 Jr. What says the state?

9 MR. BULSA: Please present the juror.

10 THE CLERK: What says the defense?

11 MR. MAYS: Please present the juror.

12 THE CLERK: And this is for the alternate.

13 THE COURT: All right. Let's have two  
14 alternates, and that will be two and one on strikes.

15 THE CLERK: Juror number 174, Cassondra W.

16 Stephens. What says the state?

17 MR. BULSA: Please present the juror.

18 THE CLERK: What says the defense?

19 MR. MAYS: Please present the juror.

20 THE CLERK: Juror number 4, Gregory K. Baker.

21 What says the state?

22 MR. BULSA: Please present the juror.

23 THE CLERK: What says the defense?

24 MR. MAYS: Please excuse the juror.

25 THE CLERK: Juror number 66, Alissa M. Green.

1 What says the state?

2 MR. BULSA: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. MAYS: Please present the juror.

5 THE CLERK: Your Honor, our jury selection is  
6 complete.

7 THE COURT: Very good. All right. Is there  
8 any reason this jury cannot be sworn for the trial of  
9 this case, from the state?

10 MR. BULSA: No, Your Honor.

11 THE COURT: From the defense?

12 MR. MAYS: No, Your Honor.

13 THE COURT: Very good. Mr. Keadle.

14 THE JUROR: Yes, sir.

15 THE COURT: I'm going to ask you, since you're  
16 sitting in the foreman's seat, that you serve as foreman  
17 of this jury.

18 THE JUROR: Yes, sir.

19 THE COURT: Very good. At this time I'm going  
20 to ask you to retire to the jury room, and not to begin  
21 any deliberations or anything, not even to discuss the  
22 case. In fact, to discuss, as I mentioned, Mr. Foreman  
23 and jury, anything else but this case, not even  
24 personalities or anything of that nature. But if you  
25 would retire to the jury room. I need to take up some

1 matters with the attorneys and the balance of the jury in  
2 this case. We'll come back out in just a few minutes and  
3 start the trial of the case. But I do, again, ask you to  
4 never, unless it's finally given to you, to discuss this  
5 case with anybody and not let anybody discuss it with  
6 you. All right. With that if you'll go with the  
7 bailiff.

8 (WHEREUPON, the jury exited the open court at  
9 approximately 3:11 p.m.)

10 THE COURT: Ladies and gentlemen, the jury pool  
11 that was not drawn on this jury, I'm going to excuse you  
12 for the balance of the day. Y'all have the telephone  
13 number that you have. Does anybody not have the  
14 telephone number? If so, raise your hand. And you all  
15 understand that the number will be -- you've got somebody  
16 that doesn't? All right. You're to call that number  
17 after six o'clock; is that correct?

18 THE CLERK: After six, yes, sir.

19 THE COURT: After six this afternoon there will  
20 be a message on the answering machine that will tell you  
21 what we need to do tomorrow, either to come in at a  
22 certain time or call back or there could be some other  
23 message. But the main thing is, do keep calling that.  
24 If you don't get through the first time, if it's busy,  
25 keep calling until you finally do get through. And it

1 will be on all night. I regret that if you do not get  
2 the message from the answering machine, you'll have to be  
3 here in the morning, and I or one of the other judges  
4 will have to give you the message. I think you'd rather  
5 have the message from the machine.

6 And again, I do look forward to working with you  
7 this week if the opportunity comes. If not, then it's  
8 been a pleasure to have been serving here in Spartanburg.  
9 I thank you for your kindnesses to me. All right. With  
10 that, I'm going to excuse you for the balance of the day.  
11 Again, anybody have any questions about what to do? Very  
12 good.

13 Everyone else remain seated while the jury retires  
14 from the courtroom.

15 (WHEREUPON, the jury panel exited the open court at  
16 approximately 3:13 p.m.)

17 THE COURT: All right. Mr. Solicitor, you  
18 ready to proceed with your case?

19 MR. BULSA: Yes, sir.

20 THE COURT: Mr. Mays, are you ready to proceed  
21 with your defense?

22 MR. MAYS: Yes, sir.

23 THE COURT: Do you still wish to continue  
24 representing yourself?

25 MR. MAYS: Yes, sir.

1 THE COURT: All right. And you've had an  
2 opportunity to consider the advantages and disadvantages  
3 of it?

4 MR. MAYS: Yes, sir.

5 THE COURT: And you still wish to proceed?

6 MR. MAYS: Yes, sir.

7 THE COURT: All right. I find the defendant  
8 knowingly and intelligently, freely and voluntarily  
9 waives his right to counsel and exercises his right to  
10 represent himself in the matter. And Mr. Poole will only  
11 act as standby counsel for appropriate questions or  
12 advice as asked.

13 All right. How many witnesses do you have that you  
14 might want to try to get in today? The reason I ask, I'm  
15 just trying to -- it's three fifteen.

16 MR. BULSA: Thank you, Your Honor. There's a  
17 possibility I could get in the majority of my officer  
18 witnesses.

19 THE COURT: Well, that'll be good. That's what  
20 we'll do then.

21 Anything from you, Mr. Mays, before we bring the  
22 jury back?

23 MR. MAYS: No, sir, Your Honor.

24 THE COURT: Very good. Ask the jury to join  
25 us, please.

1           (WHEREUPON, the jury entered the open court at  
2           approximately 3:17 p.m.)

3           THE COURT: All right. One thing I will say  
4 before we start, though, Mr. Foreman, you'll always sit  
5 in that seat and the two alternates will always sit in  
6 the last two seats on the back row. That way I'll know  
7 where the individuals I need to stay in touch with are.  
8 However, all the other seats in the jury box, you can sit  
9 wherever you would like. So you don't have to sit in the  
10 same seat each time, except those three seats are the  
11 only reserved seats.

12          Now, Mr. Foreman, ladies and gentlemen of the jury,  
13 I'm sure each of you now fully appreciates that this  
14 court, the Court of General Sessions for Spartanburg  
15 County, exists for the purpose of resolving questions of  
16 alleged criminal conduct arising between the state of  
17 South Carolina and the defendant. It is a guaranteed  
18 right of every citizen that a charge of criminal conduct  
19 be presented in open court, according to certain rules of  
20 procedure. The state has not only an equal right, but a  
21 duty to present a charge of criminal conduct in open  
22 court according to the same rules and procedures. Each  
23 of the parties, therefore, both the state and the  
24 defendant, then have equal right to the opportunity for  
25 this judicial proceeding to have you as a jury and

1 selected and now to be sworn for the trial of this case.

2 Madam Clerk, if you would, please swear the jury.

3 THE CLERK: Please stand and raise your right  
4 hand. Do you solemnly swear or affirm in the case about  
5 to be tried as the jury to try the issue joined in this  
6 case and a true verdict render according to the law and  
7 evidence, so help you God?

8 (WHEREUPON, the jury was duly sworn.)

9 THE COURT: Now, Mr. Foreman and ladies and  
10 gentlemen of the jury, one of the most important aspect  
11 of your duty as a jury lies essentially in the oath that  
12 you have just now taken to well and truly try and  
13 determine the facts of this case. That oath, in a very  
14 essential way, says that you are the sole judges of the  
15 facts in this case. Obviously any case tried in court  
16 will involve a question of about what happened or how  
17 something came to happen or to determine if anyone did  
18 anything in a particular occurrence or circumstance.  
19 From this point forward then, no one concerned with this  
20 trial has a right to decide any question of fact in this  
21 trial or the truth of it, except you, the jury. The  
22 facts then are for your resolution and your decision and  
23 yours alone. And after you hear all the evidence in the  
24 case, then it will be your duty, by your mutual enjoyment  
25 and discussions, to determine the truth of this case by

1 deciding the weight and believability of each part of the  
2 evidence, and by applying the law of the case thereto.

3       As the trial judge, I am the judge of the law in  
4 this case. It is also my responsibility, among other  
5 duties, to preside over this trial, rule on the  
6 admissibility of evidence offered during the progress of  
7 the trial and to state to you, the jury, the law  
8 applicable to the case. The constitution of the state of  
9 South Carolina mandates that I, as the trial judge,  
10 cannot directly or indirectly comment about the facts in  
11 this case. The process of a verdict; it is simply that  
12 you, the jury, first determine what is the truth of the  
13 facts and then apply to that true state of facts, the  
14 principal of law applicable. And by that process, to  
15 determine and report to this court your final verdict in  
16 the case, speaking the truth of the case, as you  
17 determine it.

18       Now, I will more fully and completely state to you  
19 the principals of law applicable to the issues in the  
20 case before it is submitted to you for your decision.  
21 However, there are certain principals of law applicable  
22 to the framework of every case in general sessions court.  
23 I'll outline several of these basic principals to you for  
24 your guidance.

25       The defendant has entered a plea of not guilty to

1 the charges contained in all of the indictments. The  
2 indictments in a case is not evidence. It is simply the  
3 written instrument that contains the charge or charges  
4 against the defendant and it serves as a formal document  
5 for which the case is processed into the court. The plea  
6 of not guilty places upon the state the burden of proof  
7 in this case.

8 As to what is meant by the term burden of proof, the  
9 defendant is presumed in law innocent of all charges  
10 contained in the indictment. The burden of proof  
11 requires the state to prove guilt beyond a reasonable  
12 doubt and, therefore, consistent with the burden, the  
13 defendant or the accused party shall be presumed innocent  
14 and that presumption of innocence is sufficient to compel  
15 a verdict of not guilty or a verdict of acquittal unless  
16 you, the jury, conclude that the state has satisfied its  
17 obligation to prove the defendant guilty beyond a  
18 reasonable doubt.

19 Now, the term reasonable doubt is the kind of doubt  
20 that would cause a reasonable person to hesitate to act.

21 Now, the case will be opened by the solicitor, after  
22 which the same opportunity will be afforded to the  
23 defendant to make an opening statement. When all the  
24 evidence has been received by the court, counsel for the  
25 state and counsel for the defendant will state to the

1 jury their respective positions, after which the court  
2 will more fully state the law applicable in the case.

3 Obviously, all points of the case are important.  
4 You do not know which witness in the case will most  
5 impress you, whether the first witness or the last  
6 witness. In reaching your final conclusion, you will  
7 need the guidance and the judgement of the other jurors.  
8 You will need the guidance of the principals of law that  
9 will be stated to you by the court. All these reasons  
10 then, if we have any recess periods when you retire to  
11 your jury room, or during an overnight or meal recess, I  
12 instruct you to not -- you must not undertake the  
13 discussion of this case among yourselves until the case  
14 is finally given to you for your deliberation. Nor are  
15 you to discuss this case with anyone or permit anyone to  
16 discuss the case with you. If they try to do so, you  
17 should report them immediately.

18 Now, do remember that the verdict in this case must  
19 be the unanimous verdict of all twelve jurors.

20 Now, there's a few other things I need to mention  
21 before we start. First, as I mentioned earlier, I am the  
22 only person who can tell you what the law is. But you  
23 are the only ones who can determine the facts. I do not  
24 have the right to indicate how I may feel after the  
25 evidence is presented and throughout this trial. My

1 intention will be to act impartially towards each party.

2       Second, from time to time, an attorney or a party  
3 may object to some bit of testimony or evidence which the  
4 other side is seeking to present as it supports a  
5 business or any other structured activity. There are  
6 certain rules that both sides must obey in presenting  
7 evidence. These rules have a definite purpose. They  
8 ensure that the information you receive is the most  
9 trustworthy and reliable evidence available.

10       An objection is a procedure we use for a party to  
11 record a possible violation of the rules to the judge's  
12 attention. For this reason you should not hold an  
13 attorney's objection against his client; nor should you  
14 conclude from my ruling on the objections that I favor  
15 one side or the other.

16       Finally, I would ask that you pay the closest  
17 attention possible to the evidence presented to you. I  
18 would ask that you do not take notes, for if the note  
19 taker makes an error, those notes can be more detrimental  
20 than helpful during the deliberations. It's a time-  
21 tested system and it's for each of you to listen  
22 carefully, and I'm sure that each of you will do that.

23       We'll now begin the trial. However, I might note  
24 that having said that I recommend that you do not take  
25 notes, the reason for that is that it's been my

1 experience if you're taking notes you have a tendency to  
2 concentrate on the note. In other words, we want to be  
3 sure that we write down what we think we hear. And in  
4 doing that, we concentrate on the note and we do not --  
5 or we're distracted from the testimony and the exhibits  
6 and other evidence that's being introduced. And you have  
7 to remember that you will make your decision based solely  
8 and only on the evidence presented in this courtroom;  
9 either the testimony from the sworn witnesses on the  
10 stand or exhibits that are introduced during the course  
11 of the trial by the parties. And so therefore, you want  
12 to be sure that you concentrate on what's happening. If  
13 you're taking a note, like I say, you want to --  
14 sometimes you concentrate on the note. And sometimes  
15 even the spelling or the order of the note itself. So  
16 therefore, that's distracting. And I would suggest that  
17 you do not take notes. And if you have a question about  
18 what might have occurred in the way of witnesses or  
19 testimony or other evidence, then you rely on your fellow  
20 members of the jury, as you will in the ultimate  
21 determination, to find the verdict in this case. And  
22 that's why you rely on what each one thinks and hears and  
23 on how they're related, and that will ultimately  
24 determine where the truth is.

25 Now, having said all that, I do take notes. It's

1 not do as I say, not as I do. The fact of it is that we  
2 have different purposes in this courtroom. You and you  
3 alone are the only ones who can determine the facts in  
4 this case. You're the ones who have to weigh the  
5 evidence, to evaluate the evidence. I am not concerned  
6 with the weight or the value of any evidence. I'm only  
7 concerned whether or not certain things are being done  
8 according to our procedure. Whereas you are weighing the  
9 evidence and determining its value, I'm just jotting down  
10 what occurs. So that's why we have different purposes  
11 and we have different ways of accomplishing our  
12 responsibilities.

13 And as I said, with that, I'll recognize the  
14 solicitor for his opening statement.

15 **OPENING STATEMENT**

16 **BY MR. BULSA:**

17 Good afternoon, ladies and gentlemen. The reason  
18 you're here today, ladies and gentlemen, is because on  
19 the morning of August the 14th of 2012, approximately one  
20 o'clock or one thirty, two men were shot while sitting in  
21 the car in a housing complex here in the city of  
22 Spartanburg; Prince Hall Apartments. It was the evening  
23 of the 13th or early morning hours of the 14th. These  
24 two men had gotten a ride with a couple of young ladies  
25 that they were spending some time with that night. They

1 had been to a store. One of the ladies told them that  
2 they needed to go by and basically run an errand at this  
3 apartment complex. The car was parked -- this is a  
4 picture. There was an upper parking lot and a lower  
5 parking lot. The car was parked in the upper parking lot  
6 when the ladies got out of the vehicle. The vehicle was  
7 left running with the keys in the car. At that time two  
8 men came around and approached the back of the car,  
9 opening the door, demanded money. Give it up. And  
10 proceeded to fire into the vehicle, striking the two men.  
11 The two men's names were Antron Oglesby and Christopher  
12 Scott.

13       Fortunately they did not die. They were able to  
14 fight off their attackers. At that point they were  
15 actually able to jump out of the car and flee. They  
16 split up as they ran. One guy ran behind the building  
17 and fell on some bushes. The other guy ran down the  
18 street. Mr. Oglesby is the one that ran down the street.  
19 He was pursued by the two men and caught and beaten with  
20 a gun and robbed of his clothing and everything in his  
21 clothing.

22       I submit to you, ladies and gentlemen, at the close  
23 of this case you will be convinced beyond a reasonable  
24 doubt that the defendant was one of those two men that  
25 assaulted these men; participated in that shooting and

1 participated in that robbery. And at the close of the  
2 case, I will argue to you that the hand of one is the  
3 hand of all. He did possess the gun at one point, but  
4 we're not alleging he actually pulled the trigger. The  
5 other young man pulled the trigger. But this man, in our  
6 opinion, and in our presentation, is the brains behind  
7 the operation. He's the one that instructed the young  
8 man to do what he did. He did take the gun from the  
9 young man as they chased Mr. Oglesby down the road and  
10 he's the one that struck him in the head and robbed him  
11 of his clothing.

12 This is a serious matter. You'll hear from the  
13 investigating officers about what they found when they  
14 got to the scene and how they investigated and identified  
15 the two defendants. Mr. Oglesby knew this man, knew him  
16 as Van. Van is short for Javan. He identified him to  
17 the police. And the other young man, Mr. Scott, was able  
18 to pick Mr. Mays out of a lineup and identify him to the  
19 police as one of his assailants. The police found him  
20 later that day at his apartment complex -- at that  
21 apartment complex. Listen to them, listen to what they  
22 found. Okay? This is an identity case. A crime clearly  
23 happened. You may not know completely at the close of  
24 this case what all took place because everybody has  
25 different perspectives of what they see and what they're

Opening Statement by Mr. Bursa

1 going through and what happened that night to them. And  
2 we're going to piece it together the best we can through  
3 the witnesses, what the police were able to find because  
4 they were cooperative. And we're going to present this  
5 case to you.

6 The defendant, I submit to you, is guilty of the  
7 crimes he's charged with.

8 MR. MAYS: No, I'm not.

9 THE COURT: Mr. Mays, you will speak according  
10 to our procedures. You do not interrupt each other. Do  
11 you understand?

12 MR. MAYS: Yes, sir.

13 THE COURT: And there's a reason for that.  
14 This lady is taking down everything that is said in the  
15 courtroom. She cannot take down two people talking at  
16 the same time. You understand?

17 MR. MAYS: I apologize.

18 THE COURT: Any questions?

19 MR. MAYS: No, sir.

20 THE COURT: Very good. You may proceed.

21 **OPENING STATEMENT CONTINUED**

22 **BY MR. BULSA:**

23 The state has a job to do. The state's job is to  
24 protect the community. An AK47 was the weapon of choice  
25 that night. Fired into a vehicle at an apartment

1 complex. This man was a participant in that crime and is  
2 guilty.

3 Thank you.

4 THE COURT: All right. Mr. Mays, now it's your  
5 turn to address the jury. This is an opening statement.  
6 You're not trying the whole case. All right?

7 MR. MAYS: Okay.

8 THE COURT: All right.

9 **OPENING STATEMENT**

10 **BY MR. MAYS:**

11 I have no reason to let this man consider me as no  
12 monster, cause I'm not that. And he's saying it was a  
13 AK47. I haven't seen no weapon in my motion of  
14 discovery.

15 MR. BULSA: Objection, Your Honor. He's ---

16 THE COURT: Now you're arguing your case. And  
17 those type arguments belong to the court, not to this  
18 jury. They're not going to decide questions of discovery  
19 or anything like that. They're just concerned about the  
20 facts. All right?

21 MR. MAYS: Okay.

22 THE COURT: Go ahead. If you have anything to  
23 say.

24 MR. MAYS: I have nothing further to say.

25 THE COURT: Very good. Thank you, sir.

1 All right. You may call your next witness -- or  
2 first witness. Excuse me.

3 MR. BULSA: State calls Robert Cheeks.

4 THE CLERK: Do you solemnly swear or affirm  
5 that the testimony you're about to give will be the  
6 truth, the whole truth and nothing but the truth, so help  
7 you God?

8 THE WITNESS: I do.

9 ROBERT CHEEKS,

10 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. BULSA:

13 Q. Mr. Cheeks, please introduce yourself to the jury.

14 A. My name is Robert Cheeks. I'm an officer with the  
15 Spartanburg City Police Department.

16 Q. How long have you been a police officer?

17 A. A little over three years.

18 Q. And what are your duties as a police officer?

19 A. I'm assigned to uniform patrol division.

20 Q. Okay. As a patrol officer, what do you do?

21 A. I answer normal calls that come in for service,  
22 emergency 911 type calls.

23 Q. Okay. And do you work a certain shift?

24 A. I work the four p.m. to two a.m. shift.

25 Q. Okay. So were you working that shift back in August

1 of 2012?

2 A. I was.

3 Q. And on August the 14th, the morning, early morning  
4 hours, were you on duty?

5 A. I was.

6 Q. And did you get a call to go to Prince Hall  
7 Apartments?

8 A. We did.

9 Q. Approximately what time do you recall getting that  
10 call?

11 A. About one twenty-two a.m.

12 Q. About one twenty-two a.m.?

13 A. One twenty-two.

14 Q. Okay. And tell the jury what you did when you got  
15 that call?

16 A. We initially got a call from our dispatcher who then  
17 advised that there was a man that was shot in Prince Hall  
18 Apartments. He was behind the building in the woods, but  
19 he didn't know where he was. I initially arrived first  
20 on scene. We found a small blood trail that led between  
21 the one and the two buildings. We went between the  
22 buildings into the woods where we could hear the victim  
23 yelling for help. We went down into the woods, myself  
24 and several other officers. Gave him immediate medical  
25 aid. Strapped him to a backboard and carried him back

1 out of the woods and back towards EMS.

2 (WHEREUPON, State Exhibit Number 5 was marked for  
3 identification.)

4 Q. Okay. Officer Cheeks, let me show you what's been  
5 marked for identification as State's Number 5. Just look  
6 over that and see if you recognize what that depicts?

7 A. It is a picture of Prince Hall Apartments.

8 Q. Where are those apartments located?

9 A. They're located within the city limits of  
10 Spartanburg. They're right off of Forest Street in the  
11 Highland area.

12 Q. Of course, that's within the Spartanburg County  
13 jurisdiction?

14 A. Yes, sir.

15 Q. Does that show the buildings one and two that you  
16 referenced in your testimony?

17 A. It does.

18 MR. BULSA: The state would offer State's 5  
19 into evidence.

20 THE COURT: Did you show it to him?

21 MR. BULSA: I showed it to him. Yes, sir.

22 THE COURT: Any objection, Mr. Mays?

23 MR. MAYS: That's the Prince Hall Apartment.

24 THE COURT: All right. No objection?

25 MR. MAYS: No objection.

1 THE COURT: Very good. State Exhibit Number 5  
2 is admitted into evidence.

3 (WHEREUPON, State Exhibit Number 5 was admitted into  
4 evidence.)

5 Q. This machine makes a little bit of noise, so make  
6 sure you speak up; okay, ---

7 A. Okay.

8 Q. --- when you testify. Do you recall or did you ever  
9 get the name of the individual that you were looking for?

10 THE COURT: Do you want the lights?

11 MR. BULSA: Not just yet.

12 THE COURT: All right. When you get ready for  
13 the lights, let us know.

14 MR. BULSA: Yes, sir.

15 Q. Did you get the name?

16 A. Initially, no. He was in a lot of pain and there  
17 was a lot of screaming, helping type ordeal.

18 Q. Did you learn his name at some point?

19 A. I did.

20 Q. Who was he?

21 A. Mr. Oglesby.

22 Q. Was that Mr. Oglesby or Mr. Scott?

23 A. From the ---

24 Q. Behind the building?

25 A. Mr. Scott.

1 Q. Okay. We'll see him later. You learned his name to  
2 be Christopher Scott?

3 A. Right.

4 Q. Okay. And do you recall what his actual injuries  
5 were?

6 A. I remember just the gunshot wound. Officer Hancock  
7 was there with us and he's a trained EMT. And he was  
8 more so directing us what to do.

9 Q. Okay. So you sort of had an EMT worker before you  
10 had the ambulance arrive?

11 A. Yes, sir.

12 Q. This machine is a little crooked, but let's see, I'm  
13 going to put this State's Exhibit Number 5 up here. I  
14 have a pointer here. If you would point out where you  
15 first saw the blood that you described in your testimony?

16 A. When I first pulled in, I came in this entrance, and  
17 my vehicle was parked sideways right about here. When I  
18 exited my vehicle there was blood on the driver's side  
19 and continued behind my vehicle and down here between the  
20 buildings.

21 Q. Okay. And approximately where was it that you found  
22 Mr. Scott?

23 A. My vehicle was parked here between these buildings,  
24 and I'd say he was probably right along in here in the  
25 wood line.

1 Q. Okay. And y'all ran your first aid and brought him  
2 back out to what area?

3 A. Once we put him on the backboard and carried him  
4 back up the hill, we came back between the buildings,  
5 there was a stretcher sitting here underneath the clothes  
6 lines. Put him on the stretcher and brought him out here  
7 to the EMS truck that was sitting out here in the parking  
8 lot.

9 Q. All right. Once he was receiving aid, what did you  
10 do in this case?

11 A. From there we just -- we exchanged all the  
12 information that we had between us and the other officers  
13 that were on the scene. The other officers that were  
14 back in the parking lot determined that there was a trail  
15 of blood and established a scene. And somewhere in that  
16 ordeal, I heard Mr. Scott say the name Van Mays.

17 Q. All right. Answer any questions Mr. Mays may have.

18 MR. MAYS: I have no questions.

19 THE COURT: All right. You may step down.

20 THE WITNESS: Thank you, sir.

21 MR. BULSA: Your Honor, we ask that Officer  
22 Cheeks be excused.

23 THE COURT: Any objection? Mr. Mays, any  
24 objection to the officer being excused?

25 MR. MAYS: No, sir.

1 THE COURT: All right. Very good. You may be  
2 excused without objection.

3 MR. BULSA: State calls Tim Hancock.

4 THE CLERK: Do you solemnly swear or affirm  
5 that the testimony you're about to give will be the  
6 truth, the whole truth and nothing but the truth, so help  
7 you God?

8 THE WITNESS: So help me God.

9 **TIM HANCOCK,**

10 **BEING DULY SWORN, TESTIFIED AS FOLLOWS:**

11 **DIRECT EXAMINATION**

12 **BY MR. BULSA:**

13 Q. Officer, if you would introduce yourself to the  
14 jury.

15 A. Yes. My name is Timothy Hancock. Patrol Officer  
16 with Spartanburg City Police Department.

17 Q. And how long have you been a patrol officer?

18 A. Full time for two years. I was a reserve officer  
19 back in '04, 2004, when I was employed as a paramedic  
20 with Spartanburg EMS.

21 Q. How long were you a paramedic?

22 A. Seventeen years.

23 Q. Decided to become a police officer?

24 A. Yes, sir.

25 Q. Okay. What are your duties as a police officer?

1 A. I'm also a patrol officer, assigned to a patrol  
2 unit. We answer 911 calls, calls for service. Also work  
3 the traffic unit, traffic accidents.

4 Q. What shift were you working back on August the 14th?

5 A. I was working third shift, which is from ten at  
6 night till eight in the morning.

7 Q. So your shift sort of overlapped with Officer  
8 Cheeks' shift?

9 A. That's correct, sir. Four hours.

10 Q. And do you recall getting a call to Prince Hall  
11 Apartments?

12 A. Yes, sir.

13 Q. Describe what occurred when you arrived?

14 A. Yes, sir. We received a call for shots fired,  
15 possibly someone injured, shot. Officer Cheeks had  
16 arrived first. I arrived second or third, right about  
17 the same time another officer did. As we got out of our  
18 car and starting looking around and investigating the  
19 area, we heard someone crying for help in the woods  
20 behind Prince Hall Apartments, behind building one. Went  
21 behind the buildings. I found an African American male  
22 laying down in the woods. A lot of blood. Copious  
23 amounts of blood right around the area.

24 Q. What injuries did he have?

25 A. He had a entry and exit wound to the posterior part

1 of his upper left leg.

2 Q. In layman's terms?

3 A. The back of his leg, the upper back of his back,  
4 back part of the leg.

5 Q. Okay. Did you recall any other wounds that he had?

6 A. Yes, sir, he had what looked to be an entrance  
7 wound, no exit wound, to the lower part on the inside of  
8 his right leg. So about his shin area on his lower right  
9 leg.

10 Q. So from your inspection of him that night, those are  
11 the ones you saw?

12 A. (No verbal response.)

13 Q. Did you stay with him until EMS arrived?

14 A. Yes, sir, I did.

15 Q. Did you assist EMS?

16 A. Yes, sir, we did.

17 Q. At some point did his clothing get cut off of him?

18 A. Yes, sir. I think once he was actually pulled out  
19 of the woods on a backboard, they placed him on a  
20 stretcher, went ahead and fully examining then to find  
21 any other wounds on him; his shirt and his pants got cut  
22 off. I think in the process of his pants being cut off,  
23 an ID fell out of his pocket and that's when I first was  
24 able to identify who he was.

25 Q. And that was?

1 A. Mr. Christopher Scott.

2 Q. Okay. Did you have any other involvement in the  
3 investigation of the crime?

4 A. Not immediately, no, sir. I basically secured that  
5 crime scene where Mr. Scott was found.

6 Q. All right. Thank you. Answer any questions Mr.  
7 Mays may have.

8 **CROSS EXAMINATION**

9 **BY MR. MAYS:**

10 Q. You say there was a large amount of blood in that  
11 area; right?

12 A. Yes, sir.

13 Q. And on your supplemental report, you've got right  
14 here where you state wounds were not bleeding?

15 A. No, sir.

16 Q. It's in black and white?

17 A. Yes, sir. He was bleeding as he was moving. But as  
18 he's laying down in the woods, there's no blood pumping  
19 out because his heart is not pumping as fast. He's  
20 laying down in the woods, the wounds have basically  
21 stopped bleeding. There's not as much blood left in him.  
22 As you panic, as you become distressed, and you're moving  
23 and running, a lot of blood will come out of you. Heart  
24 pumps faster, pumps more blood out.

25 Q. Okay. But if there's a shot and there's a large

1 amount of blood in the area, it's not just going to stop  
2 bleeding like you stated on paper right here?

3 A. Yes, sir, it will.

4 Q. So you didn't find nothing else in that area off of  
5 Mr. Scott?

6 A. Not on his body, no, sir.

7 Q. Okay. Well it say right here that you found a  
8 cigarette pack of Newports and you found what looked to  
9 be a white powder ---

10 MR. BULSA: Objection, Your Honor.

11 THE COURT: What's your objection?

12 MR. BULSA: I believe he's misstating the  
13 report.

14 THE COURT: He can ask if he made the  
15 statement.

16 MR. BULSA: Yes, sir.

17 MR. MAYS: That's what I did, Your Honor.

18 THE COURT: You want to try again? All right.

19 The rules provide that you can ask the witness about a  
20 statement that was made at another time. But in order to  
21 do that, you have to tell him what the statement is, when  
22 the statement was made and what's the source of it.

23 MR. MAYS: Okay. This statement right here was  
24 made on 8/15/2012 at one fifty-six.

25 THE COURT: All right. Then read the statement

1 to him.

2 MR. MAYS: It says, I, Officer Hancock,  
3 responded to the Prince Hall Apartments for a report of  
4 shots fired and a possible person shot. Upon arrival in  
5 front of ---

6 MR. BULSA: Objection, Your Honor. I don't  
7 believe this is the proper method. He can show it to the  
8 officer and see if he recalls this. ---

9 THE COURT: Well, he has to tell the officer  
10 what he's questioning him about.

11 MR. BULSA: Yes, sir.. That's where he's got to  
12 show him the report. He can't just read it.

13 THE COURT: Thank you. Now get to the  
14 substance of the statement.

15 MR. MAYS: Okay. He's saying right here where  
16 it says, I made my way down to Mr. Scott ---

17 THE COURT: What is the substance of the  
18 statement, is what I'm asking?

19 MR. MAYS: The substance of the statement is  
20 he's saying there was a large amount of blood that he --  
21 the question that he asked the officer.

22 THE COURT: All right.

23 MR. MAYS: Right here it's saying there's a  
24 large amount of blood in the area but the wounds are not  
25 bleeding.

1 THE COURT: All right. Is that -- did you make  
2 that statement?

3 THE WITNESS: Yes, sir.

4 THE COURT: Then that's the answer.

5 MR. MAYS: I want to ask him -- it says right  
6 here he made another part in the statement ---

7 THE COURT: Well, that's -- if you're going to  
8 ask him something, ask him that. Don't talk about  
9 something else. Do you understand?

10 MR. MAYS: Okay.

11 THE COURT: Now, what's the substance of the  
12 second statement you want to ask him about?

13 MR. MAYS: About what was found approximately  
14 five feet away from Mr. Scott.

15 THE COURT: All right. Ask him if he made that  
16 statement?

17 Q. Did you make that statement?

18 A. Yes, sir.

19 MR. MAYS: I can say what was found?

20 THE COURT: Yes. That's his statement. Ask  
21 him -- read the statement that says what he found.

22 MR. MAYS: Five feet away from Mr. Scott on top  
23 of some leaves was a cigarette pack of Newports. Beside  
24 the cigarette pack was contents found of what looked to  
25 be a white powdery substance, possibly cocaine, balled up

1 in cellophane.

2 THE COURT: Did you make that statement?

3 THE WITNESS: Yes, sir, I did.

4 THE COURT: That's the end of it.

5 MR. BULSA: And the state objects that that is  
6 not relevant to this case, Your Honor. It has nothing to  
7 do with Mr. Scott being shot.

8 THE COURT: Well, I don't know. It's  
9 apparently in the investigation of this case. I overrule  
10 your objection.

11 Q. Did you secure the immediate crime scene after that  
12 that you found the drugs?

13 A. I did secure the immediate crime scene, yes, sir.

14 Q. Did you find anything else out there in that area at  
15 that time?

16 A. Yes, sir.

17 Q. Was it a similar size ziplock bag containing ---

18 MR. BULSA: Objection, Your Honor. This is not  
19 a drug case. This is a shooting.

20 MR. MAYS: It's all got to do ---

21 THE COURT: Well, thank you, Mr. Solicitor. I  
22 appreciate that. I heard your opening statements. I  
23 realize that. But the drug case -- excuse me. The  
24 shootings were investigated and certain items came to the  
25 attention of the investigating officer and they put it in

1 their report. I can't take it out of the report.

2 Go ahead. Ask -- now, Mr. Mays, concentrate on what  
3 you're asking him about. Now, apparently you're going on  
4 to something else, but it's in his report. Read what's  
5 in his report you want to see if he did not write.

6 MR. MAYS: Okay.

7 Q. Did you write in your report that there was a  
8 similar size ziplock bag that contained some other  
9 smaller bags with some whitish powdery rocks inside of  
10 them?

11 A. Yes, sir, I made that statement.

12 Q. And you got it off of Mr. Scott?

13 A. No, sir.

14 Q. It's saying right here that you ---

15 THE COURT: Read what he said. Don't you argue  
16 with him. I don't need anybody to argue with a witness  
17 or anybody else in this courtroom. All right.

18 MR. MAYS: I have no further questions.

19 THE COURT: Are you sure?

20 MR. MAYS: Yes, sir.

21 THE COURT: All right.

22 **REDIRECT EXAMINATION**

23 **BY MR. BULSA:**

24 Q. Officer Hancock, what were you investigating out  
25 there?

1 A. A shooting, sir.

2 Q. Okay. And was Mr. Scott shot?

3 A. Yes, sir.

4 Q. These two packages that Mr. Mays referenced, were  
5 they actually on Mr. Scott's body?

6 A. No, sir, they were not.

7 Q. Okay. Why did you look for them?

8 A. I was just searching the immediate area for other  
9 bodies, other people shot, more evidence of a gunshot,  
10 bullets, shell casings, just looking in the immediate  
11 area.

12 Q. Did you have any idea where the actual shooting  
13 occurred?

14 A. No, sir, I did not.

15 Q. Did you see the trail of blood as Officer Cheeks  
16 described?

17 A. I saw -- when I got closer to where Mr. Scott was  
18 found, I saw a lot of blood leading down to his body.

19 Q. Okay. So ---

20 A. I didn't see the immediate trail of blood begin.

21 Q. Did that lead you to believe that he had run to that  
22 location from another area?

23 A. Oh, yes, sir.

24 Q. Was he in pain?

25 A. Yes, sir.

1 Q. Thank you.

2 THE COURT: Is that it?

3 MR. BULSA: Yes, sir.

4 THE COURT: You may step down.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Just when you finish, if you would  
7 let the court know.

8 MR. BULSA: The state asks that Officer Hancock  
9 be excused.

10 THE COURT: Any objection?

11 MR. MAYS: No, sir.

12 THE COURT: Very good. You may be excused.  
13 Thank you, sir.

14 MR. BULSA: State calls Laurent Smith.

15 THE CLERK: Do you solemnly swear or affirm  
16 that the testimony you're about to give will be the  
17 truth, the whole truth and nothing but the truth, so help  
18 you God?

19 THE WITNESS: Yes, ma'am.

20 **LAURENT SMITH,**

21 **BEING DULY SWORN, TESTIFIED AS FOLLOWS:**

22 **DIRECT EXAMINATION**

23 **BY MR. BULSA:**

24 Q. Please introduce yourself to the jury.

25 A. My name is Laurent Smith. I'm a police officer with

1 the city of Spartanburg.

2 Q. How long have you been an officer?

3 A. I've been an officer for approximately four and a  
4 half years.

5 Q. What are your duties?

6 A. My duties currently are, I'm a police officer with  
7 the housing authority division. At the time of the  
8 incident I was actually a patrol officer.

9 Q. Okay. And were you working that shift?

10 A. Yes, sir, I was.

11 Q. And what do you recall hearing?

12 A. I recall basically a call, us being dispatched to  
13 Prince Hall Apartments in reference to a gunshot victim.  
14 Myself, Officer Cheeks, Officer Hancock, we all responded  
15 in a very quick and prompt time. I want to say that I  
16 was approximately the second person, right behind Officer  
17 Cheeks. Everything was kind of moving pretty quickly.  
18 But I responded. We went to the initial area where  
19 dispatch had advised that the victim was screaming from.  
20 And we could actually hear someone screaming, so we were  
21 just checking the area. And as soon as we pretty much  
22 pulled up into the complex, we could hear the screaming  
23 for help.

24 Q. Were you one of the officers that looked for him?

25 A. I believe Officer Hancock and Officer Cheeks went to

1 the yelling. I was checking the area for any other  
2 potential suspects, victims. I did initially see the  
3 blood trail that was leading from the parking lot where  
4 our patrol cars were. It led to the sidewalk and grassy  
5 area and eventually into the woods where Mr. Scott was  
6 located.

7 Q. Okay. So Mr. Scott was located and was getting  
8 treatment. Did you follow that blood trail to its  
9 original source?

10 A. That is what I did. While Officers Cheeks and  
11 Hancock went down to render aid to the victim, I followed  
12 the blood trail the opposite direction. There were other  
13 officers that had arrived on scene at this time, and I  
14 followed the blood trail pretty much from the initial  
15 location where I pulled up and got out of my patrol  
16 vehicle, I followed it in the opposite direction and it  
17 led across the entire apartment complex.

18 Q. Okay. If I could ---

19 MR. BULSA: Could you get the lights, please.

20 Q. I'd direct your attention to the screen which  
21 portrays State's Exhibit Number 5.

22 A. Yes, sir.

23 Q. If you would, show the jury where you followed the  
24 trail of blood?

25 A. Like Officer Cheeks and Hancock advised, came into

1 the area, went into this first parking lot here, got out  
2 of our patrol vehicles. We could hear the yelling, the  
3 screaming. They went down and rendered aid. The blood  
4 trail was leading this way and it was also leading across  
5 -- back across the apartment complex all the way up to  
6 building three. I followed it all the way up to this  
7 area. And it appeared to be the initial area that the  
8 incident occurred in.

9 Q. Just so the jury understands. This picture was  
10 taken at night. It's just a portrayal of the buildings.  
11 When you got to that upper lot, were there any cars in  
12 that location?

13 A. I don't recall any vehicles in the area.

14 Q. Okay. And were there vehicles parked in the lower  
15 parking lot where most of the apartments are?

16 A. You're asking were there ---

17 Q. Yes, sir.

18 A. --- vehicles here?

19 Q. Yes, sir.

20 A. Yes, sir. There were a few vehicles scattered along  
21 some residences.

22 Q. Once you got up to the upper parking lot as I'm  
23 describing here, you don't recall seeing any vehicles?

24 A. I don't recall seeing any vehicles in this parking  
25 lot area.

1 Q. Okay. Where did the trail of blood stop?

2 A. Like I said, we initially pulled in here, exited our  
3 patrol vehicles, and I followed it all the way up to  
4 building three. There's a breeze-way in this area, and I  
5 followed it into the breeze-way and into the parking lot  
6 here. And there's like a trash can that sits right along  
7 in this area. It appeared that the initial incident  
8 occurred in this area. The blood stopped in this area.

9 Q. So when you're saying in this area, are you meaning  
10 in the parking lot itself?

11 A. Yes, sir.

12 Q. On the asphalt portion of the parking lot?

13 A. Yes, sir.

14 Q. Okay. How lit was that area? What kind of lighting  
15 was there?

16 A. It's decent lighting. I believe that there's a  
17 street light here, a street lamp in this area. And  
18 there's lighting in the breeze-way of pretty much all the  
19 apartments throughout the entire complex. So when I  
20 followed the blood trail, I could visibly see several  
21 things. I saw the blood trail. I saw other evidence as  
22 far as shell casings or live rounds. There were just a  
23 few other things that I vaguely remember. I think there  
24 was a hat on the scene. But it was all in this area, in  
25 that parking lot area.

1 Q. Okay. And once you backtracked the blood to that  
2 location, what did you do?

3 A. When I backtracked the blood to that location, like  
4 I said, it appeared to be the initial point of where the  
5 incident occurred. Like I said, I saw the blood. I saw  
6 possibly other evidence as far as the shell casings and  
7 the live rounds. I pretty much secured that scene.

8 Q. Did you collect anything yourself?

9 A. I didn't collect anything. Like I said, I just made  
10 sure no one came out of their apartments. Made sure no  
11 one pulled up and disturbed any evidence. That's pretty  
12 much what my assignment was. Yes, sir.

13 Q. Were other officers called in to collect the  
14 evidence?

15 A. Other officers were -- due to the size of the crime  
16 scene, other officers were called to pretty much secure  
17 various areas. Like I said, my particular assignment was  
18 that specific area. And like I said, there was a blood  
19 trail that I've never seen any basically throughout my  
20 law enforcement career. So the extent or the size of the  
21 crime scene was extremely large.

22 Q. Okay. So because you found a blood trail that  
23 appeared to start in the upper parking lot and a location  
24 of at least one victim behind the lower buildings, y'all  
25 considered the whole area the crime scene?

1 A. Yes, sir, we did.

2 Q. Okay. Just so the jury has a frame of reference.

3 What kind of distance are we talking about between the  
4 two spots?

5 A. I would at least say it's a fourth of a mile.

6 Somewhere in that area. Due to it coming -- you starting  
7 in this area and coming all the way around the apartment  
8 complex, all the way down to where we found the victim.

9 Q. Okay. All right. While you were on the scene did  
10 you learn that there was any other victim?

11 A. While on the scene and I secured that area, through  
12 radio transmission, I did hear that there was another  
13 victim that had been located on Burke Avenue. That's in  
14 the county. So it's just outside of our jurisdiction.

15 Q. About how far away is it from this location?

16 A. Probably somewhere between half a mile to a mile,  
17 somewhere in that area.

18 Q. You get to Burke Avenue by running down Prince Hall  
19 Lane?

20 A. You would get to Burke Avenue by running down Prince  
21 Hall Lane. That would be headed toward the same areas.

22 Q. So this part of the city is near the boundary?

23 A. It is.

24 Q. All right. Answer any questions Mr. Mays may have.

25 THE COURT: Mr. Mays.

1 MR. MAYS: I don't have any questions, Your  
2 Honor.

3 THE COURT: Very good. You may step down.  
4 Thank you, sir.

5 THE WITNESS: Thank you, sir.

6 THE COURT: You want the witness excused?

7 MR. BULSA: Yes, sir.

8 THE COURT: Any objection?

9 MR. MAYS: No, sir, Your Honor.

10 THE COURT: All right. Without objection, you  
11 may be excused. Thank you, sir.

12 THE WITNESS: Thank you, sir.

13 MR. BULSA: State calls Ed Guthro.

14 THE CLERK: Do you solemnly swear or affirm  
15 that the testimony you're about to give will be the  
16 truth, the whole truth and nothing but the truth, so help  
17 you God?

18 THE WITNESS: I do.

19 ED GUTHRO,

20 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. BULSA:

23 Q. Introduce yourself to the jury.

24 A. Edgar Victor Guthro. I work for the Spartanburg  
25 Police Department.

1 Q. In what capacity?

2 A. I work as a forensics investigator.

3 Q. What is a forensics investigator?

4 A. Process crime scenes and evidence.

5 Q. Okay. Are you part of what some people think of as  
6 a crime scene unit or CSI?

7 A. Yes.

8 Q. Is CSI real?

9 A. Exaggerated.

10 Q. Exaggerated. Okay. That's a good word to use for  
11 it. Okay. Now, were you called to this location?

12 A. Yes, sir, I was.

13 Q. Approximately what time did you arrive?

14 A. Two twenty-eight in the morning.

15 Q. About an hour after the initial call went out?

16 A. Correct.

17 Q. What was taking place when you arrived?

18 A. When I arrived patrol officers had taped off the  
19 scene already in several different sections and had  
20 marked some items of potential evidence by placing tape  
21 or other objects that they defined to make it easier for  
22 me to locate.

23 Q. Okay. So where did you begin your processing?

24 A. I started my processing in front of building three,  
25 which is where the incident initiated.

1 Q. If you would look at that for the jury. That's  
2 State's Exhibit 5.

3 A. Okay.

4 Q. What led you to believe that was the initial spot?

5 A. There was -- well, the officers told me when I  
6 arrived they believed that was where it initiated. And  
7 there was a fired shell casing there. And blood there.

8 Q. Okay. So that was consistent with what the officers  
9 believed?

10 A. Correct.

11 Q. All right. And what did you do when you were in  
12 that area?

13 A. When I was in that particular areas, I photographed  
14 the scene prior to doing anything else. And then placed  
15 evidence placards alongside potential items of evidence  
16 and photographed them again. And then I photographed the  
17 blood trail that has been referred to already, I  
18 photographed that. All the way to where the victim was  
19 located.

20 (WHEREUPON, State Exhibit Numbers 6, 7, 8, 9 and 10  
21 were marked for identification.)

22 Q. Mr. Guthro, let me show you what's been marked for  
23 identification as State's Exhibits 6, 7, 8, 9 and 10.  
24 Would you look through those carefully and make sure they  
25 show what you observed at the scene?

1 A. Yes, sir. They do.

2 Q. Did you take those pictures?

3 A. I did.

4 Q. All right.

5 MR. BULSA: Your Honor, the state would offer  
6 these exhibits into evidence.

7 THE COURT: All right. Any objection?

8 MR. MAYS: No, sir, Your Honor.

9 THE COURT: Without objection, State's Exhibits  
10 Number 6, 7, 8, 9 and 10 are admitted into evidence.

11 (WHEREUPON, State Exhibit Numbers 6, 7, 8, 9 and 10  
12 were admitted into evidence.)

13 Q. I show you State's Exhibit Number 6.

14 MR. BULSA: Can I get the lights.

15 THE COURT: Lights, please.

16 MR. BULSA: They're down enough.

17 THE COURT: They are?

18 MR. BULSA: Yes, sir.

19 Q. What does State's 6 show us, Officer?

20 A. That's building number three in the background.

21 Part of the crime scene tape is stretched across there.

22 It's where the incident initiated. The white things --

23 see, there's a white rag and there's a hat there and a

24 beer can. And blood and spent shell casing that you

25 can't see in that photograph.

1 Q. When you got to that area, do you recall there being  
2 any vehicles parked up there?

3 A. I don't.

4 Q. Okay. All right. The spot -- let's see. Let me  
5 show you State's Exhibit Number 8. Is this the same  
6 picture with some placards?

7 A. Yes, sir. It's a photograph of the same scene with  
8 evidence placards placed on it.

9 Q. All right. And what do the evidence -- what's the  
10 purpose of the evidence placards?

11 A. It's so I can identify them in my report so I can  
12 tell other people what those items are showing. Item  
13 number one was a white rag. Number two is a black and  
14 red ball cap. Number three is a Bud Light beer can. And  
15 number four is a Winchester 7.62x39 shell casing, fired  
16 shell casing.

17 Q. Okay.

18 A. You can see their relationship to each other.

19 Q. What does that suggest to you?

20 A. It just shows you the approximate -- helps you  
21 visualize the distance between objects.

22 Q. We have one shell casing in this parking lot?

23 A. That's correct.

24 Q. All right. Let me show you some close-up pictures,  
25 State's Exhibit Number 7. This is -- I'm trying to get

1 number two in there. There we go. All right. Tell us  
2 what you marked?

3 A. Item number two is identifying the ball cap.

4 Q. Item number three?

5 A. Is a beer can, Bud Light beer can.

6 Q. Okay. Do these objects appear to have been out of  
7 place?

8 A. The ball cap looked fresh and looked like it had  
9 been laying there, not run over or anything. And the  
10 beer can sort of had the same appearance. You know, it's  
11 not been ran over by vehicles or anything.

12 Q. I didn't put up a picture of the rag. What was  
13 significant to you at the time about the rag?

14 A. Nothing other than the fact that it was there.

15 Q. Okay. It was out in the parking lot?

16 A. Right.

17 Q. You're basically marking whatever was located around  
18 that shell casing?

19 A. Yes, sir.

20 Q. Is that what drew your main attention?

21 A. Correct.

22 Q. Did you know you had a shooting victim?

23 A. Yes, I hadn't seen him or spoke to him, but I knew  
24 there was one.

25 Q. And you knew you had a trail of blood?

1 A. Yes.

2 Q. And the officer tells you, I've got a shell casing  
3 up here?

4 A. Correct.

5 Q. So that draws your attention mainly to that area?

6 A. Correct.

7 Q. All right. So you're marking everything else that's  
8 around it, not knowing whether they're important or not?

9 A. That's correct.

10 Q. Okay. You were looking for pieces of a puzzle, so  
11 to speak?

12 A. Yes, sir.

13 Q. All right. Now, State's Exhibit Number 9, what is  
14 that?

15 A. That is what will eventually be marked as item  
16 number four. That's a 7.62x39 Winchester shell casing.  
17 That's the way it was marked by officers prior to my  
18 arrival so it wouldn't get ran over or kicked  
19 accidentally by officers on the scene or something like  
20 that.

21 Q. So they took a piece of tape?

22 A. Correct.

23 Q. What's that on top of it?

24 A. Honestly, I don't recall what that was. Just  
25 something they used to weigh that tape down so it didn't

1 blow away.

2 Q. Okay. So how it got placed there, you don't know?

3 A. No, sir. Who did it. Correct.

4 Q. That's a little unusual at an apartment complex, to  
5 have a spent shell casing in a parking lot?

6 A. I don't know if I'd say it was unusual. But that  
7 was the only one I located in this parking lot.

8 Q. All right. Where it's consistent with a shooting?

9 A. Correct.

10 Q. Investigation of a shooting that had just occurred  
11 that evening? Okay. And just for documentary purposes,  
12 State's Exhibit Number 10. That marks number 4?

13 A. Correct.

14 Q. So when the jury is looking at State's 8, they can  
15 get a perspective of where those objects are?

16 A. Yes, sir.

17 Q. Okay. Did you find any blood in that area?

18 A. There was a little bit of blood. I don't recall  
19 exactly where it was located, but I know there was some  
20 right there.

21 Q. All right. And did you follow that trail of blood?

22 A. I did. It goes to the sidewalk in front of the  
23 building, goes left from the perspective that you were  
24 looking at it and goes through the breeze-way of building  
25 number three.

1 Q. Might be a little grainy, but let's try to look at  
2 it. Use your pointer and show us.

3 A. The breeze-way goes through building number three, I  
4 believe, right through here. This is a sidewalk coming  
5 out of that breeze-way. The blood trail, after it comes  
6 through there, comes up this sidewalk and goes across in  
7 front of the office, across the grass, down in the other  
8 parking lot.

9 Q. Okay. And did you notice anything else in that  
10 breeze-way?

11 A. Yes. Just as you start into the breeze-way, there  
12 was a good bit of blood there. Also, I want to say there  
13 was four, but let me count and make sure, four unfired  
14 7.62x39 Winchester shell casings were laying in the  
15 breeze-way just as you start into the breeze-way.

16 Q. Okay.

17 (WHEREUPON, State Exhibit Numbers 11, 12, 13, 14, 15  
18 and 16 were marked for identification.)

19 Q. Officer, if you would, look through these  
20 photographs and see if you recall what they show.

21 A. Yes, sir. I do.

22 Q. Okay. Are those photographs that you took?

23 A. Yes, sir.

24 Q. Do they depict objects you found at the scene?

25 A. Correct.

1 MR. BULSA: Your Honor, the state would offer  
2 State's 11 through 16 into evidence.

3 THE COURT: Any objection?

4 MR. MAYS: No, sir, Your Honor.

5 THE COURT: All right. Without objection,  
6 State's Exhibits Number 11, 12, 13, 14, 15 and 16 are  
7 admitted.

8 (WHEREUPON, State Exhibit Numbers 11, 12, 13, 14, 15  
9 and 16 were admitted into evidence.)

10 Q. Okay. Now, at this point we're talking about items  
11 within the breeze-way?

12 A. Correct.

13 Q. State's Exhibit 11. You may have to back it out.  
14 What does that show us?

15 A. That's just blood drops leading through the breeze-  
16 way of building three to the parking lot. It would  
17 appear where the incident occurred was this side. Those  
18 blood drops are traveling this directions through the  
19 breeze-way and out the back breeze-way. There are also  
20 shell casings here that are difficult to see in this  
21 photograph.

22 Q. All right.

23 A. Correction. Not casings, but actual live rounds.

24 Q. All right. I show you State's Exhibit Number 12.

25 Does that mark various items in that same location?

1 A. It does. Those placards and marking live, unfired  
2 7.62x39 Winchester rounds. And one of them is marking in  
3 the area of blood spatter that I swabbed and collected.

4 Q. Okay. What is the purpose of swabbing the blood?

5 A. That's standard procedure at that point because I  
6 don't know how many people are involved and I don't know  
7 where exactly the blood trail is going to end at this  
8 point. I know it does end, but I haven't been over there  
9 at this point.

10 Q. Okay. So you're not quite sure what you're looking  
11 for yet; right?

12 A. Correct.

13 Q. All right. So you've got a shell casing, a spent  
14 shell casing in the parking lot. You've got a trail of  
15 blood leading through this breeze-way, which is the first  
16 building attached to that parking lot?

17 A. Yes, sir.

18 Q. And you see a trail of blood and a trail of bullets;  
19 is that right?

20 A. Yes, sir.

21 Q. Now, specifically State's -- I'm going to go through  
22 some of the placards. State's Exhibit Number 13 is your  
23 placard number five?

24 A. Placard number five is marking an unfired round of  
25 Winchester 7.62x39 ammunition located in the breeze-way

1 of building three.

2 Q. And you said six would have been the swab?

3 A. Yes. Placard number six was the blood swab.

4 Q. All right. So State's Number 14 related to placard  
5 number seven.

6 A. Placard number seven is an unfired round of 7.62x39  
7 ammunition, Winchester, located in the breeze-way of  
8 number three.

9 Q. And State's 15, placard number eight?

10 A. Number eight identifies an unfired round of 7.62x39  
11 ammunition, also from the breeze-way of number three,  
12 building three.

13 Q. State's Number 16, placard number nine?

14 A. An unfired Winchester 7.62x39 round of ammunition,  
15 also in the breeze-way.

16 Q. Okay. So we have four unspent rounds. Were those  
17 rounds similar in nature? Describe them to me.

18 A. Correct. To each other. They have the same end  
19 stamps. They're the same caliber of ammunition. They're  
20 marked for the same type of weapon, chamber, for that  
21 caliber.

22 Q. Okay. Did they have the same head stamp as the  
23 spent shell casing that's Exhibit Number 10, placard  
24 number four?

25 A. Yes, sir.

1 Q. They did. Okay. Were you coming to any conclusions  
2 at that point?

3 A. At this point, generally, just from my personal  
4 knowledge, when you see live rounds ejected at a scene,  
5 either a weapon has malfunctioned and somebody is  
6 continually trying to rack rounds into it. For that to  
7 have happened, though, their target would have had to  
8 been stationary, not somebody running away, because  
9 they're all located in the same area. Generally this  
10 happens from either somebody who has ammunition in their  
11 pocket or something and drops it, or a magazine falls out  
12 of a weapon. And when a magazine is spring loaded and  
13 sometimes when they hit the ground, it kind of ejects  
14 some of the rounds that are in it out and that's how you  
15 end up with a bunch of them in the same place. So the  
16 magazine possibly could have been accidentally ejected  
17 when it hit the ground and it threw out live rounds.

18 Q. What if the weapon had been dropped while chasing  
19 somebody?

20 A. If the magazine came out of the weapon, would it hit  
21 the ground, yes, possible.

22 Q. Could that have happened?

23 A. Could have.

24 Q. Officer, are you aware of whether any weapon was  
25 actually recovered in this case?

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Ed Guthro - Direct Examination by Mr. Bursa*

99

1 A. Not by me, and I don't believe there was at all.

2 Q. Okay. And if there had been a weapon, would you  
3 have known it?

4 A. Most likely, yes.

5 Q. Okay. What would you have done with that weapon and  
6 these rounds?

7 A. I would have submitted them to SLED, State Law  
8 Enforcement Division, and had them compare it. I would  
9 have had the fired shell casing compared to that rifle to  
10 see if it was fired by that rifle.

11 Q. So you would have been looking for some CSI items?

12 A. Yes, sir.

13 Q. Okay. Since you didn't get a gun, what did you do  
14 with these rounds?

15 A. Simply placed them in evidence, knowing that they  
16 were all of the same manufacturer. We placed them in  
17 evidence.

18 Q. Does the fact that you didn't recover a gun mean  
19 that you didn't get the right guy?

20 A. No.

21 (WHEREUPON, State Exhibit Numbers 17, 18, 19, 20 and  
22 21 were marked for identification.)

23 Q. Officer, let me show you what's been marked as  
24 State's Exhibits 17, 18, 19, 20 and 21 for  
25 identification. Would you identify what those objects

1 are. First of all, let me ask you, is that something you  
2 recovered at the scene and packaged?

3 A. All of these have my signature and are identified  
4 for that location. Yes.

5 Q. Okay. Now, you saw me as I showed them to the  
6 defendant. I actually opened an envelope and pulled out  
7 a smaller package.

8 A. Correct.

9 Q. Describe to the jury what that is?

10 A. The smaller package is for use for smaller items,  
11 for shell casings. What that does, when you collect them  
12 at the scene, they're done one at a time. At the time  
13 that I collected that shell casing, the item number all  
14 goes on the smaller envelope, which is sealed by me and  
15 then put into this other evidence bag, which is stored in  
16 evidence so they can actually -- it has more information  
17 on it and then it also has the same information on it, as  
18 well as my signature and the item number, that's in that  
19 smaller bag.

20 Q. Okay. And do these state exhibits for  
21 identification match up to the photographs we've been  
22 seeing on the screen?

23 A. Yes. My item numbers are listed on there and  
24 they're the same items that you were looking at on the  
25 screen.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Ed Guthro - Direct Examination by Mr. Bursa*

101

1 MR. BULSA: The state would offer State's 17,  
2 18, 19, 20 and 21 into evidence at this time.

3 THE COURT: Any objection?

4 MR. MAYS: Yes, sir, there is, Your Honor.

5 THE COURT: All right. What's your objection?  
6 And to which exhibit?

7 MR. MAYS: To number 5, and this one has no  
8 name on it, so I don't know which number it is. It's the  
9 one with the little gold thing on top of the ---

10 THE COURT: We don't have a number 5 in this  
11 series. Do you have a number 5 in this series? In the  
12 first series you had 5.

13 MR. BULSA: Your Honor, the defendant is  
14 talking about placard number five. He's talking about  
15 what's depicted in State's Exhibit Number 13.

16 THE COURT: Okay. That's already been  
17 admitted.

18 MR. BULSA: The picture has, but I'm offering  
19 the actual items into evidence at this time and he states  
20 he has an objection to that.

21 THE COURT: Okay. What's the objection?

22 MR. MAYS: That's not the picture, Your Honor.  
23 It's the one with the tape with the things.

24 THE COURT: All right. I tell you what let's  
25 do. Mr. Foreman, ladies and gentlemen, I'm going to have

1 to ask you to go to the jury room for just a few minutes.  
2 I'm going to have to take up a matter of law with the  
3 attorneys.

4 Again, do not undertake discussion of this case  
5 among yourselves in anyway.

6 (WHEREUPON, the jury exited the open court at  
7 approximately 4:26 p.m.)

8 THE COURT: All right. Mr. Bursa, now, what is  
9 it that you're trying to introduce that the objection is  
10 made to?

11 MR. BULSA: State's Exhibit 17 is the shell  
12 casing which is depicted in photograph State's Exhibit  
13 Number 10, which is placard number four. State's 18 ---

14 THE COURT: Just a moment. Let's go through  
15 these so that we're clear. Is there any objection to --  
16 again, you say Number 10 are shell casings? I'm talking  
17 about State's Exhibit Number 10?

18 MR. BULSA: Is a photograph of the shell casing  
19 lying in the parking lot at the crime scene.

20 THE COURT: All right. Now, that's a photo?

21 MR. BULSA: Yes, sir. And the actual shell  
22 casing ---

23 THE COURT: Just a moment, please. And so  
24 that's already in. Now, what are you trying to get in?

25 MR. BULSA: I'm trying to introduce the actual

1 shell casing itself.

2 THE COURT: All right. And that's proposed  
3 exhibit number what, 13?

4 MR. BULSA: 17.

5 THE COURT: 17. All right. And what's the  
6 objection to number 17? Well, show Mr. Mays 17 that  
7 you're trying to get in. He has to either object or  
8 agree to it.

9 MR. BULSA: Yes, sir, I went and showed him.

10 THE COURT: Well, that's very nice. I'm not  
11 talking about what you've done. I'm talking about what  
12 I'm asking you to do now.

13 MR. BULSA: Yes, sir.

14 THE COURT: Thank you, sir.

15 MR. BULSA: It's in a sealed package, so I'll  
16 have to ask it be opened.

17 THE COURT: Then how can you identify something  
18 that's in a sealed package.

19 MR. BULSA: It has writing on it. Have you got  
20 a knife? Can you open that?

21 THE COURT: They can identify writing, but  
22 writing can be anything. Please, sir, let's -- you know  
23 the procedure. Is this -- did you mark that and seal it?

24 THE WITNESS: Yes, sir.

25 THE COURT: And you're the author of the sealed

1 package?

2 THE WITNESS: Yes, sir.

3 THE COURT: Very good. Then he's the one that  
4 opens it. You're right.

5 MR. BULSA: Exactly. He opened them before  
6 court. He just didn't open the smaller packages. Yes,  
7 sir.

8 THE COURT: Exactly what?

9 MR. BULSA: He opened the larger packages  
10 before court. He just did not open the smaller ones  
11 before court.

12 THE COURT: What are you concerned about the  
13 larger package. It's what's in the smaller one that you  
14 want to get in.

15 MR. BULSA: It's double-sealed.

16 THE WITNESS: The spent shell casing, 7.62.

17 THE COURT: All right. Now, show that to Mr.  
18 Mays and see what his objection is.

19 MR. MAYS: It ain't in the same group.

20 THE COURT: Do what, sir?

21 MR. MAYS: This bullet right here it shows it  
22 as number -- this one ain't got a number on it, but these  
23 not even the same bullets. I'm looking at this, this  
24 look like a smaller bullet. Like this one, it ain't even  
25 got the same tip or the neck ain't even the same.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Ed Guthro - Direct Examination by Mr. Bursa*

105

1 THE WITNESS: Well, it's fired. I mean, if I'm  
2 allowed to explain that to him.

3 THE COURT: Yes, sir, you most definitely are,  
4 because nobody else is.

5 THE WITNESS: It's a fired shell casing, so it  
6 no longer has a projectile in the end of it; therefore,  
7 it's shorter.

8 MR. MAYS: But this one right here got a head  
9 to it. Ain't no way in the world this is 7.62. I can  
10 see this right here.

11 THE WITNESS: It's got a what?

12 MR. MAYS: You're saying you're good with guns.  
13 You know ---

14 THE COURT: Come on. Just -- I've had enough  
15 today of listening to people talking about things that  
16 are not necessary. What's your objection?

17 MR. MAYS: Your Honor, my objection is this is  
18 not the same bullet.

19 THE COURT: All right. Is it the same bullet?

20 THE WITNESS: Yes, sir.

21 THE COURT: I mean, now we're not talking about  
22 the same type of bullet, is it the exact same bullet that  
23 is shown in ---

24 THE WITNESS: That is placard four, yes, sir.

25 THE COURT: Huh? Now, what's placard five

1 doing up there if this is placard four?

2 MR. BULSA: Because that was his first  
3 objection, he was claiming it was placard five.

4 THE COURT: Well, then why don't you get the  
5 one he's talking about now so we can get something done  
6 here today.

7 MR. BULSA: I was trying to do that, Your  
8 Honor.

9 THE COURT: I know, but you're taking a long  
10 time doing it.

11 All right. Now, ---

12 MR. MAYS: That's the bullet that I'm saying  
13 that this is not it. They're not the same bullet.

14 THE COURT: All right. Explain this so that I  
15 can understand it. I haven't been able to get between  
16 the two lawyers or the parties.

17 THE WITNESS: Yes, sir.

18 THE COURT: Now, placard four is the same  
19 bullet that is in this -- is it 13?

20 THE WITNESS: I'm not sure what the state's  
21 exhibit number is. It's my item number four.

22 THE COURT: All right. I see, that's placard  
23 four.

24 THE WITNESS: Yes, sir. And that's ---

25 THE COURT: And that's the one that's shown in

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Ed Guthro - Direct Examination by Mr. Bursa*

107

1 State's Exhibit 10, which is a photograph?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. Now, this little bag  
4 here is -- what's the number on it?

5 MR. BULSA: State's 17. Contains smaller  
6 packets that the officer just opened, which is a shell  
7 casing.

8 THE COURT: So is it 17 now? All right. And  
9 that is the same round?

10 THE WITNESS: Yes, sir.

11 THE COURT: And that's not ---

12 THE WITNESS: Not the -- it's the ---

13 THE COURT: Bring it here and let me see if I  
14 can understand what's the difference when you've got a  
15 head on it and don't have a head on it.

16 All right. This is a spent shell casing?

17 THE WITNESS: That's correct.

18 THE COURT: It has no bullet on it?

19 THE WITNESS: Correct.

20 THE COURT: Is that what you're talking about,  
21 it's got a bullet; the one that you're talking about?

22 MR. MAYS: This one right here has a head on  
23 it, Your Honor, but it's ---

24 THE COURT: What is it?

25 MR. MAYS: --- not even the same length as the

1 number ---

2 THE COURT: All right. I tell you what you can  
3 do. I'm going to overrule your objection since this is  
4 the individual that took the photograph and also put it  
5 in the package.

6 All right. So that would mean that State's Exhibit  
7 ---

8 MR. BULSA: 17.

9 THE COURT: State's Exhibit 17 that has a small  
10 baggie back in it that has a bullet, small -- what is the  
11 caliber on that?

12 THE WITNESS: 7.62x39, sir.

13 THE COURT: 7.63?

14 THE WITNESS: 7.62x39.

15 THE COURT: .62. That makes a round?

16 THE WITNESS: Yes, sir.

17 THE COURT: 7.62 spent. Is that right?

18 THE WITNESS: Yes, sir, it's a spent shell  
19 casing.

20 THE COURT: All right. I'm overruling the  
21 objection of Mr. Mays.

22 Now, what else have you got? You got some more of  
23 those bags that you want admitted?

24 MR. BULSA: Yes, sir.

25 THE COURT: All right. Well, let's do that.

1 All right. 17 is in. Be careful you don't get them  
2 mixed up.

3 (WHEREUPON, State Exhibit Number 17 was admitted  
4 into evidence.)

5 THE WITNESS: Yes, sir. That one's already  
6 open.

7 THE COURT: Now, which number is that?

8 THE WITNESS: This is my ---

9 MR. BULSA: You need some glasses, Officer?

10 THE WITNESS: Yes. I can't see it. I don't  
11 know -- which number is he looking for? Yours?

12 MR. BULSA: He's looking for the red sticker.

13 THE WITNESS: 12. I'm sorry.

14 MR. BULSA: My 12.

15 THE WITNESS: There's the number. 18. I'm  
16 sorry. State's Exhibit -- I can see now.

17 THE COURT: All right. State's Exhibit 18 is  
18 in a small bag as well?

19 THE WITNESS: It's a 7.62x39 Winchester live  
20 round.

21 THE COURT: All right. 7.62 live.

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. Show that to Mr. Mays.  
24 Now, is that identified as anything else like on a  
25 placard?

1 THE WITNESS: I'll have to go back through  
2 there and see. It's going to be live rounds from the ---

3 THE COURT: You're telling me that's a 7.62  
4 live round that you put in that small packet and that's  
5 the one on the photograph?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. Any objection? What's  
8 your objection?

9 MR. MAYS: I don't have any, Your Honor.

10 THE COURT: All right. Good. So State's  
11 Exhibit Number 18, 7.62 live round is admitted.

12 (WHEREUPON, State Exhibit Number 18 was admitted  
13 into evidence.)

14 THE COURT: Next.

15 THE WITNESS: The next one is the same kind of  
16 round, live, and it's State's Exhibit 19.

17 THE COURT: 19. All right. What's the  
18 difference between the two?

19 THE WITNESS: Sir?

20 THE COURT: What's the difference between the  
21 two, 18 and 19?

22 THE WITNESS: Between 18 and 19, there's  
23 nothing different about them at all.

24 THE COURT: Are they in the same photograph?

25 THE WITNESS: Yes, sir.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Ed Guthro - Direct Examination by Mr. Bursa*

111

1 THE COURT: All right. That photograph is  
2 State's Exhibit 10?

3 MR. BULSA: Let me check, Your Honor. Exhibit  
4 12 depicts all four of these spent -- or of these live  
5 rounds. State's Exhibit 12.

6 THE COURT: Now, wait a minute. Well, 17 is a  
7 spent round? That's the one in 10?

8 MR. BULSA: Yes, sir.

9 THE COURT: All right. And 18 and 19 are in  
10 12?

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. Thank you.

13 All right. We're getting to 19.

14 THE WITNESS: After 19 is 20.

15 THE COURT: No, no, you -- 7.62 live round, '18  
16 and 19?

17 THE WITNESS: Yes, sir.

18 THE COURT: Both of them in photo 12. Any  
19 objection?

20 MR. MAYS: No, sir, Your Honor.

21 THE COURT: All right. Without objection,  
22 State's Exhibit 19 is admitted.

23 (WHEREUPON, State Exhibit Number 19 was admitted  
24 into evidence.)

25 THE COURT: All right. Next.

1 THE WITNESS: State's Exhibit 20 ---

2 THE COURT: Right.

3 THE WITNESS: --- is also a 7.62x39 live round.

4 Also would be in that same photograph.

5 THE COURT: It's a live one, and that would be  
6 in 12, in photograph 12?

7 MR. BULSA: Yes, sir.

8 THE WITNESS: Yes.

9 (WHEREUPON, State Exhibit Number 20 was admitted  
10 into evidence.)

11 THE COURT: Okay. 21. What you got?

12 THE WITNESS: It's also going to be a 7.62x39  
13 live round. And would also be in that photograph number  
14 12.

15 THE COURT: All right. Any objection to 21?

16 MR. MAYS: No, sir, Your Honor.

17 THE COURT: All right. Without objection,  
18 State's Exhibit 21 is admitted.

19 (WHEREUPON, State Exhibit Number 21 was admitted  
20 into evidence.)

21 MR. BULSA: I'm not sure if you referenced 20,  
22 Your Honor.

23 THE COURT: Yes. I asked -- didn't I ask you  
24 about 20? It's the other live round in 12. You have  
25 four in 12, that's 18, 19, 20 and 21; is that correct?

1                   THE WITNESS: Yes, sir.

2                   THE COURT: Okay. I tell you, gentlemen, we're  
3 not all that familiar with the rules. About exhibits, it  
4 helps the court, and particularly the court reporter, to  
5 have exhibits marked for identification that you agree on  
6 the authenticity of. As far as their admissibility  
7 maybe, are they material or relevant, that can be done at  
8 the time that you proffer them. But it would be a good  
9 thing, if you've got anymore, I don't know how  
10 complicated this is going to be, but if you have anymore  
11 exhibits that you want to introduce, before we start the  
12 trial and have the jury in the jury box, get together and  
13 have them agreed to as far as authenticity that you don't  
14 have to bring in the custodian or the author of the  
15 exhibit or some other wise validation. That way we can  
16 avoid any of the discussion about it. It's an invalid --  
17 it's not what it's being represented to be, then we can  
18 have that argument. But again, it'll be done outside the  
19 presence of the jury. Any questions? Most of the time  
20 it's usually photographs or something like that. If  
21 you're going to introduce photographs, have the other  
22 side look at them and say it's what it represents it is.  
23 Otherwise, you're going to have to bring in the author of  
24 the photograph or the person who took the photograph.  
25 And that could be a waste of time if you can't agree to

1 them. So in the future -- how many more exhibits have  
2 you got? I mean, not in your whole arsenal. No pun  
3 intended. But I mean, that this witness could help us  
4 authenticate.

5 MR. BULSA: This is ---

6 THE COURT: By the way, I've got one up here.  
7 Somebody needs to take care of, Number 17.

8 MR. BULSA: Yes, sir. I would like the record  
9 to reflect that the state offered to show the defendant  
10 the exhibits yesterday and he rejected to see them, Your  
11 Honor.

12 THE COURT: Well, you know what, Mr. Bursa,  
13 the defendant doesn't have the freedom of movement that  
14 you do. And I have been here, well, since Tuesday on  
15 this case. And so if you had a problem with the  
16 exhibits, you could come to me and I'd be sure that Mr.  
17 Mays is made available, too, so that we can resolve it at  
18 that time.

19 Now, if you want to argue with me, let's ---

20 MR. BULSA: I'm not arguing.

21 THE COURT: Then what are you doing?

22 MR. BULSA: I just want to show that we've ---

23 THE COURT: I'm telling you what to do in this

24 ---

25 MR. BULSA: We've been -- we've offered them to

1 him. I don't want him to come down later if he's  
2 convicted to say he never had the opportunity to look at  
3 them. He did, Your Honor, Monday when we were in court.  
4 I believe I referenced it in court and Your Honor said  
5 that was a good idea. So we made it available, and he  
6 did not want to look at them.

7 THE COURT: Well, why didn't you call the court  
8 and let me -- put it on the record then, rather than  
9 coming in here at some late hour and doing it? You  
10 didn't give me an opportunity to put you two together.  
11 Sorry. But I thank you for your explanation.

12 MR. BULSA: Certainly.

13 THE COURT: I think. All right. Now, any  
14 other exhibits you want to get through this -- introduce  
15 during this witness, or through this witness?

16 MR. BULSA: No, sir. These are all the  
17 exhibits through Mr. Guthro.

18 THE COURT: All right. So as I understand it,  
19 just so the record is clear when we come back, State's  
20 Exhibit -- everything else up until State's Exhibits 11  
21 through 16 are the -- they've been admitted? I think  
22 they have. 11, 12, 13 -- well, 11 and 16, that's not  
23 yours -- oh, yes, it is. Did you take this blood spots  
24 in the breeze-way?

25 THE WITNESS: Yes, sir.

1 THE COURT: All right. Just for the record,  
2 I'm going to put State's Exhibits 11, 12, 13, 14, 15, 16  
3 have been previously admitted. State's Exhibits -- and  
4 then State's Exhibits 17, 18, 19, 20 and 21 are admitted  
5 at this time, over the objection of Mr. Mays. Except 17,  
6 18, 19, 20 and 21 are not over the objection of Mr. Mays.  
7 But 16 is.

8 MR. BULSA: 17 is.

9 THE COURT: 17 is. Excuse me. Is admitted  
10 over objection.

11 Now, -- and by the way, I'm not trying to be  
12 difficult, but the thing is, we've got a jury here.  
13 They're being inconvenienced. You can inconvenience a  
14 judge, but don't inconvenience a jury. All right?

15 MR. BULSA: I never do, Your Honor. I just do  
16 my job.

17 THE COURT: I understand. That's why they're  
18 in the jury room right now. Thank you.

19 MR. BULSA: It's not my fault.

20 THE COURT: Very well. I'm glad it isn't.  
21 All right. Ask the jury to join us.

22 (WHEREUPON, the jury entered the open court at  
23 approximately 4:44 p.m.)

24 THE COURT: Let the record reflect the jury and  
25 the alternates are in the jury box.

1 All right. For the record, Mr. Foreman, State's  
2 Exhibits 17, 18, 19, 20 and 21 now have been admitted as  
3 evidence.

4 All right, Mr. Bursa.

5 MR. BULSA: Thank you.

6 THE COURT: You're welcome.

7 **DIRECT EXAMINATION CONTINUED**

8 **BY MR. BULSA:**

9 Q. Now, Officer, please describe to the jury what these  
10 are. You don't have to take them out. You can just  
11 reference your writing.

12 A. The fired Winchester shell casing, which would be in  
13 that photograph as placard number four.

14 Q. Reference the State's Exhibit Number if you would,  
15 please.

16 A. State's Exhibit Number 17.

17 Q. Okay.

18 A. It's a fired 7.62x39 Winchester shell casing.

19 State's Exhibit 18 is going to be a live round, 7.62x39

20 Winchester shell casing from the breeze-way. State's

21 Exhibit 19 is going to be a live round, 7.62x39

22 Winchester from the breeze-way, as well. State's Exhibit

23 20 is going to be a live Winchester 7.62x39, also from

24 the breeze-way. And State's Exhibit 21 is going to be a

25 live round of ammunition, 7.62x39 Winchester, also from

1 the breeze-way.

2 Q. Okay. And those four unspent rounds are what's  
3 shown in this photograph depicted on the screen?

4 A. That's correct.

5 MR. BULSA: For the record, that's State's  
6 Exhibit 12.

7 Q. Okay. Now, Officer, how long have you been a  
8 forensics officer?

9 A. I've been in forensics working as a crime scene  
10 investigator for about nine years. Prior to that I was a  
11 regular investigator for eight years. I've been with the  
12 department for about twenty-six.

13 Q. You've been an officer for twenty-six years?

14 A. Yes, sir.

15 Q. Been to multiple crime scenes?

16 A. Yes, sir.

17 Q. Would you consider this a large crime scene?

18 A. Area-wise, yes, sir.

19 Q. And why ---

20 A. Not that many items, you know, it's not huge, like  
21 I'm collecting a thousand items. But it covered a great  
22 deal of space.

23 Q. That's because it appeared someone ran from the  
24 upper parking lot to the lower parking lot behind the  
25 woods?

1 A. Yes, sir.

2 Q. Okay. Are you convinced that you collected or found  
3 everything that might be pertinent to this case?

4 A. Within reason. I mean, it's always possible to miss  
5 something, but I don't believe we did.

6 Q. Okay. Could there have been some other unspent  
7 rounds that you did not recover?

8 A. Could have been.

9 Q. Could there have been some other shell casings that  
10 you might not have recovered?

11 A. Yes. Because -- particularly because it is such a  
12 large crime scene and covered such a great deal of space.  
13 Because the incident started at that one location doesn't  
14 mean it was the only place where rounds were fired. They  
15 could have been elsewhere, you know, a hundred yards away  
16 if they're chasing each other. I don't know. But we  
17 found what was within that fairly large crime scene.

18 Q. So based on the overall view of the scene, from the  
19 evidence you collected, is it safe to say the actual --  
20 at least some shooting occurred in the upper parking lot?

21 A. Yes.

22 Q. And someone was actually struck with a bullet in  
23 that upper parking lot?

24 A. Correct.

25 Q. Now, how familiar are you with firearms?

1 A. Fairly familiar.

2 Q. Excuse me?

3 A. Fairly familiar.

4 Q. Okay. Are you familiar with what kind of firearm  
5 would fire a 7.62 round?

6 A. Could have been a paramilitary type weapon, like an  
7 AK47.

8 Q. Okay. You say paramilitary. What do you mean ---

9 A. Yes. It could be military type weapon, magazine fed  
10 generally, semiautomatic normally in the civilian world.  
11 Although it's possible to have a fully automatic one, as  
12 well.

13 Q. Is that a handgun or a rifle?

14 A. It's a rifle.

15 Q. Okay. You referenced an AK47. Why that specific  
16 brand?

17 A. It's pretty standard in that particular brand.

18 Q. Okay. Now, is an AK47 a United States type weapon?

19 A. Soviet, Russian.

20 Q. Okay. Are there any United States weapons that fire  
21 that same round?

22 A. I'm sure there are.

23 Q. Okay. Is that what you just called on the street as  
24 an AK47?

25 A. A lot of times a lot of people just say AK and

1 they're talking about a semiautomatic weapon. Could be a  
2 Colt, could be any kind of weapon, they just call it an  
3 AK.

4 Q. Okay. So we're talking about a semiautomatic rifle?

5 A. Normally, yes, sir.

6 Q. And the size of the bullets that's fired, how does  
7 this size bullet rank?

8 A. It's a large caliber bullet. It would be -- in the  
9 sporting world, it would be a good hunting round for  
10 large game. Good size weapon.

11 Q. Thank you, Officer. Answer any questions Mr. Mays  
12 may have.

13 THE COURT: Mr. Mays.

14 **CROSS EXAMINATION**

15 **BY MR. MAYS:**

16 Q. You're familiar with guns; right?

17 A. Yes, sir.

18 Q. So 7.62 goes to how many -- how many guns do they  
19 lead up to? Ain't there over five or six guns that shoot  
20 7.62 rounds?

21 A. I'm sure there's way more than that.

22 Q. So you wouldn't -- you can't basically say what type  
23 of gun the 7.62 go to? I hear you keep saying AK47.  
24 That's just one ---

25 A. It could be chambered -- many different weapons

1 could be chambered for that caliber of ammunition.

2 MR. MAYS: I have no further questions, Your  
3 Honor.

4 THE COURT: Very well. Redirect?

5 **REDIRECT EXAMINATION**

6 **BY MR. BULSA:**

7 Q. Did you process anything else involved in this case?

8 A. After I got through with that scene, I went to Burke  
9 Street.

10 THE COURT: Are you talking about some other  
11 investigation? Re-examine, he didn't bring up anything  
12 about other investigations on his cross examination.

13 MR. BULSA: I didn't hear an objection, Your  
14 Honor.

15 THE COURT: Remember, the rules provide that  
16 you're limited in re-examination to matters brought up in  
17 cross examination. I'm sorry. But I just have to apply  
18 the rules. And these rules apply to both parties.

19 Q. Did you find a weapon that matched those bullets?

20 A. No, sir.

21 Q. Or those rounds? I'm sorry.

22 A. No.

23 Q. Okay. Thank you.

24 THE COURT: All right. You may step down.

25 I tell you, it's five oh five. I think this might

1 be a good time to recess for the day.

2 Mr. Foreman, ladies and gentlemen of the jury, as I  
3 mentioned, I think this is a good time to recess. We've  
4 moved very well this afternoon with the witnesses and  
5 hopefully we'll move as efficiently tomorrow. But again,  
6 this is a very important case to everybody involved and  
7 it needs to be resolved in the proper fashion.

8 I might, and I usually do tell jurors that this is  
9 the most difficult time for you, because you're going  
10 home now and somebody's going to ask you, what are you  
11 doing? And you'll say I've been drawn on a jury. And  
12 they will say, well, what's it about? And you're going  
13 to say, well, I can't talk to you about it or tell you.  
14 And they'll say -- and they'll ask you why not? And  
15 you'll tell them, because the judge said so. And they'll  
16 probably say something like, well, that's rather  
17 ridiculous. Well, I think, as I mentioned, that this is  
18 a very serious case, and I think you understand that, to  
19 all parties involved. And it needs to be resolved in a  
20 proper fashion. And no one who is not sitting in that  
21 jury box with you or be in that jury room when you  
22 deliberate will have heard the first bit of the testimony  
23 or seen the first bit of evidence. And I think you now  
24 appreciate that the rules of evidence that we have  
25 provides for assurances that the evidence that you get is

1 the best information available and reliable information  
2 you can have. But they will never see that. For they  
3 have not had the benefit of what you will have when you  
4 make your deliberations in this case. And they can only  
5 interfere with a proper resolution. So you'll have to  
6 insist that they can't -- you can't discuss it with them.  
7 Now, I'll be here in the morning if they don't understand  
8 and I'll explain it to them for you.

9 With that I am going to excuse you. But now, Mr.  
10 Foreman, I'm going to ask you what time the jury would  
11 like to come in. Y'all know what you need to do tomorrow  
12 morning before you get here. And if you'd just consult  
13 with your jury. This won't be a unanimous verdict.  
14 It'll just be what the consensus is as to what time you'd  
15 like to begin in the morning. I would ---

16 THE JUROR: Yes, sir.

17 THE COURT: Pardon?

18 THE JUROR: Yes, sir.

19 THE COURT: All right. You can do it while  
20 you're in the jury box. I would suggest either nine  
21 thirty or ten o'clock.

22 MR. FOREMAN: Ten o'clock.

23 THE COURT: Ten o'clock. Very good. I think  
24 that's a good hour. That'll give me some time to discuss  
25 things with the parties involved. All right. Very good.

1 Again, do not undertake the discussion of the case among  
2 yourself in anyway or permit anyone to discuss it with  
3 you. And I'll see you tomorrow morning at ten o'clock.

4 Everyone else remain seated while the jury retires  
5 from the courtroom.

6 (WHEREUPON, the jury exited the open court at  
7 approximately 5:07 p.m.)

8 THE COURT: All right. Anything from the state  
9 before we recess for the evening?

10 MR. BULSA: I'd just like the record to reflect  
11 that I'm handing over the criminal histories of any  
12 potential lay witness I may call tomorrow.

13 THE COURT: All right. Mr. Mays, do you know  
14 what that means?

15 MR. MAYS: Will you explain it to me, Your  
16 Honor?

17 THE COURT: That's the type of thing you ask  
18 Mr. Poole about. All right? I don't want to be  
19 paternalistic.

20 All right. Thank you. In other words, I don't want  
21 in any sense to suggest that I'm trying to be overly  
22 protective or anything. But I do want to be sure that  
23 all parties have a fair trial.

24 All right. Anything else? Very good. I'll see you  
25 in the morning.

1 Before counsel leave the courtroom, the court  
2 reporter has to have all the exhibits that have been  
3 admitted, so y'all go through those and be sure that she  
4 has that.

5 (WHEREUPON, the court recess for the day in this  
6 matter.)

7 **NOVEMBER 21, 2013**

8 (WHEREUPON, court convened with all parties present  
9 and the following proceedings were had.)

10 (WHEREUPON, State Exhibit Number 22 was marked for  
11 identification.)

12 THE COURT: All right. I understand the state  
13 has provided the law clerk with requests for charges?

14 MR. BULSA: Yes, sir.

15 THE COURT: Mr. Mays, you can request for  
16 charges on the law, too. Do you have any you want the  
17 court to consider?

18 MR. MAYS: Yes, sir.

19 THE COURT: You do?

20 MR. MAYS: Yes, sir.

21 THE COURT: How about passing them up to the  
22 deputy so he can get it to me. Now, you don't have to  
23 share it with the state, but I do need to have them so I  
24 can look at the charges.

25 MR. MAYS: I don't have any, Your Honor.

1 THE COURT: Oh, very well. Is there anything  
2 else from the state before we bring the jury back?

3 MR. BULSA: Yes, sir, briefly. We did meet  
4 earlier and offered the box of evidence to the defendant.  
5 He looked through the front of the bags and stated he  
6 was, I believe, satisfied; that that's all he needed to  
7 see. We pulled out the round that was recovered in the  
8 apartment where he was arrested from. Our argument is it  
9 matches the type of round found at the scene. And he's  
10 told me he has no objection to letting me enter ---

11 THE COURT: All right. Let's do this, if you  
12 would, Mr. Solicitor. Have you have them identified as  
13 far as exhibit numbers?

14 MR. BULSA: I have. State's Exhibit Number 22.

15 THE COURT: All right. So if you would, give  
16 me those that you're going to seek to introduce today by  
17 exhibit number that he is -- that the defendant has not  
18 objected to.

19 MR. BULSA: At this time, Your Honor, this is  
20 the last exhibit that I was going to ---

21 THE COURT: It will be?

22 MR. BULSA: Should be, unless something happens  
23 in the trial.

24 THE COURT: Number 22?

25 MR. BULSA: Yes, sir.

1                   THE COURT: As I understand, Mr. Mays, that  
2 you're not objecting to Exhibit Number 22, which  
3 apparently is a live round or ---

4                   MR. BULSA: Live round.

5                   THE COURT: Live round?

6                   MR. BULSA: Yes, sir.

7                   THE COURT: All right. Without objection,  
8 State's Exhibit Number 22 is admitted.

9                   (WHEREUPON, State Exhibit Number 22 was admitted  
10 into evidence.)

11                  THE COURT: All right. Anything else?

12                  MR. BULSA: Yes, sir. And I'm not quite sure  
13 how to handle this one. But the defendant made a comment  
14 to me about drugs that was the subject of our motion on  
15 Monday. He asked what kind of offer we had made to Mr.  
16 Scott, because he was found at or near those drugs. For  
17 the record, we'll state we made no offer to Mr. Scott  
18 about those drugs. He was never charged by the police.  
19 Those drugs were never tested to determine they were in  
20 fact illegal drugs. The state doesn't see that as  
21 relevant to the shooting, so we did not pursue ---

22                  THE COURT: Well, of course, it does go to the  
23 credibility if Mr. Scott is going to testify.

24                  MR. BULSA: I understand that. But he's asking  
25 me if we made any offers. And I want the court to be

1 aware there was no offer because there was no charge.

2 THE COURT: Well, that's the state -- of  
3 course, if you do -- if Mr. Scott is put on the stand,  
4 you could ask him about that and be sure everybody's in  
5 agreement.

6 MR. MAYS: That's all I want to know, Your  
7 Honor.

8 THE COURT: Okay. Anything else?

9 MR. BULSA: And I have instructed Mr. Mays so  
10 he could understand that those pictures that we talked  
11 about Monday are not in evidence at this time to go  
12 before the jury. I never intended to offer those. That  
13 if he wanted to try to ---

14 THE COURT: Which pictures are those? Are  
15 those the various locations of the shells?

16 MR. BULSA: No, sir. These were the ones that  
17 we heard on Monday. These were these two.

18 THE COURT: All right. Those are on the --  
19 very well.

20 MR. BULSA: Those are not introduced. I told  
21 him that ---

22 THE COURT: Have they been marked?

23 MR. BULSA: They were marked as state's  
24 exhibits. So if he wants to try to introduce them ---

25 THE COURT: What I'm trying to do, Solicitor,

1 is try to keep a record of the exhibits. And I start  
2 with number 6 yesterday.

3 MR. BULSA: Should have been number 5  
4 yesterday.

5 THE COURT: All right. 5 is with the -- number  
6 5 was the aerial; is that right?

7 MR. BULSA: Yes, sir.

8 THE COURT: Yeah, I see. All right. So number  
9 5 is the picture of Prince Hall Apartments in Spartanburg  
10 County?

11 MR. BULSA: Yes, sir. And ---

12 THE COURT: Now, 1, 2, 3, 4, is that ---

13 MR. BULSA: Those were the items that were  
14 discussed at Monday's hearing.

15 THE COURT: But they are not being ---

16 MR. BULSA: Not introduced by the state, no,  
17 sir.

18 THE COURT: All right. But they have been  
19 identified as State's Number 1 for identification.

20 MR. BULSA: Well, actually they were introduced  
21 at that hearing.

22 THE COURT: So they're not ---

23 MR. BULSA: Not for the jury, no, sir.

24 THE COURT: Not for the jury. In other words,  
25 it remains for I.D. until the admission is moved either

1 by the state or the defendant? I just have to have ---

2 MR. BULSA: But they would have to be marked as  
3 a defense exhibit, because I'm not going to introduce  
4 them.

5 THE COURT: Well, right now, it has a red ---

6 MR. BULSA: Yes, sir.

7 THE COURT: What does that red sticker ---

8 MR. BULSA: It calls it a state's exhibit.

9 THE COURT: Okay. So that's State's Exhibit  
10 Number 1 for I.D.

11 MR. BULSA: 1 and 2.

12 THE COURT: The 1 is ---

13 MR. BULSA: It's essentially pictures of ---

14 THE COURT: 1 is the actual alleged items at  
15 the location. And then the number 2 is the  
16 identification.

17 MR. BULSA: Yes, sir.

18 THE COURT: And I think -- what's the placard?

19 MR. BULSA: Fourteen.

20 THE COURT: Fourteen. Okay. All right. And  
21 how about 3 and 4, do you know if they ---

22 MR. BULSA: 3 is part of the evidence custodian  
23 record that documented item nineteen, which was ---

24 THE COURT: The drugs.

25 MR. BULSA: Which were these drugs.

1 THE COURT: Okay. And that also still for  
2 I.D., and it's a drug ---

3 MR. BULSA: It's a piece of the evidence  
4 inventory, yes, sir..

5 THE COURT: And number 4?

6 MR. BULSA: 4 was a record of a letter sent to  
7 the defendant's residence regarding the trial date.

8 THE COURT: Madam Court Reporter, is that  
9 consistent with your records?

10 COURT REPORTER: Yes, sir.

11 THE COURT: Okay. Very good.

12 MR. BULSA: And lastly, on a point of evidence,  
13 because of the argument on Monday, Mr. Mays kept talking  
14 about the other drugs, the other drugs, but there was no  
15 picture taken.

16 MR. MAYS: Why?

17 MR. BULSA: They reference -- the initial  
18 officer, one of the initial officers, wrote a report of  
19 reference finding, a package of cigarettes on Mr. Scott  
20 and near his body a package of the same cigarette  
21 packaging, similar cigarette packaging, that had what  
22 they believe might have been crack cocaine. Officer  
23 Hancock testified to that yesterday on cross examination.  
24 I presented those drugs to him and told him there's no  
25 picture and explained the reason why. And said that he

1 wanted to try to introduce those drugs. That would be  
2 his prerogative. But we, of course, would object.

3 THE COURT: Okay. All right. Now, so the  
4 record as far as exhibits should be complete now. We  
5 have admitted into evidence State's Exhibits 5, 6, 7, 8,  
6 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22.  
7 And marked for identification State's Exhibits 1, 2, 3  
8 and 4, have not been admitted. Is that correct,  
9 Solicitor?

10 MR. BULSA: Yes, sir.

11 THE COURT: Is that correct, Mr. Mays?

12 MR. MAYS: Yes, sir, Judge.

13 THE COURT: All right. Now we can proceed.  
14 Thank you for clarifying that and getting the record  
15 complete for me.

16 All right. Anything else before we bring the jury  
17 back?

18 MR. BULSA: I had mentioned to your law clerk  
19 that there might be a logistical issue with some  
20 witnesses.

21 THE COURT: Right.

22 MR. BULSA: I have some witnesses that are in  
23 jail and we've tried to keep them separate. So there may  
24 be a delay.

25 THE COURT: No problem. This looks like this

1 is the last trial for the week, so ---

2 MR. BULSA: Yes, sir.

3 THE COURT: --- you should have plenty of time.

4 MR. BULSA: Okay.

5 THE COURT: Very well. All right. Mr. Mays,  
6 anything from you before we bring the jury back?

7 MR. MAYS: I'm ready, Your Honor.

8 THE COURT: Very good. Thank you, sir. Ask  
9 the jury to join us.

10 (WHEREUPON, the jury entered the open court at  
11 approximately 10:10 a.m.)

12 THE COURT: All right. Let the record reflect  
13 that the jury and alternates are in the jury box. Mr.  
14 Foreman, ladies and gentlemen of the jury, we will now  
15 continue with the state's case.

16 Mr. Solicitor.

17 MR. BULSA: Thank you, Your Honor. The state  
18 calls Brendall Mathis.

19 THE CLERK: Do you solemnly swear or affirm  
20 that the testimony you're about to give will be the  
21 truth, the whole truth and nothing but the truth, so help  
22 you God?

23 THE WITNESS: Yes, ma'am, I do.

24 **BRENDALL MATHIS,**

25 **BEING DULY SWORN, TESTIFIED AS FOLLOWS:**



1 Q. Is that the same Prince Hall Apartments that you  
2 responded to?

3 A. Yes, sir, it is.

4 Q. Where is [REDACTED]

5 A. Basically if you're looking in relations to where  
6 the subject was found in the wood line, I believe his  
7 name is Mr. Scott, and in reference to where the incident  
8 actually took place, in regards to the picture, it's  
9 almost right in the center of where both of those  
10 actually took place.

11 Q. Okay. So if someone were to go into Prince Hall,  
12 would they go in the lower parking lot or the upper  
13 parking lot to get there?

14 A. They could get through either one, but it would  
15 probably be shorter to actually go into the lower parking  
16 lot and travel the sidewalk.

17 Q. Okay. Who actually resided at [REDACTED]

18 A. The name that we had that it was rented to was a  
19 Tameka Pilgrim.

20 Q. What time in the morning did your team go there?

21 A. We received the information at about ten o'clock.  
22 And by the time we got, I guess everybody lined up as far  
23 as our tactical team and stuff like that, it was  
24 approximately an hour later or so, is when we actually  
25 began to respond towards the apartments.

1 Q. Okay. Tell us what took place when you arrived at  
2 the apartment?

3 A. Once we were there, I was assigned to actually cover  
4 the back part of the apartment, watching the windows and  
5 various things. It was a second floor apartment. They  
6 did have a fire escape that led out towards the back. I  
7 was there with another K9 Officer just covering the rear  
8 of the apartments. Our tactical team actually approached  
9 the door, knocked on the door, and called any individual  
10 that was out to the outside where the stairwell is. And  
11 once there was a female and a male that actually exited  
12 the apartment and they had them basically laid face-down  
13 there in the stairwell so that we could handcuff them and  
14 they could continue to clear the residence that was in  
15 there to make sure nobody was hiding in any closets,  
16 under the bed, anything like that, so they could secure  
17 the apartment for us.

18 Q. Who were those two persons at the apartment?

19 A. Ms. Tameka Pilgrim and Javan Mays.

20 Q. The defendant?

21 A. Yes, sir.

22 Q. After you secured him was a search of the apartment  
23 done?

24 A. Yes, sir. There was a search warrant that was typed  
25 up and we executed the search warrant and I assisted with

1 the search of the apartment.

2 Q. What kind of items were you looking for?

3 A. Anything in reference to the crime. Maybe a gun,  
4 maybe ammunition, clothing, anything that would, you  
5 know, reference the crime that took place.

6 Q. Okay. And did you find anything?

7 A. I located a Winchester 7.62x39 bullet, which was a  
8 live round. It was actually located in the -- when you  
9 come in through the front door of the apartments, there's  
10 a living room area, which has the couch and like a T.V.  
11 where you normally sit. In the corner of that room there  
12 was a box in the corner and that's where the bullet was  
13 actually located.

14 Q. So that was in the common area of the apartment?

15 A. Yes, sir.

16 Q. Okay. Let me show you what's been marked as State's  
17 Exhibit 22. Would you look at that item?

18 A. Yes, sir, it's a Winchester 7.62x39 bullet, a live  
19 round.

20 Q. What type weapons would fire that, in your  
21 experience?

22 A. An assault style military weapon. I believe  
23 Investigator Guthro stated yesterday it's most commonly,  
24 you know, like a paramilitary type rifle.

25 Q. Street term would be an AK?

1 A. Yes, sir, that's commonly what's used as an AK or  
2 AK47.

3 Q. What was done with Mr. Mays upon his arrest?

4 A. Mr. Mays was then transported back to city hall with  
5 Ms. Pilgrim and they were interviewed by investigators on  
6 the scene. And we actually stayed on the scene and  
7 conducted the search warrant.

8 Q. Okay. Did you have an arrest warrant in hand when  
9 you went to get him?

10 A. Yes, sir. We did. We had warrants for Mr. Mays  
11 when we responded there.

12 Q. And you responded around eleven o'clock, you said?

13 A. It was approximately an hour. I don't recall the  
14 exact time that we, you know, were able to knock on the  
15 door and get them outside, but I would guesstimate around  
16 an hour.

17 Q. Was it approximately ten hours after the actual  
18 incident occurred?

19 A. Yes, sir.

20 Q. Thank you. Answer any questions Mr. Mays may have.

21 A. Yes, sir.

22 THE COURT: Mr. Mays.

23 MR. MAYS: I don't have any questions, Your  
24 Honor.

25 THE COURT: Very well. You may step down, sir.

1 THE WITNESS: Thank you, sir.

2 MR. BULSA: We ask that Mr. Mathis be excused.

3 THE COURT: Any objection?

4 MR. MAYS: No, sir, Your Honor.

5 THE COURT: All right. Without objection the  
6 witness will be excused. Thank you, sir.

7 THE WITNESS: Thank you.

8 MR. BULSA: State calls Brian Stokes.

9 THE CLERK: Do you solemnly swear or affirm  
10 that the testimony you're about to give will be the  
11 truth, the whole truth and nothing but the truth, so help  
12 you God?

13 THE WITNESS: I do.

14 **BRIAN STOKES,**

15 **BEING DULY SWORN, TESTIFIED AS FOLLOWS:**

16 **DIRECT EXAMINATION**

17 **BY MR. BULSA:**

18 Q. Please introduce yourself to the jury.

19 A. Douglas Brian Stokes.

20 Q. You go by Brian Stokes?

21 A. Yes, I do.

22 Q. Who are you employed with?

23 A. The Spartanburg Public Safety Department.

24 Q. In what capacity?

25 A. I'm assigned to the criminal investigation division.

1 Q. How long have you been a police officer?

2 A. Twenty-five years.

3 Q. How long have you been an investigator?

4 A. A little over five years.

5 Q. Were you the investigator assigned to the shooting

6 at Prince Hall Apartments on August the 14th?

7 A. Yes, sir, I was the on-call investigator.

8 Q. Where is the first place you responded to?

9 A. The first place I responded to was Spartanburg

10 Regional Medical Center. That's where both the victims

11 had been transported to.

12 Q. Okay. Were you aware of where each victim had been

13 located, about?

14 A. Yes, sir. Mr. Christopher Scott was at the

15 apartments where the shooting took place. And Mr. Antron

16 Oglesby had fled the scene and ran to a street

17 approximately a half a mile away, Burke Avenue.

18 Q. Was he located by medical personnel at a residence

19 there?

20 A. Yes. Once he got to the scene there, the police

21 were summoned to that location, as well.

22 Q. And both the victims were transported to the

23 hospital?

24 A. That's correct.

25 Q. With what type of wounds?

1 A. Both had gunshot wounds to the lower extremities.  
2 Mr. Oglesby suffered a -- of course, he had injuries to  
3 his head, too. He had lacerations to the left side of  
4 his head and he had a bullet wound on his right ankle and  
5 a bullet lodged in his left big toe. Mr. Scott had a  
6 bullet wound in the upper left leg and the lower right  
7 ankle and the right foot.

8 Q. Okay. Did you have an occasion to speak to each  
9 individual at the hospital?

10 A. I did. They were both being treated at the time I  
11 got to the hospital. And I was only able to get limited  
12 information from them at that time, because they were  
13 both -- they both had been given pain medication. And of  
14 course, they were -- medical personnel were also  
15 administering medical treatment to them. So I was only  
16 able to get limited information from them at that time.

17 Q. Did you learn where the incident occurred from them?

18 A. I did.

19 Q. Where had they been shot?

20 A. Prince Hall Apartments.

21 Q. Did you get an identification of who the suspect  
22 was?

23 A. Yes. Mr. Antron Oglesby identified the shooter as  
24 Van Mays.

25 Q. Did you know a Van Mays?

1 A. I had heard of a Van Mays and I went back to city  
2 hall after I left Prince Hall Apartments and developed a  
3 photo line-up with Javan Mays in it.

4 Q. All right. So in your understand Van would be short  
5 for Javan?

6 A. That's correct.

7 Q. And with these photographs, what did you do with  
8 them?

9 A. I developed photo line-ups. And according to our  
10 policy and procedure, I had to get someone else who was  
11 not involved in the case to show the photo line-ups, and  
12 I had Investigator Burgess respond back to the hospital  
13 with me and allow the victims, Mr. Scott and Mr. Oglesby,  
14 to view the photo line-up.

15 Q. And they viewed that line-up independent of each  
16 other?

17 A. They did.

18 Q. Were you present when they were shown the line-up?

19 A. Yes, I was. Mr. Oglesby was in room 640 and Mr.  
20 Scott was in room 634 of Spartanburg Regional Medical  
21 Center.

22 Q. When we talk about a line-up, describe what we mean  
23 to the jury?

24 A. It's a series of six photos with one of those photos  
25 including the suspect and five other suspects of similar

1 stature, hair style, added to the line-up for them to  
2 view at one time. They're not allowed to view all six  
3 photos at one time, according to our procedures. They're  
4 allowed to view one photo at a time so they can't compare  
5 two photos side-by-side.

6 Q. And when you showed that -- when Investigator  
7 Burgess showed that line-up to Mr. Oglesby, did he  
8 identify Javan ---

9 A. He did. He immediately, when he saw the photo of  
10 Mr. Javan Mays, he immediately advised him that that was  
11 the suspect.

12 Q. Okay. And how about Mr. Scott, what occurred when  
13 he looked at that line-up?

14 A. When Mr. Scott looked at the photo, when he got to  
15 the photo of Mr. Javan Mays, he says, that looks like  
16 him.

17 Q. Okay. Did Mr. Scott know Mr. Mays?

18 A. Mr. Scott indicated that he had not ever seen Mr.  
19 Mays before.

20 Q. But Mr. Oglesby did know him?

21 A. Yes.

22 Q. All right. Okay. Now, how many persons were you  
23 informed were responsible for this crime?

24 A. Two. There were two suspects. The second suspect  
25 wasn't identified till August the 16th.

1 Q. Two days later?

2 A. Yes.

3 Q. Okay. And who is that suspect?

4 A. Kendall Robinson.

5 Q. And was he arrested?

6 A. Yes, he was.

7 Q. Now, once you got the name and confirmed it through  
8 the line-up process, what did you do with Javan Mays'  
9 information?

10 A. Once his information -- once he was confirmed as a  
11 suspect through photo identification and line-up, we ran  
12 a criminal history and presented the facts to the judge,  
13 along with the criminal history and obtained two warrants  
14 for attempted murder, armed robbery and possession of a  
15 weapon during the commission of a violent crime.

16 Q. And did you learn where he might be located at the  
17 moment?

18 A. Yes, we did.

19 Q. And what process did you undertake to arrest him?

20 A. I was not at the apartment when he was arrested. I  
21 was assigned to a perimeter because I got to the scene  
22 late because of other paperwork that I was doing related  
23 to the case. I was just on the outside perimeter.

24 Q. So you sent another team with the warrants to go  
25 there?

1 A. That's correct.

2 Q. Okay. Were you aware of the round being recovered?

3 A. Yes, I was.

4 Q. As the lead investigator, were you aware of the  
5 rounds that were recovered at the crime scene?

6 A. I actually saw the rounds at the crime scene. I was  
7 at Prince Hall with forensics tech Guthro.

8 Q. And your observation of those rounds, did the round  
9 in the apartment appear similar to the ones at the scene?

10 A. They were the exact same caliber and manufacturer.

11 Q. And how about the spent shell casing, what do they  
12 ---

13 A. The spent shell casing was the exact same caliber  
14 and manufacturer, as well. All 7.62x39, manufactured by  
15 Winchester.

16 Q. In your experience, what kind of weapon fires that  
17 round?

18 A. An assault style weapon, AK47, SKS. But a  
19 paramilitary style weapon.

20 Q. How powerful is a weapon like that?

21 A. It's, it's a high power, high velocity round. In  
22 excess of two thousand feet per second round.

23 Q. Okay. Thank you, Officer. Answer any questions Mr.  
24 Mays may have.

25 THE COURT: Mr. Mays.



1 Q. --- for you to come pick me up.

2 A. That would be the search warrant to search that  
3 house for you. That's not the arrest warrants. The  
4 arrest warrants were already obtained after Mr. Oglesby  
5 and Mr. Scott picked you out of the photo line-up.

6 Q. You're saying right here female advised your office.

7 A. Okay. Well, I'll clarify that for you. A female  
8 called our agency and provided information of where you  
9 were hiding.

10 Q. I wasn't never hiding nowhere.

11 A. I'm not sure if that's a question, but the answer to  
12 your question is, a female called our agency ---

13 MR. MAYS: Judge, ---

14 MR. BULSA: Objection.

15 THE COURT: What ---

16 MR. MAYS: I'm just reading, Your Honor, what's  
17 in ---

18 THE COURT: I don't think it says in that that  
19 you were not hiding. I think that's what he's objecting  
20 to.

21 MR. MAYS: It's got something in here about  
22 saying I was hiding.

23 THE COURT: What?

24 MR. MAYS: He's got some things in this motion  
25 -- I mean, in this activity ---

1 THE COURT: Well, read him what it says in that  
2 and ask him if that's not what it says. In other words,  
3 you know, a trial goes through different stages.  
4 Argument comes at the end. That's when you start telling  
5 the jury what your ---

6 MR. MAYS: Okay.

7 THE COURT: --- understanding of the facts are.  
8 Same as the solicitor. And he might look at it in a  
9 different way, so just read what the exhibit has.

10 MR. MAYS: We can move on. We can move on. I  
11 ain't going to hold the court up.

12 THE COURT: That's good. That's fine. Please  
13 don't -- understand, it's just -- and I think, as you  
14 found out yesterday, rules of evidence apply to both  
15 sides, both the state and the defendant.

16 MR. MAYS: Okay. I don't have any other  
17 questions, Your Honor.

18 **REDIRECT EXAMINATION**

19 **BY MR. BULSA:**

20 Q. Just to clarify that -- I think you did a good job,  
21 but let's try it one more time.

22 THE COURT: And also, no editorial comments.  
23 They come in argument, too.

24 Q. Mr. Mays referenced a paragraph in your investigator  
25 summary?

1 A. I think he referenced in my supplemental, the fourth  
2 paragraph from the bottom. I'm sorry, the third  
3 paragraph from the bottom.

4 Q. All right. Just read that, if you would, to the  
5 jury, as to how you documented what he was trying to get  
6 at?

7 A. At approximately zero nine hundred hours, I was  
8 advised by our agency -- that our agency received a call  
9 from a female who advised that Javan Mays was in building  
10 2-4 of Prince Hall Apartments. Members of the violent  
11 crime task force on a search warrant -- or started on a  
12 search warrant for this location, with the assistance of  
13 narcotics. Once the search warrant was obtained,  
14 forensics tech Guthro ---

15 THE COURT: Slow down. This lady is trying to  
16 take down what we're saying.

17 THE WITNESS: Oh, I'm sorry. Do I need to read  
18 it again?

19 COURT REPORTER: Okay.

20 THE WITNESS: Read it again?

21 COURT REPORTER: Yes, please.

22 THE WITNESS: I'm sorry. At approximately zero  
23 nine hundred hours, I was advised by our agency that our  
24 agency had received a call from a female who advised that  
25 Javan Mays was in building 2-4 of Prince Hall Apartments.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Brian Stokes - Redirect Examination by Mr. Bursa*

151

1 Members of the violent crime task force started a search  
2 warrant for this location, with the assistance of  
3 narcotics. Once the search warrant was obtained,  
4 forensics tech Guthro and I responded to the area to  
5 stand by. Then it's talking about the search warrant,  
6 not the arrest warrants.

7 Q. Okay. In fact, in your investigative report,  
8 doesn't the preceding paragraph, the paragraph just  
9 before this paragraph, doesn't it talk about the arrest  
10 warrants?

11 A. It does.

12 Q. And that's what you testified to the charges you  
13 presented and the warrants that the judge gave?

14 A. That's a fact. The facts of the case were presented  
15 to Judge Chumley, and that's -- the warrants were issued  
16 for attempted murder, one for armed robbery and  
17 possession of a weapon during the commission of a violent  
18 crime. And that's prior to us receiving information that  
19 they started on the search warrant.

20 Q. Okay. So you got information at nine o'clock and  
21 then we heard Officer Mathis say that around ten o'clock  
22 they started the process and around eleven o'clock is  
23 when they actually executed the search warrant?

24 A. When I referenced earlier about me finishing  
25 paperwork, that's where I was, obtaining arrest warrants.

1 When the information came in, it provided information  
2 where Mr. Mays was currently at, and they started on the  
3 search warrant.

4 Q. Okay. Thank you.

5 MR. BULSA: That's all I have.

6 THE COURT: All right. You may step down.

7 Call your next witness.

8 MR. BULSA: Is Mr. Oglesby here?

9 OFFICER: Not yet.

10 THE COURT: Well, I understand. There might be  
11 a delay on this witness.

12 MR. BULSA: Yes, sir.

13 THE COURT: Mr. Foreman, ladies and gentlemen  
14 of the jury, I'm going to ask you to retire to the jury  
15 room until we're ready to proceed with the next witness.  
16 Again, do not undertake discussion of the case among  
17 yourselves in anyway.

18 (WHEREUPON, the jury exited the open court at  
19 approximately 10:32 a.m.)

20 THE COURT: All right. We'll take a break,  
21 too, until the witness is ready.

22 MR. BULSA: Thank you, Your Honor.

23 (WHEREUPON, the court stood at recess for a short  
24 break.)

25 THE COURT: Let's go back on the record for a

1 minute. It's my understanding the next witness might be  
2 less than convenient to the defendant's case.

3 MR. BULSA: He's one of the victims.

4 THE COURT: That's what I'm saying. All right.

5 The reason I'm bring this up, I've noticed that both of  
6 you have been approaching witnesses while they're in the  
7 box. The rule, of course, is that you do not approach a  
8 witness at all. In other words, you do not invade the  
9 area of the witness. Except to show a document or

10 something like that and have the witness confirm it.

11 What you do is, and as I say, Mr. Mays, this applies to  
12 both the state and the defendant, that if you need to  
13 approach a witness to show them a document or something  
14 like that, then you request permission to do that. And  
15 in fact, our rules also provide that we -- counsel remain  
16 at their desks rather than, without permission, wandering  
17 through the courtroom. There's another thing, we don't  
18 want to have counsel or parties in the jury box with the  
19 jury showing them something like that. So let's, in this  
20 particular case, let's -- I'd say, particularly in this  
21 case, let's be careful, don't approach witnesses and  
22 don't get away from the desk without asking permission of  
23 the court. Do you understand, Mr. Bulsa?

24 MR. BULSA: I do. Is it okay if I stand over  
25 there?

1 THE COURT: Yes. But I mean, again, that's  
2 farther up on the line. And of course, Mr. Mays, if he  
3 wants to, I guess, I'm not sure that the security and all  
4 that still, I'll leave that up to the officers. But not  
5 to get in front of the desk and approach the witness in  
6 anyway that would be intimidating. You understand?

7 MR. BULSA: Yes, sir.

8 THE COURT: You understand, Mr. Mays?

9 MR. MAYS: Yes, sir.

10 THE COURT: Very good. Thank you. All right.  
11 Are you ready to proceed?

12 MR. BULSA: He's here. Yes, sir.

13 THE COURT: All right. Let's ask the jury --  
14 oh, wait, anything from you, Mr. Mays, before we bring  
15 the jury back?

16 MR. MAYS: No, sir.

17 THE COURT: All right. Ask the jury to join  
18 us.

19 (WHEREUPON, the jury entered the open court at  
20 approximately 10:45 a.m.)

21 THE COURT: All right. Let the record reflect  
22 the jury and alternates are in the jury box. Mr.  
23 Foreman, ladies and gentlemen of the jury, we'll now  
24 continue with the state's case.

25 Solicitor, you may call your next witness.

1 MR. BULSA: State calls Antron Oglesby.

2 THE CLERK: Sir, place your left hand on the  
3 bible and raise your right. Do you solemnly swear or  
4 affirm that the testimony you're about to give will be  
5 the truth, the whole truth and nothing but the truth, so  
6 help you God?

7 THE WITNESS: Yes, ma'am.

8 ANTRON OGLESBY,

9 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. BULSA:

12 Q. Mr. Oglesby, tell us your name.

13 A. Antron Oglesby.

14 Q. How old are you, sir?

15 A. Thirty-four.

16 Q. And where do you live?

17 A. South Cleveland Park Drive.

18 Q. South Cleveland Park Drive?

19 A. Spartanburg.

20 Q. Make sure you speak up. It's a little hard to hear  
21 you. Okay? How long have you lived in Spartanburg?

22 A. All my life.

23 Q. Now, did you get shot on August 14, 2012?

24 A. Yes, sir.

25 Q. Where were you at when you got shot?

1 A. In Prince Hall.

2 Q. Prince Hall Apartments?

3 A. Yes, sir.

4 Q. And were you in a vehicle or were you standing out,  
5 where were you?

6 A. In a vehicle.

7 Q. In a vehicle. And how did you come to be at Prince  
8 Hall Apartments?

9 A. Rita, my friend girl.

10 Q. All right. And who else was with you?

11 A. Me and my friend Chris.

12 Q. You and your friend Chris, your friend girl ---

13 A. And a girl named -- another girl. I forgot her  
14 name.

15 Q. Okay. So two women and you and Mr. Scott?

16 A. Yes, sir.

17 Q. Chris is Chris Scott?

18 A. Yes, sir.

19 Q. And tell us how y'all were positioned in the car?

20 A. I was in back of, in back of the driver's side. He  
21 was in back of the passenger side, the car side, in the  
22 back.

23 Q. Who do you recall driving the car?

24 A. Rita.

25 Q. And whose car was it?

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Antron Oglesby - Direct Examination by Mr. Bursa*

157

1 A. Rita's.

2 Q. It was Rita's car. All right. And approximately  
3 what time were y'all over there?

4 A. I'd say about ten something, about eleven or --  
5 about eleven something, something like that. I don't  
6 quite remember.

7 Q. Sometime in the evening?

8 A. No. It was about late at night.

9 Q. Late at night. Okay. It was dark?

10 A. It was real dark, yeah.

11 Q. Okay. Where had y'all been before you got to Prince  
12 Hall Apartments?

13 A. I went by my house to get money, pick some money up.

14 Q. Okay. And how much did you pick up?

15 A. About a hundred and something dollars.

16 Q. And what did you do when you picked up the money?

17 A. I wanted to go back to my aunt's house, but Rita  
18 said she had somewhere she wanted us to ride with her  
19 somewhere. And Chris was telling me don't go. He said,  
20 where we going, man? I said, we'll be all right. And  
21 she said she was going to take her mama the keys,  
22 something like that. And from there we went to Prince  
23 Hall, man.

24 Q. Okay. So it was your understanding you were going  
25 to Prince Hall to take some keys to somebody?

1 A. That's what she said.

2 Q. Okay. But that was -- and you were just along for  
3 the ride?

4 A. Yeah.

5 Q. Had you gone to any store or anything?

6 A. Yeah. We went to the store, went to the store  
7 before all that, before I even went and got my money from  
8 my house, we went to the store because she put some gas  
9 in the car. She wanted some gas money. I guess she had  
10 money then. I didn't know what Tameka was doing. I seen  
11 her playing with the back door, but we was about tore up  
12 anyway. But I seen her playing with the door, but I  
13 wasn't thinking then.

14 Q. Let me stop you a minute. You said you were tore  
15 up?

16 A. I mean, you know, like, you know a little tipsy, a  
17 little bit.

18 Q. Had you been drinking?

19 A. Yes, sir.

20 Q. And when you went to the store, what did you buy?

21 A. A twelve pack of Bud Light.

22 Q. Okay. And what were you going to do with that Bud  
23 Light?

24 A. We were going to go back to my aunt's house and  
25 drink it.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Antron Oglesby - Direct Examination by Mr. Bursa*

159

1 Q. Okay. But you never made it back?

2 A. No, sir.

3 Q. Tell us what happened when you pulled into Prince

4 Hall?

5 A. I seen this dude come around the corner with a AK47.

6 And he just came, just came and opened the door. Chris

7 started to get out, but he couldn't open the door. And

8 when -- the safety lock was on the door, and the dude

9 just started shooting through there.

10 Q. Okay. How many people came around the corner?

11 A. Two.

12 Q. Did you know either one of those persons?

13 A. Yeah.

14 Q. Which one -- or both, did you know them?

15 A. Yeah.

16 Q. Which of them did you know?

17 A. I didn't knew him, but I knew Mays.

18 Q. You knew Mr. Mays?

19 A. (No verbal response.)

20 Q. How long had you known him?

21 A. Maybe for a minute.

22 Q. For a what?

23 A. For a long time.

24 Q. All right. About how many years?

25 A. About a couple of years.

1 Q. Okay. Did you know him by sight?

2 A. Yeah.

3 Q. Whenever you saw him?

4 A. (No verbal response.)

5 Q. Okay. Was there any doubt in your mind that night

6 that that was him when you saw him out there at Prince

7 Hall Apartments?

8 A. Yes, sir.

9 Q. Okay. You're sure it was him?

10 A. Yes, sir.

11 Q. And you're speaking and identifying him to the jury

12 at this time?

13 A. Yes, sir.

14 Q. Okay. Now, which one had the gun?

15 A. Little short dude Kendall had the gun, whatever his

16 name was.

17 Q. Okay. Just so the jury understands this. You're

18 calling one of them short and one of them taller?

19 A. Yes, sir.

20 Q. And who was Mr. Mays?

21 A. He's the tall one.

22 Q. He's the tall one? And you're telling the jury the

23 short one had the gun?

24 A. Yes, sir.

25 Q. What kind of gun was it?

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Antron Oglesby - Direct Examination by Mr. Bursa*

161

1 A. A AK47.

2 Q. What made you think they were together?

3 A. They came out around the building together.

4 Q. Did they both approach the car?

5 A. No.

6 Q. Tell us what happened?

7 A. Kendall, the little dude came around -- came to the  
8 car. But Mays, he was still walking toward the car. He  
9 didn't come near the car. But he already, before Mays  
10 even got close, I mean, I didn't pay no attention to Mays  
11 no more. I really paid attention to the dude who came  
12 with the gun.

13 Q. All right. So the guy with the gun came to the car  
14 and your attention is focused on him?

15 A. Yeah.

16 Q. How does he get into the car?

17 A. He opened the door his self.

18 Q. Which door?

19 A. Chris's side door, passenger back side door.

20 Q. The side that Chris was sitting on?

21 A. Yes, sir.

22 Q. And what happened when he opened the door?

23 A. He said, get up. He wouldn't let us do nothing. He  
24 just started shooting in there.

25 Q. And what did you do?

1 A. Chris started jumping on me and turned around. We  
2 be shot and I grabbed the barrel to the gun and he got  
3 another shot off. I told Chris to jump out of the car.  
4 And Chris jumped out of the car and tried to run. I seen  
5 him following him. And turned around and grabbed the  
6 barrel and just pushed it back, pushed it back. And I  
7 got out of the car trying to run. I still didn't know --  
8 I didn't know I had been shot yet. I kept on following  
9 the road and stuff.

10 Q. Why is it that you didn't know you were shot?

11 A. I guess it's because the pain, I mean, because I was  
12 tore up a little bit, too.

13 Q. You're panicking and you're tore up?

14 A. Yeah.

15 Q. What do you mean tore up?

16 A. I mean, I was about tipsy a little bit, you know.

17 Q. So at that point you didn't feel the pain?

18 A. No, sir.

19 Q. And which direction did you run?

20 A. I ran down the -- going toward B Track going out of  
21 Prince Hall.

22 Q. Down the road?

23 A. Yes, sir.

24 Q. Did you see which direction Chris ran?

25 A. I didn't see him no more.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Antron Oglesby - Direct Examination by Mr. Bursa*

163

1 Q. All right. What happened while you were running  
2 down the road?

3 A. The little kid caught up with me. Me and him  
4 squaring off, you know, about to fight, you know. I  
5 didn't show him -- I was in pain anyway already by  
6 falling, too. I didn't show a lot of pain. Me and him  
7 squared off, you know, about to fight. But I knew I  
8 couldn't with the fire causing pain. I turned around and  
9 seen Van had got the gun. And when Van told me, don't  
10 swing no more, don't swing no more, nigger, like that. I  
11 had already got on the ground.

12 Q. So at this point Mr. Mays had the gun?

13 A. Yeah.

14 Q. And he and Kendall were at you in the roadway?

15 A. Yes, sir.

16 Q. And he ordered you on the ground?

17 A. Yes, sir.

18 Q. And then what happened?

19 A. They start, they start -- they took my shorts and  
20 stuff off first. Told me to get up. Took my shorts and  
21 stuff off. Took my shoes and stuff. And turned around  
22 and started beating me, beating me with the gun first.  
23 Kendall was hitting me in my face, just hitting me, just  
24 hitting me. He hit me in my face.

25 Q. Was Kendall hitting you with a gun or his fist?

1 A. No, Kendall hitting me with the fist.

2 Q. Okay.

3 A. Kendall hitting me with fist then. Van hit me with

4 the gun for a few minutes and then he started punching

5 me, he started punching me real hard. He was just

6 hitting me, just hitting me.

7 Q. Okay.

8 A. And the only thing I was seeing was blood coming

9 down my face. I already, I already got shot getting out

10 of the car.

11 Q. What made him stop?

12 A. I don't know. Van, I guess. I don't know. I can't

13 tell you what made him stop hitting me.

14 Q. Did you see where they went after they stopped

15 hitting you?

16 A. He told me to go ahead, told me to go.

17 Q. What did you do?

18 A. I walked all the way -- I walked about five, six

19 miles over my people's house.

20 Q. Did you wind up at a residence on Burke Street?

21 A. Yes, sir.

22 Q. And did the ambulance come and pick you up there?

23 A. Yes, sir.

24 Q. What were you wearing when you got to that house?

25 A. Nothing. They had took all my clothes off. I

1 wasn't wearing nothing. While I was walking I didn't  
2 have nothing on. I didn't have but a t-shirt on and a  
3 pair of socks.

4 Q. Okay. So the ambulance took you to the hospital?

5 A. Yes, sir.

6 Q. How long did you stay in the hospital?

7 A. About seven days, a week, about seven -- eight days.

8 Eight or nine days. About eight or nine days.

9 Q. And what were your injuries?

10 A. A shot, a shot, you know, grazed my head and a  
11 bullet still in my toe and got shot in my leg through --  
12 came out the other side of my right leg. And my left toe  
13 had a bullet still in it.

14 Q. So what was stolen from you?

15 A. Nothing but a little money and my shoes and my  
16 shorts and stuff. And my -- that's really all, was my  
17 shoes and shorts.

18 Q. Were they saying anything to you while they were  
19 assaulting you in the road?

20 A. Yeah. Don't tell nobody. I don't care about you.  
21 He said, I'll kill you, he said, you tell anybody. I  
22 don't care about your kids, your fucking kids, and  
23 everything like that.

24 Q. Now, did you speak to the police at the hospital?

25 A. Yes, sir.

1 Q. Did you tell them who did this?

2 A. Yes, sir.

3 Q. You identified him to the police?

4 A. Yes, sir.

5 Q. Did you have any surgery?

6 A. Yes, sir.

7 Q. Now, Mr. Oglesby, you're not a man without any  
8 issues himself; are you?

9 A. No, sir.

10 Q. Aren't you actually in the Department of Corrections  
11 now?

12 A. Yes, sir.

13 Q. Because you were convicted of a drug charge?

14 A. Yes, sir.

15 Q. And that was in June of this year?

16 A. Yes, sir.

17 Q. You also had a previous conviction in 2003?

18 A. Yes, sir.

19 Q. Okay. Just because you've got those records, does  
20 that mean you're entitled to be shot?

21 A. No, sir.

22 Q. Does that record have anything to do with you being  
23 shot?

24 A. No, sir.

25 Q. Thank you, Mr. Oglesby. Answer any questions Mr.

1 Mays may have.

2 THE COURT: Mr. Mays.

3 MR. MAYS: May I have the court's permission,  
4 Your Honor?

5 THE COURT: To show a document or something?

6 MR. MAYS: Yes.

7 THE COURT: Very well.

8 **CROSS EXAMINATION**

9 **BY MR. MAYS:**

10 Q. You're contradicting yourself right here where  
11 you're saying you went ---

12 THE COURT: Well, again, just show him what you  
13 want him to read in the document.

14 MR. MAYS: Okay. The document is ---

15 THE COURT: Just show him what you want him to  
16 read. He can read.

17 MR. MAYS: Okay.

18 (WHEREUPON, the defendant indicates to witness where  
19 to read.)

20 THE COURT: Do you see what he wants you to  
21 read?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. If you would, please,  
24 read it.

25 THE WITNESS: Email. I went to my aunt's house

1 and got forty dollars from April. Rita said she was  
2 going to give her mama some keys. We turned the second  
3 entrance in Prince Hall by the rent office and we was a  
4 good ten minutes, Rita had got out and went into the  
5 apartment. Chris got out the car and took a piss. What  
6 you talking about, the forty dollars?

7 THE COURT: Is that what you wanted him to  
8 read?

9 MR. MAYS: Uh-huh (affirmative).

10 THE COURT: All right. Very well.

11 MR. MAYS: And there's another part. That's  
12 it, Your Honor.

13 THE COURT: Very good. Thank you, sir.

14 MR. BULSA: Nothing further.

15 THE COURT: All right. You may step down.  
16 Thank you, sir.

17 MR. BULSA: May I step outside and see if my  
18 other witness is here?

19 THE COURT: Certainly.

20 MR. BULSA: May I approach, Your Honor, with  
21 the defendant and Mr. Poole?

22 THE COURT: I tell you what -- you need to take  
23 up something with the court?

24 MR. BULSA: Yes, sir.

25 THE COURT: Well, the thing is, let's let the

1 jury go back to the jury room. Again, do not undertake  
2 discussion of the case among yourself in anyway. The  
3 court needs to take up something with the parties.

4 (WHEREUPON, the jury exited the open court at  
5 approximately 11:04 a.m.)

6 THE COURT: All right, Mr. Solicitor.

7 MR. BULSA: I need to swap out witnesses.

8 THE COURT: Pardon.

9 MR. BULSA: I need to swap out inmates.

10 THE COURT: All right. I understand.

11 MR. BULSA: That's what I wanted to tell the  
12 court.

13 THE COURT: All right. I understood that.  
14 It's just as well, though, that we -- and by the way, I  
15 want to thank both of you for following the procedure as  
16 far as witnesses are concerned. Let's continue to do  
17 that through.

18 All right. We'll stand at ease until we're ready to  
19 proceed.

20 (WHEREUPON, the court stood at recess for a short  
21 break.)

22 THE COURT: You ready?

23 MR. BULSA: I have another lay witness that was  
24 late. We can put him up while the other one is in  
25 transport if you'd like, Your Honor.

1 THE COURT: Oh, this is another witness?

2 MR. BULSA: Yes, sir.

3 THE COURT: How long do you think it'll be  
4 before the other one gets here?

5 OFFICER: It shouldn't take very long.

6 MR. BULSA: Just a few more minutes, depending  
7 on traffic.

8 THE COURT: Would it be better to bring ---

9 (WHEREUPON, discussions were held off-the-record.)

10 THE COURT: I'm just thinking that rather than  
11 having to send the jury out each time, that if we could  
12 get the one that ---

13 MR. BULSA: Yes, sir, I understand.

14 THE COURT: --- needs security.

15 MR. BULSA: I'm told it's going to take about  
16 ten more minutes.

17 THE COURT: All right. Then let's go on with  
18 what we have then.

19 All right. Anything from the state before we bring  
20 the jury back?

21 MR. BULSA: No, sir.

22 THE COURT: From the defense?

23 MR. MAYS: No, sir.

24 THE COURT: Very good. Thank you, sir.

25 Ask the jury to join us.

State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)  
Christopher Scott - Direct Examination by Mr. Bursa

171

1 (WHEREUPON, the jury entered the open court at  
2 approximately 11:17 a.m.)

3 THE COURT: All right. Let the record reflect  
4 the jury and the alternates are in the jury box.

5 Mr. Foreman, ladies and gentlemen of the jury, we  
6 will now continue the trial of the case.

7 You may call your next witness.

8 MR. BULSA: State calls Christopher Scott.

9 THE CLERK: Do you solemnly swear or affirm  
10 that the testimony you're about to give will be the  
11 truth, the whole truth and nothing but the truth, so help  
12 you God?

13 THE WITNESS: Yes, ma'am.

14 CHRISTOPHER SCOTT,

15 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. BULSA:

18 Q. Tell us your name.

19 A. My name is Christopher Scott.

20 Q. And how old are you, Mr. Scott?

21 A. Twenty-six.

22 Q. Do you live in Spartanburg?

23 A. Yes, sir.

24 Q. Did you get shot on August the 14th, 2012?

25 A. Yes, sir.

1 Q. Who were you with when you got shot?

2 A. Antron Oglesby.

3 Q. And how do you know Mr. Oglesby?

4 A. We been friends for quite a while.

5 Q. Okay. And where were you when you got shot?

6 A. In Prince Hall.

7 Q. And how did you and Mr. Oglesby get to Prince Hall  
8 Apartments?

9 A. Two girls. One name was Rita and I think the other  
10 girl was Tameka.

11 Q. Why were you in the car with them?

12 A. We was going to the store to get some beer.

13 Q. Had you already been to the store before you got to  
14 Prince Hall?

15 A. Yes.

16 Q. Okay. So after you got the beer where were you to  
17 be headed? Where were you going?

18 A. We was supposed to have went back to his aunt's  
19 house but instead the girl said she had to drop the key  
20 off to her mama. So we went to Prince Hall. And then  
21 she got in the car, the next thing I know, she went  
22 around the building and two guys came out from around the  
23 building where she went to, opened the door and started  
24 shooting.

25 THE COURT: Mr. Solicitor, could the witness

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Christopher Scott - Direct Examination by Mr. Bursa*

173

1 identify the individual by name rather than a pronoun?

2 MR. BULSA: Yes, sir. I was getting to that.

3 THE COURT: Thank you.

4 Q. Tell us how you were seated in the car?

5 THE COURT: Well, now he said she. Which she  
6 was it?

7 Q. Well, who is the she?

8 A. Rita.

9 THE COURT: Thank you.

10 Q. And was Rita the driver of the car?

11 A. Yes, sir.

12 Q. And where was the other female seated in the car?

13 A. Front passenger seat.

14 Q. Front passenger seat?

15 A. Yes.

16 Q. Where were you seated?

17 A. Behind her, the passenger, in the back.

18 Q. In the back passenger seat?

19 A. Uh-huh (affirmative).

20 Q. Where was Mr. Oglesby?

21 A. Behind the driver's seat in the back.

22 Q. Okay. All right. And were you in the car when you  
23 saw these men approach?

24 A. Yes. Yes, sir.

25 Q. Did you know either one of those men by sight?

- 1 A. No, sir.
- 2 Q. Okay. Which parking lot were y'all in?
- 3 A. In the parking lot by the trash can.
- 4 Q. You saw the picture there that you saw yesterday;
- 5 right?
- 6 A. Uh-huh (affirmative).
- 7 Q. Is it what we call the upper parking lot?
- 8 A. Uh-huh (affirmative).
- 9 Q. You need to say yes or no?
- 10 A. Yes, sir.
- 11 Q. Okay. Now, do you recall there being any other cars
- 12 around when y'all parked?
- 13 A. No, sir.
- 14 Q. What kind of lighting was there out there?
- 15 A. Just like light poles.
- 16 Q. Street light poles?
- 17 A. Yes, street light.
- 18 Q. Now, when these two men came out, did you notice
- 19 anything about them?
- 20 A. They had a gun.
- 21 Q. They had a gun?
- 22 A. Yeah.
- 23 Q. Did they both have guns?
- 24 A. No.
- 25 Q. Which one had the gun?

1 A. Kendall Robinson.

2 Q. Okay. That's the name you later learned, but you  
3 didn't know his name at the time; right?

4 A. Uh-uh (negative).

5 Q. So tell us by description which of those two men had  
6 a gun?

7 A. The short one.

8 Q. The short one had a gun. Okay. And what happened  
9 as these men came around the building?

10 A. Well, they opened my side door and he shot. And I  
11 didn't know I was hit at the time then.

12 Q. You say he shot. That being the shorter one?

13 A. Uh-huh (affirmative). Yes, sir.

14 Q. Yes? Okay. He shot and what happened?

15 A. The next thing I know they started going around  
16 behind us and everything. And I drove in the front seat.  
17 My friend, Antron, grabbed the gun. I hopped over the  
18 seat and I started running.

19 Q. Which direction did you run?

20 A. Behind some -- behind a building and I fell in some  
21 bushes while I was running.

22 Q. Did you run a pretty good distance?

23 A. Uh-huh (affirmative). I tried to. Yes, sir, I  
24 tried to anyway.

25 Q. Did you see anybody else out in the apartment

1 complex?

2 A. No. When I was running all I seen was somebody get  
3 in a white car and then they left. That's all I seen.

4 Q. Was that -- but that person wasn't connected to this  
5 incident?

6 A. No, sir.

7 Q. So nobody came out of the apartments and tried to  
8 come help you?

9 A. No, sir.

10 Q. So you ran until you fell?

11 A. Yes, sir.

12 Q. All right. And what did you do when you fell?

13 A. I got on the phone and called 911.

14 Q. And were you able to come out and see the police?

15 A. No.

16 Q. Describe what happened when they arrived?

17 A. No. I couldn't move. I laid in the bushes. They  
18 had to carry me out the bushes.

19 Q. What were your injuries?

20 A. Sir?

21 Q. What were your injuries?

22 A. I had two leg wounds.

23 Q. Were you taken to the hospital?

24 A. Yes, sir.

25 Q. How long did you stay in the hospital?

1 A. Three days.

2 Q. Did you have to have surgery?

3 A. Yeah. I had to have surgery one time.

4 Q. Now, while at the hospital did you speak to the  
5 police?

6 A. Yes. Yes, sir.

7 Q. Did they show you pictures?

8 A. Yes, sir.

9 Q. Did you identify anybody to the police?

10 A. Yes, sir.

11 Q. Do you see the person in the courtroom that was  
12 involved in this shooting?

13 A. Yes, sir.

14 Q. Can you point him out to the jury?

15 (WHEREUPON, the witness indicates the defendant.)

16 Q. Let the record reflect he's pointing to the  
17 defendant.

18 THE COURT: The record will so reflect.

19 Q. Was the defendant the tall one or the short one?

20 A. The tall one.

21 Q. So he's not the one with the gun?

22 A. No, sir.

23 Q. At least when he approached you?

24 A. (No verbal response.)

25 Q. Did he come into contact with you at all?

1 A. Besides trying to go in my pockets.

2 Q. So you recall it being him trying to get in your  
3 pockets?

4 A. Uh-huh (affirmative).

5 Q. Did he take anything from you?

6 A. No, sir.

7 Q. Why is that?

8 A. Because it was the wrong pocket he went in.

9 Q. Okay. This all sounds like it happened pretty fast.

10 Did it?

11 A. It happened pretty quick.

12 Q. Did you try to push your way out your door?

13 A. (No verbal response.)

14 Q. Why did you have to jump over the door -- the seat,  
15 is what I'm asking?

16 A. Antron was right beside me. The other two was right  
17 here, and so when they tried to reach in -- one reach in  
18 with the gun, then Antron grabbed the gun, so I just  
19 crawled over the seat and started running.

20 Q. Did you see the two girls again?

21 A. After that?

22 Q. Yes, sir?

23 A. No, sir.

24 Q. When the car was pulled in, did Rita take her keys  
25 with her?

1 A. No, sir.

2 Q. Did she, in fact, leave the car running?

3 A. Yes, sir.

4 Q. So you thought it was going to be a quick trip and  
5 she was going to come right back?

6 A. Yes, sir.

7 Q. Do you know where Antron went?

8 A. No.

9 Q. Did you see him while you were running?

10 A. No, sir.

11 Q. So as far as you know, y'all ran separate  
12 directions?

13 A. Yes, sir.

14 Q. After you left the car, did you see either the tall  
15 or short man again?

16 A. No. No, sir.

17 Q. Did you look back to see if they were following you?

18 A. Yeah, I did, but it was ---

19 Q. You didn't see them?

20 A. Uh-uh (negative).

21 Q. Now, Mr. Mays (verbatim), you had, it looks like,  
22 one conviction in 2011 for malicious injury to personal  
23 property, less than two thousand dollars?

24 A. Yes, sir.

25 Q. Does that affect your ability to identify who shot

1 you?

2 A. No, sir.

3 Q. All right. Answer any questions Mr. Mays has for  
4 you.

5 THE COURT: Mr. Mays.

6 MR. MAYS: May I approach, Your Honor?

7 THE COURT: Certainly.

8 **CROSS EXAMINATION**

9 **BY MR. MAYS:**

10 Q. Mr. Scott, when they viewed you, when Detective  
11 viewed you with this line-up, you stated, it looks like  
12 him but don't want to say one hundred percent sure.

13 A. Yeah.

14 Q. Okay. The other subject, on 8/14/2012, you arrived  
15 at Spartanburg Regional Medical Center?

16 A. Uh-huh (affirmative).

17 Q. And you said you had surgery and you had -- you got  
18 shot and everything?

19 A. Uh-huh (affirmative).

20 Q. This fact that I'm going to ask you is a yes or no  
21 question. Did you see the one or anyone or anybody in  
22 this courtroom is the one that shot you?

23 A. No.

24 Q. Did you see the one as a fact -- yes or no question  
25 -- did you see I or anyone in this courtroom go in your

1 pockets?

2 A. Yes.

3 Q. You're under oath.

4 A. You right.

5 Q. You know you lying?

6 A. I'm not.

7 THE COURT: All right. You don't argue with  
8 witnesses.

9 MR. MAYS: No further questions, Your Honor.

10 THE COURT: Redirect.

11 MR. BULSA: Yes, sir.

12 **REDIRECT EXAMINATION**

13 **BY MR. BULSA:**

14 Q. Now, the person you were able to identify to the  
15 police, was that Mr. Mays?

16 A. Yes, sir.

17 Q. Is there any doubt that that was -- that he was  
18 involved in this crime?

19 A. No, sir.

20 Q. Now, when you look at some other pictures separate  
21 from the ones you looked at of Mr. Mays -- did you look  
22 at a second set of pictures?

23 A. I don't remember.

24 Q. Let me ask it this way. Were you able to identify  
25 the second man?

1 A. Not that I know of. I can't remember.

2 Q. Okay. You did pick this man out, but not the other  
3 one?

4 A. Yes, sir.

5 Q. Okay. That's all.

6 THE COURT: All right. You may step down.

7 MR. BULSA: State calls Kendall Robinson.

8 THE CLERK: Put your left hand on the bible and  
9 raise your right. Raise your right hand, please.

10 Do you solemnly swear or affirm that the testimony  
11 you're about to give will be the truth, the whole truth  
12 and nothing but the truth, so help you God?

13 THE WITNESS: Yes.

14 **KENDALL ROBINSON,**

15 **BEING DULY SWORN, TESTIFIED AS FOLLOWS:**

16 **DIRECT EXAMINATION** ✓

17 **BY MR. BULSA:**

18 Q. Tell us your name, sir.

19 A. Kendall Robinson.

20 Q. Say that again and a little bit louder?

21 A. Kendall Robinson.

22 Q. How old are you, Mr. Robinson?

23 A. Just turned nineteen.

24 Q. When was your birthday?

25 A. November 9th.

1 Q. November 9th. Back in August of 2012, how old were  
2 you?

3 A. Seventeen.

4 Q. Seventeen. Do you know the Defendant, Javan Mays?

5 A. Yes.

6 Q. How do you know him?

7 A. Through a female.

8 Q. How long have you known him?

9 A. Like since two weeks, two or three weeks.

10 Q. Two to three weeks at the time of this incident?

11 A. Yeah.

12 Q. So you basically had just met?

13 A. Yes.

14 Q. And how old was he at that time?

15 A. I don't know.

16 Q. Was he older than you?

17 A. Yes.

18 Q. A lot older than you?

19 A. Yes.

20 Q. Why did you hang around with him?

21 A. Through a female, just hanging around people.

22 Q. Okay. Now, do you remember the night of this  
23 shooting?

24 A. Yes.

25 Q. Where had you been that night?

- 1 A. At Tameka's house.
- 2 Q. Tameka's house?
- 3 A. Yes.
- 4 Q. And where did she live?
- 5 A. Prince Hall.
- 6 Q. Prince Hall. Do you remember the number?
- 7 A. No, sir.
- 8 Q. All right. And who were you with at Tameka's house?
- 9 A. Me, Tameka and Javan.
- 10 Q. You, Tameka and Javan. Anybody else?
- 11 A. No, sir. No, sir.
- 12 Q. You're a little hard to understand.
- 13 A. No, sir.
- 14 Q. All right. So it was the three of you. And what's
- 15 taking place there?
- 16 A. The night of the shooting?
- 17 Q. Yes, sir?
- 18 A. They was setting it up.
- 19 Q. Explain that.
- 20 A. Meka was calling her girl Rita and they was calling
- 21 Dirt and his friend, calling them.
- 22 Q. The two girls were talking and calling Dirt?
- 23 A. Yes.
- 24 Q. Were you or Mr. Mays involved in that?
- 25 A. Yes.

1 Q. Yes?

2 A. Yes, sir.

3 Q. How so?

4 A. With the shooting.

5 Q. I'm still having a hard time hearing you.

6 A. With the shooting.

7 Q. The plan was what?

8 A. Rob him.

9 THE COURT: Let's see. Could that microphone  
10 be a little bit closer to him?

11 MR. BULSA: Can you slide it up a little bit?

12 THE COURT: Let's try that, Mr. Robinson.

13 Q. And the plan was to rob them?

14 A. Yes, sir.

15 Q. To rob the person you knew as Dirt?

16 A. Yes, sir.

17 Q. Did you later learn who Dirt is?

18 A. After the situation, yes.

19 Q. And what was Dirt's name?

20 A. Antron Oglesby.

21 Q. Antron Oglesby. Okay. So tell us what took place  
22 that night after this plan was set in motion?

23 A. The girl Rita, Rita Richards, okay, that's her name;  
24 right, she had texted the phone and said she's on her  
25 way. And we was standing behind the building. And as

1 Christopher, he got out of the car, he took to use the  
2 bathroom. He went back in the car and I run up to the  
3 car and I start shooting.

4 Q. So at some point you and Mr. -- well, were you with  
5 anyone?

6 A. Yes, Mr. Javan.

7 Q. You and Mr. Mays were standing where?

8 A. Behind the building close to the front office.

9 Q. Okay. And then y'all received a text, you said?

10 A. Yes, sir.

11 Q. Okay. What did you do?

12 A. After the text?

13 Q. Yes, sir?

14 A. We went -- after we got the text we started going  
15 behind the building to where they were going to park at.  
16 And that when Chris got out the car to use the bathroom.  
17 I seen him use the bathroom. As he got back in the car,  
18 I opened the car door and started shooting. Told him get  
19 out and started shooting.

20 Q. Where was Mr. Mays?

21 A. Right behind me.

22 Q. Did you know Mr. Scott?

23 A. No, sir.

24 Q. Did you know if that was Dirt or not?

25 A. No, sir.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Kendall Robinson - Direct Examination by Mr. Bursa*

187

- 1 Q. Who else was in that car?
- 2 A. Tameka.
- 3 Q. Anybody else?
- 4 A. No, sir.
- 5 Q. How many people?
- 6 A. How many was in the car?
- 7 Q. Yes, sir?
- 8 A. In all, four. But at the time of the shooting,
- 9 three.
- 10 Q. Okay. So somebody had gotten out of the car?
- 11 A. Yes, sir.
- 12 Q. Who had gotten out of the car?
- 13 A. Rita.
- 14 Q. Did you see her?
- 15 A. Yes.
- 16 Q. Did you see where she went?
- 17 A. She went to Tameka building.
- 18 Q. Okay. So that left the other three out in the car?
- 19 A. Yes, sir.
- 20 Q. Why did you go up to the car?
- 21 A. Because we was robbing them.
- 22 Q. Whose plan was this?
- 23 A. Javan and Meka's and Rita's.
- 24 Q. Why were you involved?
- 25 A. I was just around.

1 Q. Just around?

2 A. Yes.

3 Q. What kind of gun did you have?

4 A. A SK.

5 Q. Like a military rifle type?

6 A. Yes, assault rifle.

7 Q. And you're telling this jury that you're the person  
8 that opened the door and shot?

9 A. Yes.

10 Q. What happened as you fired the bullets?

11 A. As I fired one shot -- after I fired the one shot,  
12 Chris Scott jumped up in the front seat and Antron  
13 Oglesby jumped over like right behind him. I started  
14 chasing after Chris Scott. Then I seen Antron Oglesby,  
15 so I went after him. At the time I didn't know who he  
16 was, though.

17 Q. Did you ever drop the weapon?

18 A. Yes.

19 Q. Tell us about that?

20 A. I dropped it -- as I dropped it, as I dropped it, I  
21 was running -- as I was running, I dropped it and Javan  
22 picked it up.

23 Q. Do you remember if anything fell out of it?

24 A. Bullets. Bullets, rounds out the gun.

25 Q. Where did you run?

1 A. Ran to the curb at Prince Hall Lane.

2 Q. Who were you chasing?

3 A. Antron Oglesby. Antron Oglesby.

4 Q. How did you know that was the person you wanted to  
5 chase?

6 A. Because I seen Javan run after him, too.

7 Q. Did you try to find Mr. Scott again?

8 A. No. No, sir.

9 Q. Why not?

10 A. I just didn't.

11 Q. Well, did you and Mr. Mays catch Mr. Oglesby?

12 A. Did we?

13 Q. Yes, sir. Did you?

14 A. Yes.

15 Q. Where did you catch him?

16 A. Right by the curb on Prince Hall Lane.

17 Q. Was it in the roadway?

18 A. Yes.

19 Q. What happened at that point?

20 A. Javan started beating him with the gun and he took  
21 his clothes off.

22 Q. And then what happened?

23 A. Then we started -- we took his clothes off. We let  
24 him go and we went back to Tameka's apartment.

25 Q. Do you remember what happened to the gun -- to the

1 car?

2 A. No. No, sir.

3 Q. Do you recall hearing the police out in that area  
4 investigating this crime?

5 A. Yes, I might of did.

6 Q. How long did you stay at that apartment?

7 A. I wandered around I'd say till eight o'clock.

8 Q. And what happened in that apartment at that time?

9 A. Tameka's baby father came to pick her baby up, pick  
10 her daughter up and take her to take pictures. And they  
11 went -- they put the gun in the clothes basket. And I  
12 don't know what else they did. I left after that.

13 Q. So the gun was brought back to that apartment?

14 A. Yes.

15 Q. After you shot it and Mr. Oglesby was assaulted with  
16 it?

17 A. Yes.

18 Q. And you say it was hidden in a basket, but you don't  
19 know what happened to it?

20 A. No, sir.

21 Q. Whose gun was it in the first place?

22 A. Mine.

23 Q. Your gun?

24 A. (No verbal response.)

25 Q. How in the world did you get a gun like that?

- 1 A. From an old friend.
- 2 Q. Do you recall what time you left that apartment?
- 3 A. Around seven thirty, eight o'clock.
- 4 Q. Did you get anything out of this?
- 5 A. No, not really. Yes.
- 6 Q. What did you get?
- 7 A. Twenty dollars.
- 8 Q. Twenty dollars?
- 9 A. Yeah.
- 10 Q. Where did the twenty dollars come from?
- 11 A. Out of Antron's Oglesby.
- 12 Q. Out of the clothes he was wearing?
- 13 A. Yes.
- 14 Q. Did Mr. Mays get any money out of this?
- 15 A. Yes.
- 16 Q. How much did he get?
- 17 A. Twenty dollars.
- 18 Q. You're telling us y'all got about forty dollars?
- 19 A. Yes.
- 20 Q. And the clothing of Mr. ---
- 21 A. Yes.
- 22 Q. --- Oglesby. What happened to the clothing?
- 23 A. I don't know.
- 24 Q. You don't know?
- 25 A. No, sir.

- 1 Q. Why did y'all take his clothing?
- 2 A. I couldn't tell you. Just to see anything else on  
3 him.
- 4 Q. Why didn't you just go in his pockets?
- 5 A. Wasn't thinking that.
- 6 Q. Whose idea was it to take all his clothes?
- 7 A. Javan's.
- 8 Q. Now, when were you arrested on his case?
- 9 A. August 17th. August 17th.
- 10 Q. Three days later?
- 11 A. Yes.
- 12 Q. Were you aware that Mr. Mays had already been  
13 arrested?
- 14 A. Yes.
- 15 Q. Now, when you were arrested, did you speak to the  
16 police?
- 17 A. Yes.
- 18 Q. Did you admit to your role in this case?
- 19 A. No, sir.
- 20 Q. Why not?
- 21 A. I don't know.
- 22 Q. You don't know?
- 23 A. No, sir.
- 24 Q. Did you lie to them?
- 25 A. Yes, sir.

1 Q. Do you know why you lied?

2 A. No, sir.

3 Q. Were you hoping not to get caught?

4 A. Yes.

5 Q. Then why are you testifying?

6 A. For to better of my life. For to better of my life.

7 Q. What you testified to, is that what happened?

8 A. Yes, sir.

9 Q. Would you have done this had you not been with Mr.

10 Mays that night?

11 A. Probably not.

12 Q. Probably not. Now, you've been in jail ever since  
13 your arrest; right?

14 A. Yes, sir.

15 Q. And while you were in jail you pled on another

16 charge to receiving stolen good in December of last year;  
17 right?

18 A. Yes, sir.

19 Q. Have you had any contact with Mr. Mays since this  
20 happened?

21 A. Once.

22 Q. Have you had any contact with Mr. Mays since this  
23 incident happened?

24 A. Once.

25 Q. Oh, you said once?

1 A. Yes.

2 Q. How so?

3 A. Through an inmate.

4 Q. Through an inmate. Okay. But you didn't have any  
5 direct contact?

6 A. No, sir.

7 Q. All right. Mr. Robinson, answer any questions Mr.  
8 Mays has of you.

9 THE COURT: Mr. Mays.

10 MR. MAYS: May I approach?

11 THE COURT: Certainly.

12 MR. MAYS: He can read this?

13 THE COURT: Yes, sir. Show him what part you  
14 want him to read or do you want him to read the whole  
15 thing?

16 MR. MAYS: The whole thing. Cause he's  
17 contradicting his self.

18 THE COURT: Very good.

19 **CROSS EXAMINATION**

20 **BY MR. MAYS:**

21 THE WITNESS: I was in Northridge with Kenna  
22 Hunter at her niece's. I was there, she picked me up.

23 MR. BULSA: Your Honor, I object. Can he read  
24 it to himself and be asked questions from it?

25 THE COURT: No. He can read it. He can ask

1 him to read it. This is his statement; is it not? This  
2 is this witness's statement?

3 MR. BULSA: This is the statement he gave to  
4 the police upon arrest.

5 A. I was in Northridge with Kenna Hunter at her  
6 niece's. I was there. She picked me up on that Monday  
7 before it got dark about seven o'clock p.m. She picked  
8 me up from the building, building one, Prince Hall. I  
9 was coming from my baby's mama's house. I went straight  
10 to the house. She cooked and we played with the kids.  
11 Then we went to sleep. I didn't get up till eleven  
12 thirty a.m. Tuesday. I went to my grandmother's house,  
13 got some clothes, went back to my girlfriend's house. I  
14 got in the shower, got dressed. My girl got the kids'  
15 outfits and them dressed. We went to Walmart, took the  
16 kids home. We chilled. Chilled at her brother's house.  
17 And then we went back home. We went to Walmart at Dorman  
18 Center, it was probably between three or four. We went  
19 in the door where the pharmacy is right there where you  
20 go in, not next to McDonald's. We were there like a good  
21 thirty minutes. We didn't get anything. I don't know if  
22 my girlfriend got anything. I was watching the kids by  
23 myself and she was by herself. I took the kids back to  
24 the restroom. We went to the house and curled up in a  
25 chair to watch a movie.

1 MR. MAYS: I have no further questions, Your  
2 Honor. That's contradicting.

3 THE COURT: Where you say he contradicted, what  
4 did he ---

5 MR. MAYS: It's all ---

6 THE COURT: But did he -- what?

7 MR. MAYS: He wrote one thing and he stated  
8 something else.

9 THE COURT: What did he say?

10 MR. MAYS: Got up on the stand and testified to  
11 something else.

12 THE COURT: Just a moment. Now, you've done it  
13 correctly. You've shown him the statement you're relying  
14 on as being inconsistent.

15 MR. MAYS: Yes, sir.

16 THE COURT: All right. Now, what is the  
17 statement that is inconsistent with that?

18 MR. MAYS: This whole thing, because it's ---

19 THE COURT: What did he say that you say he was  
20 inconsistent?

21 MR. MAYS: To where -- his whereabouts.

22 THE COURT: Okay. Would you -- what part of  
23 the whereabouts?

24 MR. MAYS: The part where he says he was in  
25 Northridge with somebody else, name Kenna Hunter or

1 somebody.

2 THE COURT: All right.

3 MR. MAYS: Thank you.

4 **REDIRECT EXAMINATION**

5 **BY MR. BULSA:**

6 Q. Mr. Robinson, that's the statement you gave to the  
7 police that day you were arrested; right?

8 A. Yes.

9 Q. And that's the statement you testified on direct,  
10 examination that was a lie?

11 A. Yes.

12 Q. Is that right? Because you didn't want to get  
13 caught?

14 A. Yes.

15 Q. Okay. And why are you testifying differently today?

16 A. Because it's my life. I just want to get myself  
17 better.

18 Q. So you're admitting to a crime?

19 A. Yes, sir.

20 Q. Okay. So what is the truth; that statement or your  
21 testimony?

22 A. My testimony.

23 Q. And -- thank you. That's all I have.

24 THE COURT: Very well. You may step down.

25 MR. BULSA: At this time the state would rest.

1           THE COURT: All right. This completes the  
2 state's case, Mr. Foreman, ladies and gentlemen of the  
3 jury. I'm going to suggest that we go to lunch at this  
4 time and come back and then we'll complete the trial of  
5 the case. Hopefully we'll be able to do that today and  
6 the case will be given to you for your deliberations.

7           Again, this is another one of your duties. If you  
8 would, Mr. Foreman, check with your jury and see how much  
9 time you need for lunch. It's twelve ten. I would say  
10 at least an hour, maybe an hour and a half.

11           THE JUROR: One thirty, sir.

12           THE COURT: One thirty will be very good. All  
13 right. So come back to the jury room that you're in.

14           Again, as I say, we haven't completed the trial  
15 because we still have to do other things with the trial.  
16 And so do not undertake the discussion of the case among  
17 yourselves in anyway. Thank you very much. After lunch,  
18 come back at one thirty to the jury room.

19           (WHEREUPON, the jury exited the open court at  
20 approximately 12:11 p.m.)

21           THE COURT: All right. Anything further from  
22 the state?

23           MR. BULSA: No, sir.

24           THE COURT: All right. Mr. Mays, any motions  
25 at this time?

1 MR. MAYS: I had a *Brady* motion, Your Honor,  
2 that I filed several months ago.

3 THE COURT: Well, that is a part of the record.  
4 But that's not what we're talking about in a trial.  
5 After the state closes you have the right to make a  
6 directed verdict motion if you want to. But  
7 insufficiency of the evidence or anything else?

8 MR. MAYS: Not as I can recall at this time.

9 THE COURT: All right. Very good. Although  
10 you're appearing pro se, although you're appearing pro  
11 se, you still have the right not to say anything as a  
12 witness; in other words under oath as you would be if you  
13 testified to the jury, you would be put under oath like  
14 any other witness. But I do need to advise you, you also  
15 have the right to waive that right to testify.

16 Now, Mr. Mays, you're Javan Frederick Mays?

17 MR. MAYS: Yes, sir.

18 THE COURT: And the testimony you're about to  
19 give is the truth, the whole truth and nothing but the  
20 truth? You swear or affirm?

21 MR. MAYS: I don't have no reason to testify.

22 THE COURT: All right. I'm putting you under  
23 oath for the record. You're under oath now; you  
24 understand that?

25 MR. MAYS: Yes, sir.

1           THE COURT: At this time I'm going to explain  
2 to you certain of your rights. If you do not understand  
3 anything I say, please let me know. If you want me to  
4 explain anything in more detail, please let me know. Do  
5 you understand?

6           MR. MAYS: Yes, sir, Your Honor.

7           THE COURT: Now, we've reached that stage of  
8 the trial where you may present your defense. You have  
9 the right to claim the protections given to you by the  
10 Fifth Amendment to the Constitution of the United States.  
11 This amendment states in pertinent part, no person shall  
12 be compelled in any criminal case to be a witness against  
13 himself. This means that you cannot be required to  
14 testify in this case. You have the right to testify on  
15 your own behalf. However, no one can make you testify.  
16 This is a personal right and no one can waive this right  
17 except you. Do you understand that?

18          MR. MAYS: Yes, sir.

19          THE COURT: If you decide to testify, you'll be  
20 subject to the same rules that govern other witnesses and  
21 you may be examined and cross examined on any relevant  
22 issue in this case. In addition, if you have any  
23 convictions involving dishonesty or false statement, or  
24 crimes punishable by imprisonment for more than one year  
25 and this court determines that the probative value of

1 admitting this evidence outweighs its prejudicial effect  
2 to you, the solicitor will be able to introduce your  
3 record to attack your credibility. Do you understand  
4 that?

5 MR. MAYS: Yes, sir.

6 THE COURT: If you decide to testify, this  
7 decision on your part must be freely, voluntarily,  
8 intelligently made with the knowledge of the protection  
9 given to you by the Fifth Amendment and the consequences  
10 of your decision to testify. Do you understand that?

11 MR. MAYS: Yes, sir.

12 THE COURT: If you decide not to testify, I'll  
13 instruct the jurors that they cannot give the fact that  
14 you did not testify any consideration whatsoever and that  
15 there is to be absolutely no prejudice to you because you  
16 did not testify. You may talk with your attorney, your  
17 family and your friends or anyone else, but the final  
18 decision will be left entirely to you. Do you understand  
19 everything I've explained to you?

20 MR. MAYS: Yes, sir.

21 THE COURT: Do you have any questions about  
22 what I've explained to you?

23 MR. MAYS: No, sir.

24 THE COURT: Have you discussed with Mr. Poole  
25 whether you should or should not testify?

1 MR. MAYS: Yes, sir.

2 THE COURT: And are you satisfied with his  
3 advice?

4 MR. MAYS: Yes, sir.

5 THE COURT: Do you wish to talk to your lawyer  
6 anymore about this?

7 MR. MAYS: No, sir.

8 THE COURT: Do you wish to testify in this  
9 case?

10 MR. MAYS: No, sir.

11 THE COURT: All right. Very good. I find the  
12 defendant knowingly, intelligently, freely and  
13 voluntarily waives his right to testify and I'll so  
14 instruct the jury.

15 All right. That means we'll go to the jury after  
16 lunch.

17 MR. BULSA: Are you going to put up anything  
18 else, Mr. Mays?

19 MR. MAYS: No. I'm good.

20 MR. BULSA: I would just ask the court to  
21 counsel the defendant not to testify in his closing  
22 argument.

23 THE COURT: Well, he can make his argument.  
24 That's not testimony.

25 MR. BULSA: I have a feeling he might try to

1 testify. I'm just asking ---

2 THE COURT: I mean, that's what argument is,  
3 it's testifying -- he has to stay within the record, like  
4 every other attorney.

5 MR. BULSA: I'm asking the court to counsel him  
6 about that he doesn't go outside the record and try to  
7 tell his own story.

8 MR. MAYS: Why not?

9 THE COURT: Because the rules don't apply --  
10 you're limited to what has been introduced in evidence  
11 during the case.

12 MR. MAYS: I'm going to speak, Your Honor,  
13 what's in as far as the case.

14 THE COURT: Yeah. You can talk about anything  
15 that's been introduced into evidence and give your  
16 explanation or your interpretation of that.

17 MR. MAYS: Okay.

18 THE COURT: But you can't bring up anything  
19 else that is not introduced.

20 MR. MAYS: It's going to be within the case.

21 THE COURT: Very good. All right. But also,  
22 Mr. Solicitor, ---

23 MR. BULSA: Yes, sir.

24 THE COURT: --- inasmuch as he has not put up  
25 any evidence or testimony, you get the first and last

1 argument as far as opening completely on the law and  
2 facts.

3 MR. BULSA: Yes, sir, I understand I'm first.

4 THE COURT: Very good. Well, you also --  
5 that's your only argument.

6 MR. BULSA: Yes, sir, I ---

7 THE COURT: He closes?

8 MR. BULSA: I understand.

9 THE COURT: You understand that?

10 MR. BULSA: Yes, sir.

11 THE COURT: I'm asking Mr. Mays.

12 MR. BULSA: Oh, I'm sorry.

13 THE COURT: But anyway, Mr. Mays, you have last  
14 argument, you understand?

15 MR. MAYS: Yes, sir.

16 THE COURT: All right. With that I'll see you  
17 at one thirty.

18 (WHEREUPON, the court stood at recess for a lunch  
19 break.)

20 THE COURT: All right. Thank you very much.  
21 You make take your seat, please.

22 Anything from the state before we bring the jury  
23 back?

24 MR. BULSA: No, sir.

25 THE COURT: From the defense?

1 MR. MAYS: No, sir.

2 THE COURT: All right. As I understand it, the  
3 state has rested. The defense has rested. And the  
4 defendant has still -- has decided that you do not wish  
5 to testify or enter any evidence?

6 MR. MAYS: Correct, Your Honor.

7 THE COURT: All right. Very well. And I find  
8 that the defendant's waiver of his right to testify is  
9 made knowingly, intelligently, freely and voluntarily.  
10 So therefore the state will open fully and then the  
11 defense will argue completely. And then I'll charge the  
12 jury and it'll be in their hands.

13 Let's see. Now, do remember, Mr. Mays, like we  
14 mentioned earlier, and I'm sure the solicitor will too,  
15 that you have to stay within the evidence. Not anything  
16 that might have been said outside or not discussed in  
17 this courtroom. All right. Very good. And as I stated,  
18 those rules apply to both the state and the defense.

19 All right. With that, I ask the jury to join us.

20 (WHEREUPON, the jury entered the open court at  
21 approximately 1:34 p.m.)

22 THE COURT: All right. Let the record reflect  
23 that the jury and alternates are in the jury box.

24 Mr. Foreman, ladies and gentlemen of the jury, as I  
25 mentioned before lunch, we have now concluded the trial

1 of the case. It's my understanding that the defendant  
2 has rested as well. Is that correct, Mr. Mays?

3 MR. MAYS: Yes, sir.

4 THE COURT: And so now we'll have the final  
5 argument. Inasmuch as the state has the burden of proof  
6 in this case, they will go first and then the defendant  
7 will argue. And these will be final arguments. In other  
8 words, unlike the opening statements, the parties will be  
9 making arguments to get you to agree with their version  
10 of the facts as presented and the evidence in this  
11 courtroom.

12 Very well. Mr. Solicitor.

13 MR. BULSA: Thank you, Your Honor.

14 **CLOSING STATEMENT**

15 **BY MR. BULSA:**

16 Thank you, ladies and gentlemen, for being here.  
17 This might seem like it went pretty fast, about a day-  
18 long trial. But it's a serious matter. You heard two  
19 young men who were shot while in a car at Prince Hall  
20 Apartments.

21 The title of this case was announced to you before  
22 you were selected. It's the State of South Carolina  
23 versus Javan Mays. It's not Christopher Scott versus  
24 Javan Mays. It's not Antron Oglesby versus Javan Mays.  
25 It's the State of South Carolina. That's because it's

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Closing Statement by Mr. Bursa*

207

1 the state who is bringing this case. It's the state's  
2 responsibility to protect its citizens. I submit to you,  
3 ladies and gentlemen, yes, Christopher Scott and Antron  
4 Oglesby got shot on August the 14th, 2012. But also the  
5 victims in this case was the community at large,  
6 specifically the residence of Prince Hall Apartments.

7 One thing that stood out to me when I was looking at  
8 this case and questioning the witnesses, is the lack of  
9 apparent interest by the patrons and residents of those  
10 apartments. Nobody seemed to come out to see what was  
11 going on. Nobody came out to see if they could render  
12 aid. That's kind of telling if you think about it.

13 While the defendant was questioning -- actually I was  
14 questioning Mr. Guthro about the shell casing, I asked  
15 him if that was uncommon and he said, no, it's not. What  
16 does that tell us about our community? This is a serious  
17 matter, ladies and gentlemen. Two men were out probably  
18 later than they should have been, right after midnight,  
19 but they were there with two young ladies minding their  
20 own business. They had gone to the store to get some  
21 beer. They were to go back to an uncle's house and  
22 continue to spend some time together. And what happened?  
23 A crime clearly occurred. A crime clearly occurred.  
24 Someone approached them with an AK47, assault type  
25 weapon, fired rounds into the vehicle that they were in,

1 injured both of them. Fortunately they are not dead.  
2 Fortunately this is not a murder case. Remarkably they  
3 were able to get away alive. That's pretty remarkable.  
4 Christopher Scott was able to gain cover and hid. But  
5 the main object of this robbery was Antron Oglesby. And  
6 he's the one that got chased down. He's the one that got  
7 further assaulted and beaten with a gun. He's the one  
8 that got his clothes stolen from him. He's the one that  
9 had to run almost naked to a house on Burke Avenue.

10 Ladies and gentlemen, as I built this case, I've  
11 started with the police officers. I started with the  
12 aerial photograph because I wanted you to picture as best  
13 you could where this happened. We can't take you out to  
14 the scene and let you look around, so we do the best we  
15 can with photographs. An aerial photograph gives you  
16 just a snapshot of what the buildings look like. The  
17 kind of size of the area we're talking about and what, if  
18 any, evidence was found that might help us identify who  
19 did this crime.

20 We start off with a 911 call from Christopher Scott.  
21 Police respond to the area where they think he might be  
22 and search for him in the woods because he's so injured  
23 he can't make it out from where he collapsed. They find  
24 him, bring him out, treat him, take him to the hospital.  
25 He spent, I think he said, three days. Had surgery.

1           Then they get another call about Antron Oglesby  
2 being in another location. They connect the two together  
3 and Antron is taken to the hospital. He says he spent  
4 about a week, also having surgery. They described to the  
5 police what occurred to them. Mr. Oglesby knew who was  
6 involved. That's undisputed. He told the police from  
7 the beginning, Van Mays. Police took that name. Wanted  
8 to make sure they had the right Van Mays and they showed  
9 photo line-ups. Not just a single photo; a series of  
10 photos, pictures, to see if they could identify who was  
11 involved. And yes, Van Mays is Javan Mays, the  
12 defendant, according to Antron Oglesby and according to  
13 Christopher Scott.

14           This man is a participant in this crime. No, he  
15 didn't pull the trigger. He doesn't have to pull the  
16 trigger, by the law. The judge should charge you on the  
17 hand of one is the hand of all. If you're a  
18 participants, if you're a party to an incident, you are  
19 just as guilty as if you pulled the trigger. You're  
20 guilty of every part of that crime. The hand of Kendall  
21 Robinson, as he was pulling that trigger, just as well as  
22 Javan Mays' hand. He is just as guilty as Kendall  
23 Robinson for pulling that trigger. That's the law. When  
24 two people get together and plan a crime, run around the  
25 building together, approach the car together, and then

1 the crime happens as they planned it, both are guilty of  
2 every part of that crime.

3 Kendall Robinson dropped the gun as he gave chase  
4 and who picked it up? The defendant, Antron Oglesby  
5 says he had the gun in his hands when he chased him down.  
6 And he assaulted him and hit him the head with it. It's  
7 a wonder he didn't shoot him. Maybe the clip was gone.  
8 We know the clip fell out. Maybe something was damaged.  
9 We know we've got several live rounds that were recovered  
10 by the police. They started from the blood trail and  
11 they found Christopher Scott and traced it all the way  
12 back up to that upper parking lot. There's no car. The  
13 car is gone. What happened to the car? It doesn't  
14 matter. You don't have to answer that question. It  
15 doesn't matter. Because you know the people who were in  
16 that car told you what happened and got shot. You have a  
17 participant in the crime, Kendall Robinson, who told you  
18 how it went down.

19 But feel free to take these shell -- these rounds  
20 out and compare them to each other. I'll submit to you  
21 that you're going to see they're all the same brand.  
22 They're all the same caliber. Also, take the shell  
23 casing out. I'll take that out for you. This supports  
24 the fact that a shot was fired up there. Where are the  
25 rest of the rounds, the shell casings? We don't know.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Closing Statement by Mr. Bursa*

211

1 Perhaps they were in the car that left. The gun was put  
2 in the car when it was being shot. 7.62 Winchester. The  
3 police documented by photographs the best they could.  
4 You'll have those you can look at. The defendant, in  
5 some of his limited cross examination, questioned Mr.  
6 Guthro about this shell casing, trying to say that  
7 picture didn't show a 7.62 caliber round. Is he trying  
8 to suggest that there's some conspiracy going on that the  
9 police planted this shell casing? That's for you to  
10 consider. Ladies and gentlemen, the police have no  
11 interest in anything but trying to find the truth of  
12 this. They were out there picking up the pieces wherever  
13 they could and whatever was left. Do you need the gun?  
14 No, you don't need the gun. Be nice to have it, if for  
15 nothing else to get it off the streets. This isn't like  
16 CSI on television. You don't get all the pieces. You  
17 take what you can get. In crimes defendants get rid of  
18 evidence. They try to hide. That's exactly what Kendall  
19 Robinson did. When he was found out, what did he do? He  
20 lied to the police. He game them a statement saying he  
21 was somewhere else; he wasn't involved in this at all.  
22 But yet he came to court admitting to a crime, admitting  
23 to his role, admitting to having the gun in the first  
24 place, admitting to pulling the trigger. He was a  
25 seventeen year old boy when this happened. How old was

1 the defendant? Shouldn't have been hanging around with  
2 him.

3 This case, as I told you at the beginning, is about  
4 who did this crime. Evidence is undisputed, ladies and  
5 gentlemen. But Antron Oglesby said it was Javan Mays.  
6 Christopher Scott said it was Javan Mays. Kendall  
7 Robinson admitted it was him and Javan Mays. That's the  
8 evidence. I submit to you that he is guilty of all  
9 charges. The judge will charge you the law as it applies  
10 to attempted murder. He will charge you the law as it  
11 applies to armed robbery. He will charge you the law as  
12 it applies to possession of a firearm during the  
13 commission of a violent crime, for which armed robbery  
14 is. Attempted murder is, for that fact. There are some  
15 lesser included offenses within the attempted murder that  
16 I believe the judge will charge you on. There's a series  
17 of assault-type offenses that the legislature has passed,  
18 they're called lesser included offenses. You start at  
19 the top with murder, after that attempted murder. Go  
20 down to the assault and battery high and aggravated  
21 nature and then a series of other assaults. I don't know  
22 far he's going to go down that list. You listen to him.  
23 He's the judge of the law. He's the expert on the law.

24 But you apply the facts that you heard, the shooting  
25 that happened, where it happened, the injuries that were

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Closing Statement by Mr. Mays*

213

1 inflicted, the theft that occurred, and you decide if it  
2 fits the law that the judge charges you. And I submit to  
3 you that the facts fit the charges.

4       The toughest question you might have would be  
5 between what type of assault do we call this? I submit  
6 to you that shooting a high powered rifle like they did  
7 into a car implies an intent to kill. Intent to kill is  
8 an element of attempted murder. But you're never going  
9 to be able to prove that specifically unless you've got  
10 somebody saying they're going to kill them. Usually you  
11 look at the circumstances and the way something happened,  
12 the type of weapon that was used, the number of rounds  
13 that were fired. That might be the toughest question  
14 before you. What level of assault do we assign to this?  
15 I submit to you the evidence is there for the greatest  
16 offense. I ask that you find him guilty of those two  
17 offenses, one for each named victim. But remember, the  
18 victim is the community and we need to put a stop to  
19 this. I'm asking you to find the defendant guilty of all  
20 charges.

21       Thank you.

22               THE COURT: Mr. Mays.

23               MR. MAYS: May I approach?

24               THE COURT: Yes, sir.

25

**CLOSING STATEMENT**

1 **BY MR. MAYS:**

2 As for my closing arguments ---

3 THE COURT: You may need to speak up a little  
4 bit because she takes down everything to include ---

5 MR. MAYS: Okay, Your Honor.

6 **CLOSING STATEMENT CONTINUED**

7 **BY MR. MAYS:**

8 As for my closing arguments, the state is giving you  
9 a lot of accusations and speculation. Since the day you  
10 were chosen, the state has not produced anything that has  
11 showed that the evidence is concrete evidence to find me  
12 guilty as a suspect or find me guilty of these charges.  
13 The testimony of Mr. Oglesby where he stated I hit him  
14 over the head, he is the only person stating this, but  
15 that does not make it true. So this is accusing, not a  
16 fact. Also the state is speculating about an assault  
17 rifle, AK47 or a 7.62 bullet goes over to ten guns. So  
18 you cannot speculate it or say which one. It has to be a  
19 fact.

20 That these victims were shot, you do not have the  
21 evidence. There is no medical records to determine that  
22 they were shot. If you get shot with a 7.62, and as he  
23 stated they was in the hospital three days, maybe a week,  
24 where's the medical records to determine that? So that's  
25 hearsay.

1 As for Mr. Scott's testimony of me being the one who  
2 went in his pocket, that is also speculation, not a fact,  
3 hearsay.

4 As for Mr. Robinson's testimony of him being in  
5 possession of a rifle or this SKS or AK47, in which we  
6 don't know, he testified and told you all he indeed shot  
7 these people and so forth. So you have the person who  
8 caused the harm to these victims.

9 I took this case to trial so that I can maintain my  
10 innocence and have this case heard based on the facts.  
11 Throughout this case, all I've heard is accusations and  
12 speculations from the state and testimony that we looked  
13 at, which is not what it's all about today. You must  
14 have concrete evidence, then decide what the verdict will  
15 be.

16 Thank you.

17

**CHARGE**

18 **BY THE COURT:**

19 Mr. Foreman, ladies and gentlemen of the jury, as  
20 jurors in this case, you have certain functions and  
21 responsibilities to perform which are entirely separate  
22 and distinct from those of mine as the trial judge. I am  
23 prohibited by the Constitution of our state from charging  
24 you on the facts of this case. I'm also prohibited from  
25 discussing the facts of the case with you, or in anyway

1 intimating what my feeling, if any -- feelings, if any,  
2 are about the facts of the case. It is your  
3 responsibility and yours alone to pass upon all the  
4 issues of fact presented in the case. I would therefore  
5 charge you that if during the course of the trial or  
6 during my charge you have been given or left with a  
7 impression or feeling that I do have a personal feeling  
8 about the facts in the case, I would specifically  
9 instruct you to disregard that feeling or impression.

10       Moreover, you are the sole judges of what the  
11 testimony was and not the argument of the parties. It is  
12 also your duty, and your duty alone, to weigh the  
13 testimony and evidence in the case and pass upon the  
14 credibility or believability of the witnesses. In this  
15 connection, you have the right to believe all that a  
16 witness tells you or disbelieve all that a witness tells  
17 you. You have a right to believe a part of what a  
18 witness tells you and to disbelieve a part of what a  
19 witness tells you. You have the right to take into  
20 consideration any bias or prejudice or interest you feel  
21 a witness might have in the case. I say this merely to  
22 emphasize that the weight you see fit to give to the  
23 testimony, to the credibility of the witnesses, as well  
24 as of all issues of the case is for your sole  
25 determination.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
Charge

217

1           As judges of the facts, you are the sole judges of  
2 the credibility, that is the believability of the  
3 witnesses that may have testified in this case. In  
4 passing upon their credibility, you take into  
5 consideration many things, such as the appearance and  
6 manner of the witness on the stand; sometimes referred to  
7 as the demeanor of the witness. Was the witnesses  
8 forthright or hesitant? Was the witness's testimony  
9 consistent or did it contain discrepancies? What was the  
10 ability of the witness to know the facts about which he  
11 or she testified? Did the witness have a cause or reason  
12 to be biased and prejudiced in favor of the testimony he  
13 or she gave? Was the testimony of the witness  
14 corroborated or made stronger by other testimony in  
15 evidence or was it made weak or impeached by such other  
16 testimony in evidence? As jurors, you have a right to  
17 believe all -- to believe a small portion of a witness's  
18 testimony and discard the larger, or vice versa. You may  
19 believe all of a witness's testimony or none. Most  
20 certainly you do not determine the matter of credibility  
21 or believability by counting up the number of witnesses  
22 who may have testified on behalf of the parties.

23           In this regard, I instruct you and emphasize that  
24 the fact that the defendant did not testify or put up  
25 evidence is not a factor to be considered by you in

1 anyway in your deliberations and in your consideration of  
2 the question of whether or not the state has proven the  
3 defendant is guilty or not guilty of the charges in the  
4 indictments. It must not be considered by you in any  
5 manner whatever. A defendant has a constitutional right  
6 to remain silent. And the exercise of this right must  
7 not be considered by you in your deliberations. I  
8 repeat, under your oath, you are to draw no conclusion  
9 whatsoever from the fact that the defendant in this case  
10 did not testify or present evidence. The fact that this  
11 defendant did not testify should not even be discussed by  
12 you in the jury room. The burden of proof, as I have  
13 stated to you, is on the state. The defendant is not  
14 required to prove his innocence. The burden of proof  
15 remains on the state to prove guilt beyond a reasonable  
16 doubt. Therefore, throughout this entire process you  
17 have one single objective, and that is to seek the truth,  
18 regardless from what witness the testimony may have come.  
19 Now, by the same constitution and law which makes  
20 you the finders of fact, as I discussed with you, I am,  
21 as the judge, make the sole and only instruction on the  
22 law. You must accept as correct the law which I charge  
23 and apply it to the evidence as you find it and reach a  
24 verdict. If I should make an error in the law as I  
25 instruct it to you, there's another time and place that

1 error can be considered, and if necessary, corrected.  
2 But for the purposes of this case today, you must accept  
3 the law as I charge it to you to be correct -- to be the  
4 correct law.

5 Now, the defendant has pled not guilty to this  
6 indictment. That plea puts the burden on the state to  
7 prove the defendant guilty. A person charged with  
8 committing a criminal offense in South Carolina is never  
9 required to prove himself innocent. I charge you that it  
10 is an important rule of law that the defendant in a  
11 criminal trial, no matter what the seriousness of the  
12 trial may be, will always be presumed innocent of the  
13 crime for which the indictment was issued, unless that  
14 guilt has been proven by evidence satisfying you of the  
15 defendant's guilt beyond a reasonable doubt. The  
16 presumption of innocence does not end when you begin your  
17 deliberations, but it accompanies the defendant  
18 throughout the trial until you reach a verdict of guilt  
19 based upon the evidence satisfying you of that guilt  
20 beyond a reasonable doubt.

21 The presumption of innocence is like a robe of  
22 righteousness placed about the shoulders of the  
23 defendant, which remains with the defendant until it has  
24 been stripped from the defendant by evidence satisfying  
25 you of the defendant's guilt beyond a reasonable doubt.

1 The presumption of innocence is not a mere legal theory.  
2 It is not just a legal phrase. It is a substantial right  
3 to which every defendant is entitled unless you, the  
4 jury, are satisfied from the evidence of the defendant's  
5 guilt beyond a reasonable doubt.

6 Now, what is a reasonable doubt? A reasonable doubt  
7 is the kind of doubt that would cause a reasonable person  
8 to hesitate to act.

9 Now, there are two types of evidence which are  
10 generally presented during a trial; direct evidence and  
11 circumstantial evidence. Direct evidence is the  
12 testimony of a person who claims to have actual knowledge  
13 of a fact such as an eyewitness. It is evidence that  
14 immediately establishes the main fact to be proved and  
15 does not require a deduction. Circumstantial evidence is  
16 a chain of facts and circumstances indicating the  
17 existence of a fact. It is evidence which immediately  
18 establishes collateral facts from which the main fact may  
19 be inferred. Circumstantial evidence is based on  
20 inference and not on personal knowledge or observation.  
21 Crimes may be proven by circumstantial evidence. The law  
22 makes no distinction between the weight or value to be  
23 given to either direct or circumstantial evidence.  
24 However, to the extent the state relies on circumstantial  
25 evidence, all of the circumstances must be consistent

1 with each other and when taken together point  
2 conclusively to the guilt of the accused, beyond a  
3 reasonable doubt. If these circumstances merely portray  
4 the defendant's behavior as suspicious, the proof has  
5 failed. The state has the burden of proving the  
6 defendant guilty beyond a reasonable doubt. The burden  
7 rests with the state regardless of whether the state  
8 relies on direct evidence, circumstantial evidence, or  
9 some combination of the two. You should weigh all the  
10 evidence in the case. After weighing all the evidence,  
11 if you're not convinced of the guilt of the defendant  
12 beyond a reasonable doubt, you must not find the -- or  
13 you must find the defendant not guilty.

14 In order to establish criminal liability, criminal  
15 intent is required. For example, the mental state  
16 required to be proven by the state for a particular crime  
17 might be purpose, intent, knowledge or some other motive.  
18 Criminal intent must be proven by the state beyond a  
19 reasonable doubt. Criminal intent is always a matter  
20 that must be determined by the jury from the  
21 circumstances surrounding the situation. There is no way  
22 to prove intent to a mathematical certainty. There is no  
23 way medical science can dissect a person's brain and  
24 determine what the person had in mind. So the law says  
25 that criminal intent may be inferred from the

1 circumstances shown to have existed. This is how you  
2 make a determination of whether or not the element  
3 requiring intent was present. It is not necessary to  
4 establish intent by direct and positive evidence. But  
5 intent may be established by inference in the same way as  
6 other facts, by taking into consideration the acts of the  
7 parties and all of the facts and circumstances of the  
8 case. Criminal intent is a mental state, a conscious  
9 wrongdoing. It is up to you to determine what the  
10 defendant intended to do based on the circumstances shown  
11 to have existed. Criminal intent is a state of mind that  
12 operates jointly with an act or omission in the  
13 commission of a crime. Criminal intent is a mental  
14 state. Criminal liability is normally based upon the  
15 concurrence of two factors; an evil-meaning mind and an  
16 evil-doing hand. Suspicion, however strong, is not  
17 enough to sustain a conviction. The evidence presented  
18 by the state must be substantial evidence that tends to  
19 prove the guilt of the defendant beyond a reasonable  
20 doubt.

21 Now, the indictments in this case allege several  
22 different offenses against the defendant. Indictment  
23 number 2012-GS-42-5314 accuses the defendant of attempted  
24 murder. Indictment number 2012-GS-42-5315 accuses the  
25 defendant of the offense of attempted murder. Indictment

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
Charge

223

1 number 2012-GS-42-5316, armed robbery and possession of a  
2 weapon during the commission of a violent crime has two  
3 separate counts in it. Now, each indictment charges a  
4 separate and distinct offense. You must decide each  
5 indictment separately on the evidence and the law  
6 applicable to it, uninfluenced by your decision as to any  
7 other indictment. The defendant may be convicted or  
8 acquitted on any or all of the offenses charged. You  
9 will be asked to write a separate verdict of guilty or  
10 not guilty as to each indictment.

11 Now, I remind you that the fact the defendant was  
12 arrested, charged and indicted in this case is not  
13 evidence in the case and cannot be considered by you as  
14 evidence -- of guilt in this case, nor does it create any  
15 presumption or inference of guilt. The indictment simply  
16 is the formal written instrument which contains the  
17 charge made against the defendant. It is the formal  
18 document which this case is brought into court.

19 Now, the defendant is charged in two of the  
20 indictments, indictments 2012-GS-42-5314 with attempted  
21 murder of Christopher Scott and in indictment number  
22 2012-GS-42-5315 with attempted murder of Antron Oglesby.  
23 In order to prove the crime of attempted murder, the  
24 state must prove the defendant attempted to kill another  
25 person with malice aforethought; either expressed or

1 implied. Malice is hatred, ill will or hostility towards  
2 another person. It is the intentional doing of a  
3 wrongful act without just cause or excuse with the intent  
4 to inflict an injury or under circumstances that the law  
5 will infer an evil intent. Malice aforethought does not  
6 require that malice exist for any particular time before  
7 the act is committed. But malice must exist in the mind  
8 of the defendant just before and at the time the act is  
9 committed. Therefore, there must be a combination of a  
10 previous evil intent and the act. Malice aforethought  
11 may be expressed or inferred. These expressions or  
12 terms, expressed or inferred, do not mean different kinds  
13 of malice, but merely the manner in which malice may be  
14 shown to exist. That is either by direct evidence or by  
15 inference from the facts and circumstances which are  
16 proved. Expressed malice is shown when a person speaks  
17 words with expressed hatred or ill will for another or  
18 when a person prepares beforehand to do the act which was  
19 later accomplished. For example, lying in wait for a  
20 person or any other acts or preparation to show that the  
21 deed was within the defendant's mind. That the deed was  
22 within the defendant's mind; that would be expressed  
23 malice. Malice may be inferred from conduct showing a  
24 total disregard for human life. Inferred malice may also  
25 arise from when the deed is done with a deadly weapon.

*Charge*

1           A deadly weapon is any article or instrument or  
2 substance which is likely to cause death or great bodily  
3 harm. Whether an instrument has been used as a deadly  
4 weapon depends upon the facts and circumstances of each  
5 case. The following examples are instruments of which  
6 may be deadly weapons; a pistol, a shotgun, a rifle. A  
7 gun may be a deadly weapon even if it's not operating.  
8 If facts are proven beyond a reasonable doubt sufficient  
9 to raise an inference of malice to your satisfaction,  
10 this inference must -- would be simply an evidentiary  
11 fact to be considered by you, the jury, along with the  
12 other evidence in the case. And you may give it the  
13 weight you decide it should receive. A specific intent  
14 to kill is not an element of intent to murder. There  
15 must be a general intent to commit serious bodily injury.

16           Intent means obtaining a result which actually  
17 occurs, not accidentally or involuntarily. Intent may be  
18 shown by acts or conducts of the defendant and to other  
19 circumstances which you may naturally and reasonably  
20 infer -- from which you may naturally and reasonably  
21 infer intent. Evidence of the character of the act, the  
22 character of the instruments use, the manner in which it  
23 was used, the purpose to be accomplished and the  
24 resulting wounds and injuries may be considered in  
25 determining the intent for which the act was committed.

1 Intent may also be inferred if it is demonstrated that  
2 the defendant voluntarily and wilfully commits an act,  
3 the natural tendency of which is to destroy another's  
4 life.

5 Under South Carolina, we have a principal known as  
6 the, quote, lesser included offenses. Some crimes that  
7 are of a lesser included are to include any crimes which  
8 are of a greater degree. In this case there are four  
9 lesser included offenses for you to consider on the  
10 indictments 2012-GS-42-5314 and 2012-GS-42-5315.  
11 Indictment 2012-GS-42-5314 and 2012-GS-42-5315 charge  
12 Javan Frederick Mays with attempted murder. The offense  
13 of attempted murder includes the lesser included offense  
14 of assault and battery of a high and aggravated nature,  
15 assault and battery in the first degree, assault and  
16 battery in the second degree and assault and battery in  
17 the third degree. Therefore, you may consider the lesser  
18 included offenses of assault and battery of a high and  
19 aggravated nature, assault and battery in the first  
20 degree, assault and battery in the second degree and  
21 assault and battery in the third degree on indictments  
22 number 2012-GS-42-5314 and 5315.

23 If you find the defendant (verbatim) has failed to,  
24 prove the defendant committed the offense, you may then  
25 -- excuse me. If you find that the defendant (verbatim)

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Charge*

227

1 has failed to prove that the defendant committed the  
2 offense of attempted murder, you may then consider  
3 whether the state has proved beyond a reasonable doubt  
4 that the defendant committed assault and battery of a  
5 high and aggravated nature. If a person commits the  
6 offense -- and it's a lesser included offense -- of  
7 assault and battery of a high and aggravated nature, if  
8 the person unlawfully injures another person and great  
9 bodily injury to another person results or the act is  
10 accomplished by means likely to produce death or great  
11 bodily injury. Great bodily injury means injuries which  
12 cause a substantial risk of death.

13 Now, if you find the state has failed to prove the  
14 defendant committed the offense of attempted murder, you  
15 may then consider whether or not it has proved a  
16 reasonable doubt that the defendant committed assault and  
17 battery in the first degree. A person commits the  
18 offense of assault and battery in the first degree if a  
19 person unlawfully injures another person and the act  
20 occurred during the commission of a robbery or theft.  
21 Great bodily injury means bodily injury which causes  
22 substantial risk of death or which causes serious  
23 permanent disfigurement or protracted loss or impairment  
24 of the function of a body member or an organ.

25 Now, if the find the state has failed to prove that

1 the defendant committed the offense of attempted murder,  
2 you then may consider whether the state has proved beyond  
3 a reasonable doubt that the defendant committed assault  
4 and battery in the second degree. A person commits the  
5 offense of assault and battery in the second degree if a  
6 person unlawfully injures another person or offers or  
7 attempted to injure another person with the present  
8 ability to do so and moderate bodily injury to another  
9 person results or moderate bodily injury to another  
10 person could have resulted. Or moderate bodily injury  
11 means physical injury requiring treatment to the organ  
12 system of the body other than the skin, muscles, or  
13 connective tissues of the body, except when there is  
14 penetration of the skin, muscles and connective tissues  
15 that require surgical repair of a complex nature or when  
16 the treatment of the injuries require the use of regional  
17 or general anesthesia.

18 Now, assault and battery in the third degree. If  
19 you find that the state has failed to prove that the  
20 defendant committed the offense of attempted murder, then  
21 you can -- you may consider whether the state has proved  
22 beyond a reasonable doubt that the defendant committed  
23 assault and battery in the third degree. A person  
24 commits the offense of assault and battery in the third  
25 degree if the person unlawfully injures another person

1 or offers or attempts to injure another person with the  
2 present ability to do so.

3 Now, the defendant is charged in -- with armed  
4 robbery. In order to prove this offense, the state must  
5 first prove beyond a reasonable doubt that the defendant  
6 took personal property from the person or presence of  
7 another person. Property in the presence of a person is  
8 if it is within a person's reason, inspection,  
9 observation or control, so the person could, if not  
10 overcome with violence or prevented by fear, keep  
11 possession of the property. The state must also prove  
12 beyond a reasonable doubt that the defendant carried the  
13 property away, intending to deprive the person of the  
14 property and to keep the property for the defendant's own  
15 use. The slightest removal of the property or the  
16 complete possession of the property, even for an instant,  
17 by the defendant is sufficiently to show a taking and  
18 carrying away of the property. The taking and carrying  
19 away of the property must have been done with violence or  
20 by putting the owner of the property in fear of violence.

21 Finally, the state must prove beyond a reasonable  
22 doubt that the defendant was armed with a deadly weapon  
23 during the robbery. A deadly weapon is any article,  
24 instrument or substance which is likely to cause death or  
25 great bodily harm. Whether an instrument is used as a

1 deadly weapon depends on the facts and circumstances of  
2 the case. As I've said earlier, the following examples  
3 of instruments which may be a deadly weapon would be a  
4 pistol, shotgun or a rifle. A gun may be a deadly weapon  
5 even if it is does not operate.

6 Now, illegal drugs may be the subject of an armed  
7 robbery.

8 Now, the defendant, as I said, is charged with  
9 possession of a weapon during the commission or attempt  
10 to commit a violent crime. The state must prove beyond a  
11 reasonable doubt that the defendant was in possession of  
12 a firearm or visibly displayed what appeared to be a  
13 firearm during the commission of a crime. A firearm  
14 means any machine gun, automatic rifle, revolver, pistol  
15 or any weapon which will, is designed to or may be  
16 readily converted to expel a projectile. In order to  
17 find the defendant guilty of a weapon during the  
18 commission of a violent crime, you must first find the  
19 defendant of either committing a violent crime or  
20 attempting to commit a violent crime. Armed robbery is a  
21 violent crime. And illegal drugs may be the subject of a  
22 violent crime or of a robbery.

23 The state must prove also beyond a reasonable doubt  
24 that the weapon further advanced or helped in the  
25 commission of the crime.

1           Now, in South Carolina there is a rule of law that  
2 if a crime is committed by two or more people who are  
3 acting together in committing the crime, the act of one  
4 is the act of all. A person who joins with another to  
5 commit an unlawful act is criminally responsible for  
6 everything done by the other person which happens as a  
7 probable or natural consequences of the acts done in  
8 carrying out the common plan or purpose. For example,  
9 two people can be guilty of killing another person when  
10 only one of the two had a gun and there was only one  
11 bullet and only one of the two fired the shot that caused  
12 the death. If two or more people are together acting  
13 together, assisting each other in committing the offense,  
14 the act of one is the act of all. Or as sometimes said,  
15 the hand of one is the hand of all.

16           Prior knowledge that a crime is going to be  
17 committed without more is not sufficient to make a person  
18 guilty of that crime. Mere knowledge that another person  
19 is going to commit a crime, even if the defendant is  
20 present when the crime is committed, is not sufficient to  
21 convict the defendant as a principal. Guilt as a  
22 principal is shown by the actual or constructive presence  
23 at the scene as a result of a prior arrangement.  
24 Therefore, a finding of a prior arrangement plan or  
25 common scheme is necessary for a finding of guilt as a

1 principal. The state must prove beyond a reasonable  
2 doubt by competent evidence that the theory of the hand  
3 of one is the hand of all. The principal in a crime is  
4 one who either actually commits the crime or who is  
5 present, aiding or abetting or assisting in committing  
6 the crime. When a person does an act in the presence of  
7 and with the assistance of another, that act is done by  
8 both. Where two or more are acting within a common plan  
9 or intent are present at the commission of a crime, it  
10 does not matter who actually commits the crime. All are  
11 guilty. The hand of one is the hand of all. Presence at  
12 the commission of a crime means to be sufficiently near  
13 to aid and abet and assist in the commission of the  
14 crime. However, mere presence at the scene of a crime is  
15 not sufficient to convict one as a principal on the  
16 theory of aiding and abetting.

17 Intent is also a necessary element. There must have  
18 been a common design or intent to commit the crime and  
19 the crime must have been committed pursuant thereto with  
20 the person aiding and abetting by some overt act. Intent  
21 means intending the result which actually occurs; not  
22 accidentally or involuntarily. Intent may be shown by  
23 acts and conduct of the defendant and other circumstances  
24 which you may naturally and reasonably -- from which you  
25 may naturally and reasonably infer intent. The state

1 must prove these elements beyond a reasonable doubt.

2 If you have a reasonable doubt of the defendant's  
3 guilt after considering all the evidence on any of the  
4 indictments, then you must find the defendant not guilty  
5 on that indictment. On the other hand, if you have no  
6 reasonable doubt of the defendant's guilt after  
7 considering all the evidence on any of the indictments,  
8 then you must find the defendant guilty on that or those  
9 indictments.

10 Now, Mr. Foreman, ladies and gentlemen of the jury,  
11 you have been selected as fair and impartial jurors,  
12 sworn to impartially try and determine the facts of this  
13 try. And when you comply with your oath to do so, then  
14 no one will have the right to criticize your verdict and  
15 you will have fully discharged your duty as jurors. You  
16 should not be influenced by opinions or expressions of  
17 opinions, if any, which you may have heard on the  
18 outside. But you are to decide this case according to  
19 the testimony that you've heard from the lips of the  
20 sworn witnesses, along with the other evidence that may  
21 have been introduced.

22 Now, as I said earlier, you are the sole judges of  
23 the facts in this case and you are to determine only if  
24 the defendant is guilty or not guilty based upon the  
25 testimony and evidence presented in the trial and after

1 applying the law as I've given it to you. If, from the  
2 evidence, you have a reasonable doubt as to whether or  
3 not the defendant is guilty of any of the indictments,  
4 any count of any of the indictments, it is your duty to  
5 acquit him and write the two words not guilty. Under the  
6 oath you took, you swore to try this case based only and  
7 solely on the testimony, evidence and law presented and  
8 heard in this courtroom. It is your duty to lay aside  
9 all bias, prejudice or sympathy you may have in reaching  
10 your verdict. You have no friends to reward or enemies  
11 to punish in this case. I might note that the word  
12 verdict is taken from the Latin term veredicto, which  
13 means to speak the truth. Abide by your oath and return  
14 a verdict which speaks the truth.

15 Now, Mr. Foreman, I have ---

16 THE JUROR: Yes, sir.

17 THE COURT: No, I need a bailiff to take you  
18 something.

19 If you would hand this to the foreman. Thank you,  
20 sir.

21 I have prepared a verdict form for you and the jury  
22 to use during your deliberations. As I said, the verdict  
23 on each of the indictments must be unanimous. That means  
24 all twelve members of the jury must agree to whatever  
25 verdict you do find is your verdict on that particular

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
Charge

235

1 indictment or count of the indictment.

2           Now, there are three indictments. One indictment  
3 has two counts. So if you'll notice on the first  
4 indictment, number 2012-GS-42-5314, which charges the  
5 defendant, Javan Frederick Mays, with attempted murder of  
6 Christopher Scott, you have one of the following  
7 indictments -- one of the following verdicts as one that  
8 you can reach. But whichever it is, it would be, we, the  
9 jury unanimously find on the indictment number 2012-GS-  
10 42-5314, that the defendant, Javan Frederick Mays, is  
11 guilty of attempted murder or guilty of the lesser  
12 included offense of assault and battery of a high and  
13 aggravated nature or guilty of the lesser included  
14 offense of assault and battery in the first degree or  
15 guilty of the lesser included offense of assault and  
16 battery in the second degree or guilty of the lesser  
17 included offense of assault and battery in the third  
18 degree, or not guilty. Whichever verdict it is, it must  
19 be the verdict of all twelve. Mr. Foreman, if you would  
20 check the appropriate verdict on the form.

21           Then you go to the next page on indictment number  
22 2012-GS-42-5315, attempted murder of Antron Oglesby. We,  
23 the jury, unanimous find on indictment number 2012-GS-42-  
24 5315, that the defendant, Javan Frederick Mays, is guilty  
25 of attempted murder or guilty of the lesser included

1 offense of assault and battery of a high and aggravated  
2 nature or guilty of the lesser included offense of  
3 assault and battery in the first degree, guilty of the  
4 lesser -- or guilty of the lesser included offense of  
5 assault and battery in the second degree or guilty of the  
6 lesser included offense of assault and battery in the  
7 third degree, or not guilty. Again, whatever verdict it  
8 is, it must be unanimous.

9       And Mr. Foreman, you will indicate which is the  
10 appropriate unanimous verdict of the jury on the verdict  
11 form.

12       Finally, on indictment 2012-GS-42-5316, there are  
13 two counts. One is armed robbery of Antron Oglesby. And  
14 that's on the first count. There it would be, we, the  
15 jury, unanimously find on indictment number 2012-GS-42-  
16 5316, count one, that the defendant, Javan Frederick  
17 Mays, is guilty of armed robbery, or not guilty.

18       And then on indictment number 2012-GS-42-5316, count  
19 two, possession of a weapon during the commission of a  
20 violent crime. If you find that the defendant is guilty  
21 of the armed robbery, we, the jury unanimously find on  
22 indictment 2012-GS-42-5316, count two, that the  
23 defendant, Frederick -- Javan Frederick Mays, is guilty  
24 of possession of a weapon during the commission of a  
25 violent crime, or not guilty.

1           Whatever your verdict is, as I said, on each of  
2 these indictments and each count of each indictment, it  
3 must be unanimous. All right. And you would mark one  
4 verdict that you would have on each of those indictments  
5 and each count of those indictments. Once the verdict  
6 form has been completed, signed on the line by your name,  
7 knock on the door and we will return and receive your  
8 verdict at that time.

9           Now, Mr. Foreman, I'm going to ask you to give the  
10 verdict form back to the bailiff and I'm going to ask you  
11 to retire to the jury room one more time without  
12 beginning your deliberations. However, once the bailiff  
13 brings in the verdict form and the exhibits, then you'll  
14 begin your deliberations. And once, as I say, you have  
15 reached a verdict on each of the indictments and each  
16 count of the indictments and the verdict form has been  
17 completed, you'll knock on the door and we'll return at  
18 that time. So I'll excuse you now. Do not begin your  
19 deliberations until you receive the verdict form and the  
20 exhibits from the bailiff.

21           If the two alternates would stay with me, please.  
22 The rest of the twelve, if you would, please, retire to  
23 the jury room.

24           (WHEREUPON, the jury exited the open court at  
25 approximately 2:34 p.m.)

1 THE COURT: All right. Any exceptions or  
2 requests from the state?

3 MR. BULSA: No, Your Honor.

4 THE COURT: Any exceptions or requests from the  
5 defendant?

6 MR. MAYS: No, sir, Your Honor.

7 THE COURT: Very good. Thank you, sir. All  
8 right. Let's check to be sure all the exhibits that are  
9 supposed to go back do go back and none that are not  
10 supposed to go back do not go back.

11 Give them the exhibits and verdict form and tell  
12 them to begin their deliberations, please.

13 (WHEREUPON, all admitted exhibits were delivered to  
14 the jury, at which time the jury began their  
15 deliberations at approximately 2:39 p.m.)

16 THE COURT: All right. Ladies, I think you  
17 understand or know why we had to select alternates. This  
18 case went over two days and, being an important case as  
19 it is, we wanted to be sure that nothing would interfere  
20 with the ultimate resolution. In other words, if  
21 somebody had had to be excused or were ill or something  
22 of that nature, then one of you would have sat with the  
23 jury. Fortunately, that did not happen in this case and  
24 so your service as jurors is completed at this time.

25 Now, although it looks like I'm doing everything

1 else in the world up here except paying attention, I have  
2 developed a knack for keeping up or trying to keep up  
3 with what goes on in the courtroom during a trial. And I  
4 noticed, not only you but the jury themselves, paid very  
5 careful and close attention to the parties of this case,  
6 the solicitor, as well as Mr. Mays, and you were very  
7 attentive. And so I'm satisfied if you had to serve you  
8 would have been excellent jurors. And I say that with  
9 all really appreciation. Of course, our system of  
10 justice would not function if we did not have citizen  
11 participation. I know, like I mentioned earlier when I  
12 was talking to the jury, that none of you asked to be  
13 here and there are probably places you would rather have  
14 been the last two days, but the fact is, of course, our  
15 system does not and because we do have citizens who make  
16 that system work, we are able to have even cases that are  
17 not the usual case and this is one of those. And I thank  
18 you for your service.

19 Now, Madam Clerk, is there anything -- because this  
20 is going to complete your service this week. Is there  
21 anything that we need for the jurors, work statements,  
22 anything like that?

23 THE CLERK: If they need -- if you need a work  
24 excuse you can go by the clerk of court's office and  
25 they'll give you one for work. But your check will be in

1 the mail to you.

2 THE COURT: I guess you've heard that before;  
3 haven't you, your check's in the mail.

4 I wish there was something I could do for you  
5 individually, but if you remember when you were qualified  
6 on the first day, I think it was Judge Cole that did that  
7 or ---

8 THE CLERK: It was Judge Cole, Your Honor.

9 THE COURT: Judge Cole, when he qualified you  
10 he probably asked if there's any member of the jury panel  
11 who's served in the last -- on a jury in the last three  
12 years. Well, about the only thing I can do for you is  
13 tell you it will not be three years before you'll have to  
14 serve again -- or it will be at least three years before  
15 you have to serve again. But as I said, I do hope your  
16 service has not been without some benefit to you. And I  
17 thank you for being here.

18 Everyone else remain seated while the jurors retire  
19 from the courtroom. Now did you leave anything in the  
20 jury room? Again, I thank you. Y'all have a good  
21 weekend.

22 THE JUROR: You too.

23 THE COURT: Thank you.

24 All right. We'll be at ease awaiting the verdict of  
25 the jury. By the way, I do want to commend all parties

1 for their participation in the trial. Not only were you  
2 very jealous of your positions, but also you were very  
3 effective in presenting them. And I thank you for that.

4 It's in the jury's hand. We'll have to wait and see  
5 what their decision will be. So we'll stand at ease  
6 awaiting the jury's verdict.

7 (WHEREUPON, the court stood at recess awaiting the  
8 verdict of the jury.)

9 THE COURT: All right. We're back on the  
10 record in State versus Mays. I have received a question  
11 from the jury. Was Antron Oglesby's head grazed by a  
12 bullet? What are your thoughts about that, Mr. Derrick,  
13 about the question, not what the answer is, but ...

14 MR. BULSA: I believe he actually testified  
15 that it was.

16 THE COURT: I don't know if I can do that  
17 because that would be a comment on the evidence.

18 MR. BULSA: Yes, sir. I would tell the jury if  
19 they feel they need to listen to his testimony, then they  
20 could.

21 THE COURT: All right. That would be his  
22 testimony.

23 MR. BULSA: That's what I remember hearing.

24 THE COURT: All right. Mr. Mays, what do you  
25 say?

1           MR. MAYS: I ain't seen nothing in a motion  
2 that stated that a bullet hit his head or anything. So I  
3 say no.

4           THE COURT: All right. I'll tell you what I'll  
5 do, I'll split the difference, which is a very judicial  
6 resolution. Wasn't too good for the baby, though.

7           I'll charge them that they must make their decision  
8 based on the testimony in evidence and the trial. And if  
9 they need any part of the trial, any specific part of the  
10 trial -- yes, sir, Mr. Mays.

11           MR. MAYS: Your Honor, that's why we need  
12 medical records that would determine all this.

13           THE COURT: Well, we didn't have any, so we  
14 can't do that.

15           MR. MAYS: Yes, Your Honor.

16           THE COURT: But if it's testimony, it's either  
17 there or it's not. But rather than give them a charge on  
18 the fact that it was or was not, I'll just tell them if  
19 they want us to play -- how much was Mr. Oglesby's  
20 testimony?

21           COURT REPORTER: I didn't write it down. I can  
22 check in a minute on how long it is.

23           THE COURT: It shouldn't be too long. I don't  
24 believe he testified that long; did he?

25           COURT REPORTER: I don't think it was too long.

1 THE COURT: All right. But then we'll play it  
2 back if they want it.

3 All right. Anything further from the state?

4 MR. BULSA: No, sir.

5 THE COURT: I'll note your objection for  
6 failure to have the medical records, but they were not  
7 produced.

8 MR. MAYS: And it was in the motion, Your  
9 Honor, as he got hit all in the lower extremities.

10 THE COURT: He was the one that had the bullet  
11 in the toe.

12 MR. MAYS: Both of them was lower extremities  
13 is what the motion stated.

14 THE COURT: All right. That's a good point.  
15 We'll give them that option. But thank you.

16 All right. Ask the jury to join us, please.

17 (WHEREUPON, the jury entered the open court at  
18 approximately 3:01 p.m.)

19 THE COURT: All right. Mr. Foreman, ladies and  
20 gentlemen of the jury, I've been provided a question from  
21 the jury. Was Antron Oglesby's head grazed by a bullet?

22 Now, as I instructed you, I cannot charge you on the  
23 facts of the case. However, -- and you must make your  
24 decision based on the evidence and testimony that was  
25 introduced and other evidence introduced in this

1 courtroom. However, if you would like, we can play back  
2 the testimony of Mr. Oglesby.

3 THE JUROR: Yes, sir. That was kind of our  
4 question, is we had different views if it was a bullet or  
5 if it was when the struggle with the gun was going on.

6 THE COURT: I understand. I see what you mean.  
7 All right. So if we play his testimony back about the  
8 injuries or whatever, then that would be sufficient?

9 THE JUROR: Yes, sir.

10 THE COURT: All right. It's going to take us a  
11 little bit of time to find that on the testimony because  
12 we've got the whole transcript. But if you would step  
13 out for a few minutes and then as soon as we get that  
14 we'll call you back in.

15 THE JUROR: All right. Thank you.

16 (WHEREUPON, the jury exited the open court at  
17 approximately 3:02 p.m.)

18 THE COURT: All right. Anything from the state  
19 at this time?

20 MR. BULSA: No, sir.

21 THE COURT: From the defense?

22 MR. MAYS: No, sir.

23 THE COURT: Very good.

24 COURT REPORTER: I'm ready.

25 THE COURT: All right. Ask the jury to join

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
Charge

245

1 us, please, sir.

2 (WHEREUPON, the jury entered the open court at  
3 approximately 3:03 p.m.)

4 THE COURT: All right. Mr. Foreman, ladies and  
5 gentlemen, we found the testimony on the record and we'll  
6 now replay it for you.

7 (WHEREUPON, the testimony of Antron Oglesby was  
8 played in open court.)

9 THE COURT: You've got what you need?

10 THE JUROR: Yes, sir.

11 THE COURT: Very good. You can now return to  
12 the jury room and continue your deliberations.

13 (WHEREUPON, the jury exited the open court to  
14 continue deliberations at approximately 3:16 p.m.)

15 THE COURT: All right. Anything from the  
16 state?

17 MR. BULSA: No, sir.

18 THE COURT: Anything from Mr. Mays?

19 MR. MAYS: No, sir.

20 THE COURT: All right. Very good. We'll await  
21 the jury's verdict or verdicts.

22 (WHEREUPON, the court stood at recess awaiting the  
23 verdict of the jury.)

24 (WHEREUPON, Court Exhibit Number 1 was marked for  
25 identification.)

1 THE COURT: All right. It's my understanding  
2 that the jury has reached a verdict. Is there anything  
3 from the state before we bring the jury back?

4 MR. BULSA: No, Your Honor.

5 THE COURT: Anything from the defense?

6 MR. MAYS: No, sir.

7 THE COURT: Very good. Ask the jury to join  
8 us, please.

9 (WHEREUPON, the jury entered the open court at  
10 approximately 4:20 p.m.)

11 THE COURT: Mr. Foreman, I understand the jury  
12 has reached a verdict?

13 THE JUROR: Yes, sir.

14 THE COURT: If you would, please, hand it up to  
15 the bailiff.

16 Madam Clerk, if you would, please, publish the  
17 verdict.

18 THE CLERK: State of South Carolina, County of  
19 Spartanburg, in the Court of General Sessions. State of  
20 South Carolina versus Javan Frederick Mays. Indictment  
21 number 2012-GS-42-5314, attempted murder of Christopher  
22 Scott; we the jury unanimously find on indictment number  
23 2012-GS-42-5314, that the defendant, Javan Frederick  
24 Mays, is guilty of attempted murder.

25 Indictment number 2012-GS-42-5315, attempted murder

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*

247

Charge

1 of Antron Oglesby. We the jury unanimously find on  
2 indictment number 2012-GS-42-5315 that the defendant,  
3 Javan Frederick Mays, is guilty of attempted murder.

4 Indictment number 2012-GS-42-5316, count one, armed  
5 robbery of Antron Oglesby. We the jury unanimous find on  
6 Indictment number 2012-GS-42-5316, count one, that the  
7 defendant, Javan Frederick Mays, is guilty of armed  
8 robbery.

9 Indictment number 2012-GS-42-5316, count two,  
10 possession of a weapon during the commission of a violent  
11 crime. We the jury unanimously find on indictment number  
12 2012-GS-42-5316, count two, that the defendant, Javan  
13 Frederick Mays, is guilty of possession of a weapon  
14 during the commission of a violent crime.

15 It is signed by the foreperson and dated today's  
16 date.

17 Ladies and gentlemen of the jury, if this is your  
18 verdict and still your verdict, please raise your right  
19 hand.

20 (WHEREUPON, all jurors raised their right hand.)

21 THE CLERK: So say you all.

22 THE COURT: Very good. Is there anything from  
23 the state before I dismiss the jury?

24 MR. BULSA: No, sir.

25 THE COURT: From the defendant?

1 MR. MAYS: No, sir.

2 THE COURT: Mr. Foreman, ladies and gentlemen  
3 of the jury, I told the alternates when I dismissed them,  
4 it looks like I'm doing everything in the world up here  
5 except paying attention. But I have developed a certain  
6 knack, I guess you might say, of keeping up with what's  
7 going on in the jury room -- I mean, jury -- in the  
8 courtroom while the jury is in the jury box. And in this  
9 particular case I noticed that all of you paid very  
10 careful and close attention. More importantly, because  
11 of the unique presentation, and I will say this, Mr. Mays  
12 did an excellent job in presentation of his case, but  
13 still those things that were of concern to you, just as  
14 your question indicated, that you took your duty,  
15 responsibilities, very seriously. And having reached a  
16 verdict on each of the indictments, and counts of each of  
17 the indictments, in accordance with your finding with the  
18 facts and the law and your conscience in reaching a  
19 verdict, I have to thank you on behalf of Spartanburg  
20 County and our judicial system. I think that both the  
21 state and Mr. Mays received a fair and impartial trial  
22 and I thank you for your efforts. I know you all would  
23 rather have been somewhere else other than where you've  
24 been in the last few days. But having done your duty as  
25 citizens, I do thank you. And as I've also said, our

1 system of justice would not function if we did not have  
2 citizen participation. And I thank you for being  
3 available and doing your duty as citizens.

4 Now, Madam Clerk, is there anything from the clerk's  
5 office that you need to tell them or the jury needs to  
6 know?

7 THE CLERK: The only thing is that we're  
8 through for the week so they can ---

9 THE COURT: That's right. This will conclude  
10 your service. We're not going to have trial court  
11 tomorrow. And so this will be your service. And as I  
12 say, I do hope your service has not been without some  
13 benefit because it is absolutely necessary. And the only  
14 thing I can do, perhaps for you, is if you remember when  
15 Judge Cole qualified the whole jury panel back on Monday  
16 he asked all the jurors is there any member of the jury  
17 panel served on a jury in the last three year. At least  
18 you won't have to serve for another three years.

19 Thank you all. Y'all have a wonderful weekend. Mr.  
20 Foreman, I do need to see you to sign some papers. Very  
21 good. Y'all are excused. And again, thank you so much.

22 (WHEREUPON, the jury exited the open court at  
23 approximately 4:23 p.m.)

24 THE COURT: Is the state ready to proceed?

25 MR. BULSA: Yes, sir.

1 THE COURT: All right. Mr. Mays, come around,  
2 please.

3 MR. BULSA: The defendant's criminal history  
4 dates back to 1992 for grand larceny; 1995, failure to  
5 stop for a blue light, use of vehicle without owner's  
6 consent, a drug possession charge and false information  
7 to the police; 1996, possession of stolen vehicle,  
8 possession of cocaine, false information to police,  
9 driving under suspension; 1998, assault and battery of  
10 high and aggravated nature, breach of peace high and  
11 aggravated nature, throwing bodily fluids; 1999, domestic  
12 violence; 2001, a parole revocation; 2002, he received a  
13 federal sentence for felon in possession of a firearm, he  
14 received an eighty-six month sentence on that case. Also  
15 in 2002, possession of marijuana.

16 THE COURT: When was the federal sentence?

17 MR. BULSA: 2002.

18 THE COURT: Did he also have another conviction  
19 in 2002?

20 MR. BULSA: It was a marijuana conviction, just  
21 simple possession.

22 MR. MAYS: 2002, I was in federal prison.

23 THE COURT: Sir?

24 MR. MAYS: 2002, I was in federal prison. I've  
25 been in -- I got transferred from the state in like '98,

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
Charge

251

1 '99, and I ain't been back out till 2010.

2 THE COURT: All right. So you served eighty-  
3 six months in federal from 2002 to 2010?

4 MR. MAYS: Yes, sir. I remember going to state  
5 prison around like '97 or '98. And the feds came in and  
6 got me from there and extradited me for which I jumped  
7 into federal custody. I didn't get back out till 2010.

8 THE COURT: All right. So you've been in  
9 until, what, 2010, for how long?

10 MR. MAYS: I got out in 2010.

11 THE COURT: Right. But I mean, you went in in  
12 '98; is that ---

13 MR. MAYS: I went in doing I think a YOA  
14 sentence around like '97, '98.

15 THE COURT: All right. So '97 to 2010, you  
16 were incarcerated?

17 MR. MAYS: Yes, sir.

18 MR. BULSA: Nothing further from the state,  
19 Your Honor.

20 THE COURT: And then this occurred in ---

21 MR. BULSA: August of 2012.

22 THE COURT: All right. Is there anything you  
23 would like to say, Mr. Mays?

24 MR. MAYS: Your Honor, this is the most  
25 ridiculous case I have ever, ever had to go through. I

1 ain't shot nobody. None of that evidence retained to me.  
2 A lot of things was left out as far as C.D. saying I  
3 ain't had nothing to do with this. Fingerprints and  
4 everything was left out. All of this is concrete  
5 evidence to find out who pulled the trigger, who did this  
6 and who did that. None of that came back to me.  
7 Nothing.

8 Now I've got to take the sentence for whatever  
9 you're going to give me and I've got to go down and  
10 present myself and come back and have to deal with this.  
11 I mean, this guy sat right here in front of the whole  
12 court and said he shot these people. There ain't no way  
13 in the world twelve jurors didn't hear that. Then  
14 there's no medical record. And in my motion for  
15 discovery this Christopher Scott guy ain't even in my  
16 motion paperwork stating he got shot. There's nothing as  
17 far as my medical records or anything saying -- or any  
18 blood work saying this man got shot. It's not even  
19 determined by fact, by the hospital saying this man got  
20 shot. The only thing I keep hearing is he got hit in the  
21 left ankle, right foot. That's it. Nothing coming back  
22 to me personally.

23 I stood here and took this trial to get sanction for  
24 me, not for what testimony do, say, he did this, and I  
25 was with him. That's all not -- that's nothing. I'm

State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)  
Charge

253

1 here to face mine, mine and mine only. If you got me  
2 I'll go down with it and be done with it. But off of  
3 something somebody else in another -- I mean, in the  
4 county jail saying it, and he admitted to saying what he  
5 had to say and the jury hear that and I still get found  
6 guilty on everything, I don't believe that's fair, Your  
7 Honor. I came here to stand a man.

8       There's CDs right in the office right now that I  
9 viewed, all of them saying Mr. Mays didn't do this, I  
10 didn't know this, I don't know that. And he knew that  
11 and did not bring forth the evidence to even let you hear  
12 it or the jury. Which I feel like is unfair to me. Then  
13 I filed a motion for everything before this trial. I did  
14 about eight or nine months and he knew it because I  
15 served him numerous times, at least up to seven or eight  
16 times. And he kept me from coming in front of the judge  
17 so the judge could determine my *Brady* motion to give me  
18 all that. He know that Rule 5 motion that I had that he  
19 gave me was not the evidence that I was requesting. He  
20 know that. And he stopped all that evidence from being  
21 heard today. And for me not to be able to come in front  
22 of you or any other judge to get the prior discovery I  
23 needed to prepare for my defense. I ain't seen a judge  
24 for neither one of my motions in probably eight or nine  
25 months. I've been sitting in the county jail sixteen

1 months. My bond got denied for even me -- I mean, my  
2 bond got denied without me even coming in front of a  
3 judge. I've been violated by the constitution ever since  
4 I arrived at the facility. But I don't have -- my date's  
5 done changed six or seven times. I've been, I've been  
6 writing circuit court judges, filing motions, all of it  
7 is in the court -- no, I'm not lying. All of it is  
8 within clerk of court's files. I got paperwork in my  
9 room that high stating the dates and times I wrote these  
10 motions up. So somebody know why I didn't come to court.

11 THE COURT: Well, I do understand that a quick  
12 and speedy trial motions was filed sometime recently.

13 MR. MAYS: About seven or eight of them, Your  
14 Honor, not just one.

15 MR. BULSA: Yes, sir.

16 THE COURT: Madam Clerk, was a quick and speedy  
17 trial motion filed in this case?

18 THE CLERK: Yes, sir.

19 THE COURT: When was the last one filed?

20 MR. MAYS: Last week.

21 THE CLERK: I'm not sure. Last week, I  
22 believe, Your Honor.

23 MR. MAYS: And six or seven more before then.

24 THE COURT: When was the last one?

25 MR. MAYS: I just got a paper yesterday about a

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Charge*

255

1 speedy trial motion. It was scheduled for December 6th.

2 That's got to be the one I just filed last week.

3 THE CLERK: Your Honor, November the 18th.

4 THE COURT: November the 18th. Now he said he  
5 got notice of a -- we started the trial on November the  
6 18th?

7 MR. MAYS: Yeah, we did.

8 THE CLERK: That was the last one that was  
9 filed.

10 THE COURT: And nothing has been sent -- I  
11 mean, it hasn't been set for anything? Of course, it  
12 went to trial on November the 18th and we tried it on  
13 November the 18th, at least is when it started.

14 THE CLERK: Give us just a second, Your Honor.  
15 Yes, sir, Ms. Bennie Hunter relayed the information to  
16 the docket clerk and it is waiting scheduling to be put  
17 on the motion. Anytime that we have to put on the motion  
18 docket, anytime that a defendant file motions pro se we  
19 have to consult with the chief administrative judge  
20 before we set it on the docket. So that was ---

21 THE COURT: And no one advised that it was  
22 already in trial?

23 THE CLERK: Yes, sir, we did. These are  
24 letters -- we get new letters ---

25 THE COURT: I understand. In other words, but

1 this is the same trial that we're talking about? This is  
2 the only trial that he has?

3 THE CLERK: Yes, sir.

4 THE COURT: And he had a motion filed the 18th  
5 and his trial began on the 18th.

6 MR. MAYS: Well, even before then, Your Honor.

7 THE COURT: Well, that's what I'm saying, that  
8 you did -- at least the most recent one was the one that  
9 was done at the time of the trial was being commenced.

10 THE CLERK: Yes, sir.

11 THE COURT: I think we had some hearings or  
12 something on that date?

13 MR. BULSA: Yes, sir.

14 THE COURT: Well, it's not -- I just want to be  
15 sure the record is clear that the defendant requested a  
16 speedy trial.

17 THE CLERK: Yes, sir.

18 THE COURT: Okay. Anything else? Tell me a  
19 little bit about your background, Mr. Mays, please.

20 MR. MAYS: My background come from, like I  
21 said, I ain't have a lawyer. They been times when I was  
22 young, and Spartanburg County got a bad habit of playing  
23 a waiting game. I get tired of sitting and filing  
24 motions trying to get in court and don't never go and  
25 they offer me something sweet as far as a probationary

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Charge*

257

1 sentence or a one or two year sentence that I feel that I  
2 can handle and I take it and go, Your Honor.

3 I've been doing this for numerous years. And I  
4 didn't know that my record was going to come back to  
5 haunt me when I caught a federal sentence, and it did.

6 THE COURT: All right. Are you married?

7 MR. MAYS: No, sir.

8 THE COURT: Do you have any children?

9 MR. MAYS: Yes, sir.

10 THE COURT: How many children?

11 MR. MAYS: Two.

12 THE COURT: Who do they live with?

13 MR. MAYS: Their mother, sometimes my mother.

14 THE COURT: Two mothers or one mother?

15 MR. MAYS: Two different mothers.

16 THE COURT: Two different mothers. What sort  
17 of employment have you had?

18 MR. MAYS: Warehouse jobs, skills. I got my  
19 GED in prison. I just had a -- I lost a job pertaining  
20 to this case right here. I was at Sterling Packaging,  
21 was my last job.

22 THE COURT: When was that?

23 MR. MAYS: Around about sixteen months, so  
24 sixteen months ago.

25 THE COURT: You were employed at the time of

1 this arrest?

2 MR. MAYS: Yes, sir. And it -- something  
3 happened somehow, the supervisor found out over to the  
4 hiring place; cut me loose.

5 THE COURT: All right. Anything else, Mr.  
6 Mays?

7 MR. MAYS: That's basically it, Your Honor.

8 THE COURT: Indictment number 2012-GS-42-5314,  
9 the sentence of the court, that the defendant, Javan  
10 Frederick Mays, be committed to the State Department of  
11 Corrections for a term of twenty years, plus pay the  
12 costs and assessments applicable.

13 Indictment number 2012-GS-42-5315, the sentence of  
14 the court that the defendant be committed to the State  
15 Department of Corrections for a period of twenty years,  
16 plus pay the costs and assessment as applicable.

17 Indictment number 2012-GS-42-5316, count one, the  
18 sentence of the court, that the defendant be committed to  
19 the State Department of Corrections for a term of twenty  
20 years, plus pay the costs and assessment. And count two,  
21 the defendant be committed to the State Department of  
22 Corrections for a term of five years, plus pay the costs  
23 and assessments as applicable.

24 All sentences to run concurrent and defendant be  
25 given credit for the time served.

*State of South Carolina -vs- Javan Frederick Mays (2012-GS-42-05314-05316)*  
*Charge*

259

1 All right. Good luck to you, sir.

2

3 [END OF REQUESTED TRANSCRIPT OF RECORD]

1

## CERTIFICATE OF REPORTER

2

3 I, the undersigned Danette P. Hanks, Official Court  
4 Reporter for the Thirteenth Judicial Circuit of the State  
5 of South Carolina, do hereby certify that the foregoing  
6 is a true, accurate, and complete transcript of record of  
7 all the proceedings had and evidence introduced in the  
8 trial/hearing of the captioned case, relative to appeal,  
9 in the Circuit Court for Spartanburg County, South  
10 Carolina, on the 18th day of November, 2013.

11 This transcript may contain quoted material. Such  
12 material is reproduced as read by the speaker.

13 I do further certify that I am neither of kin,  
14 counsel, nor interest to any party hereto.

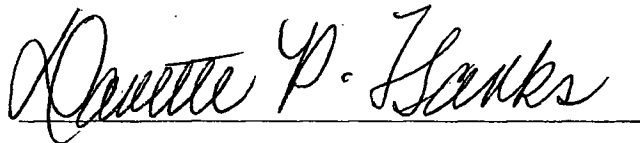
15

February 12, 2014

16

17

18



19

Circuit Court Reporter

QUESTIONS

1) WAS ~~ANTOINETTE ANTON OULESBY~~ ~~GRAL~~

1) WAS ANTON OULESBY'S HEAD CRACKED BY A BULLET - ?

2)

*of head*

COURT'S EXHIBIT  
!  
11-21-13 @

WITNESSES

Spartanburg Public Safety Department

1. SENTENCE MADE

2. REPORT ENDED

3. ARD PULLED

WARRANTS

ATURE

ARREST WARRANT NUMBER

N158733

ACTION OF GRAND JURY

*Deven Dill*

**True Bill**

Foreperson of Grand Jury

Date:

OCT 18 2012

VERDICT

*Guilty*

Foreperson of Petit Jury

Date:

*M. A. Hood 11-21-13*

DOCKET NO

**12-GS-42-5314**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 22 2012

TERM

THE STATE

vs.

Javan Frederick Mays

Indictment for

ATTEMPTED MURDER

SC Code: 16-3-0029

CDR Code: 3410

Class FEL-A

FILED

CLERK OF COURT

SPARTANBURG COUNTY

2012 OCT 23 AM 9:04

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF SPARTANBURG )

## INDICTMENT

OCT 18 2017

At a Court of General Sessions, convened on \_\_\_\_\_ the  
Grand Jurors of Spartanburg County present upon their oath:

**ATTEMPTED MURDER**

That Javan Frederick Mays did in the city of Spartanburg on or about August 14, 2012, with malice aforethought attempt to kill Christopher Scott, by shooting the victim with an assault rifle, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA )  
 COUNTY OF SPARTANBURG )  
 STATE VS. )  
 Javan Fredrick Mays )  
 AKA: )  
 Race: BLACK Sex: M Age: )  
 DOB: SS#: )  
 Address: )  
 City, State, Zip: )  
 DL#: SID#: )

IN THE COURT OF GENERAL SESSIONS  
 INDICTMENT/CASE#: 2012GS4205314  
 A/W#: N158733  
 Date of Offense: 8/14/2012  
 S.C. Code §: 16-03-0029  
 CDR Code #: 3410

SENTENCE SHEET

\*CDL Yes  No  CMV: Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  
 TO: Attempted Murder  CONVICTED OF or  PLEADS

in violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45 w/minor 1st or Lewd Act)

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: R B Bulsa 15284 & Von  
 BULSA, DERRICK 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 20 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: \$ \_\_\_\_\_ days/hours Public Service Employment  
 Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_  
 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: \_\_\_\_\_

*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/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 8.90
TOTAL		\$ 133.90

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: R Boemmel  
 Court Reporter: M Woods  
 SCCA/217 (03/2011)

Presiding Judge: [Signature]  
 Judge Code: 603  
 Sentence Date: 11/21/13

DOCKET NO. **10-06-42** 5315

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2012 OCT 23 AM 9:04  
M. HOPE BLACKLEY

WITNESSES

1. Spartanburg Public Safety Department

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATION COPY  
ARREST WARRANT NUMBER

N158734

ACTION OF GRAND JURY

*Dean Dill*

True Bill

Foreperson of Grand Jury  
Date:

OCT 18 2012

VERDICT

*Guilty*

Foreperson of Petit Jury  
Date:

*M. H. Hood 11-21-13*

The State of South Carolina  
County of Spartanburg  
Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 22 2012

TERM

THE STATE  
vs.

Javan Frederick Mays

Indictment for  
ATTEMPTED MURDER

SC Code: 16-3-0029  
CDR Code: 3410  
Class FEL-A

*ME*



STATE OF SOUTH CAROLINA )  
 COUNTY OF SPARTANBURG )  
 STATE VS. )  
 Javan Fredrick Mays )  
 AKA: )  
 Race: BLACK Sex: M Age: )  
 DOB: SS#: )  
 Address: )  
 City/State/Zip: )  
 DL#: SID#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4205315  
 A/W#: N158734  
 Date of Offense: 8/14/2012  
 S.C. Code §: 16-03-0029  
 CDR Code #: 3410

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  
 TO: Attempted Murder

CONVICTED OF or  PLEADS

in violation of § 16-3-29 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)  §17-25-45

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: R. B. Bulsa 15264 x Javan Mays  
 BULSA, DERRICK 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 90 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: \$ \_\_\_\_\_ days/hours Public Service Employment  
 Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

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(1) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

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: R. Boehm  
 Court Reporter: M. Wood  
 SCCA/217 (03/2011)

Presiding Judge: [Signature]  
 Judge Code: 603  
 Sentence Date: 11/21/13

WITNESSES

- 1. SENTENCE MADE
- 2. ~~SPARTRON~~ Public Safety Department
- 3. CARD PULLED
- 4. INDEXED
- 5. CHECKED WARRANTS
- 6. CHECKED SIGNATURE
- 7. ASSESSMENT AND FINE CARD MADE
- TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

N158735 (Count One)

N158736 (Count Two)

ACTION OF GRAND JURY

*Dean Dill*

**True Bill**

Foreperson of Grand Jury *OCT 18 2012*

Date:

VERDICT

Count 1 Guilty

Count 2 Guilty

*John H. Hood 11-21-13*

Foreperson of Petit Jury

Date:

DOCKET NO. **12-GS-42-5316**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 27 2012

TERM

THE STATE

vs.

Javan Frederick Mays

Indictment for

ARMED ROBBERY AND  
POSSESSION  
OF FIREARM DURING COMMISSION  
OF A VIOLENT CRIME

SC Code: 16-11-330 (A); 16-23-490  
CDR CODE: 139; 0549  
CLASS: FEL/A; FEL/F

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2012 OCT 23 AM 9:04  
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

INDICTMENT

DEC 18 2012

At a Court of General Sessions, convened on \_\_\_\_\_, the  
Grand Jurors of Spartanburg County present upon their oath:

**COUNT ONE-ARMED ROBBERY**

That Javan Frederick Mays did in the city of Spartanburg on or about August 14, 2012, while armed with a deadly weapon, being an assault rifle, did feloniously take from the person or presence of Antron Oglesby, by means of force, violence, and/or intimidation, goods or monies, such goods or monies being described as follows: clothes, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A), Code of Laws of South Carolina (1976, as amended).

**COUNT TWO-POSSESSION OF FIREARM DURING  
COMMISSION OF A VIOLENT CRIME**

That Javan Frederick Mays did in the city of Spartanburg on or about August 14, 2012, possess a firearm, during the commission of a violent crime as defined in Code §16-1-60, to wit: ARMED ROBBERY, in violation of Code §16-23-490. *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA )  
 COUNTY OF SPARTANBURG )  
 STATE VS. )  
 Javan Frédrick Mays )  
 AKA: )  
 Race: BLACK Sex: M Age: )  
 DOB: SS#: )  
 Address: )  
 City, State, Zip: )  
 DL#: SID#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4205316  
 A/W#: N158735  
 Date of Offense: 8/14/2012  
 S.C. Code §: 16-11-0330(A)  
 CDR Code #: 0139

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon.

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
 w/minor 1st or Lewd Act)

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: R. B. Bulsa 15264 X V. M. [Signature]  
 BULSA, DERRICK 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 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 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: \_\_\_\_\_  
 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: \_\_\_\_\_

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-226 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (DUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

Clerk of Court/ Deputy Clerk R. Greenhill  
 Court Reporter: M. Wood  
 SCCA/217 (03/2011)

Presiding Judge [Signature]  
 Judge Code: 63  
 Sentence Date: 11/21/12

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG  
STATE VS.

INDICTMENT/CASE#: 2012GS4205316A

AKA: Jayan Fredrick Mays

A/W#: N158736

Race: BLACK Sex: M Age: [redacted]

Date of Offense: 8/14/2012

DOB: [redacted] SS#: [redacted]

S.C. Code §: 16-23-0490

CDR Code #: 0549

Address: [redacted]

City, State, Zip: [redacted]

DL#: [redacted] SID#: [redacted]

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(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: B. B. Bulsa 15284 SC Bar# Defendant [Signature] 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 \_\_\_\_\_ days/hours Public Service Employment  
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	\$ 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/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 183.90

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.

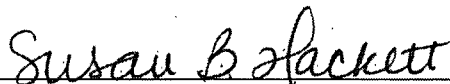
Clerk of Court/ Deputy Clerk B. Bremhill  
Court Reporter: M. Woods  
SCCA217 (03/2011)

Presiding Judge: [Signature]  
Judge Code: 6-3  
Sentence Date: 11/21/12

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 12, 2014



Susan B. Hackett  
Appellate Defender

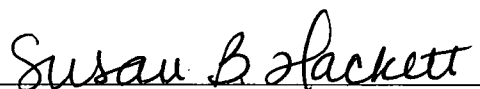
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 12, 2014



Susan B. Hackett  
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